

Calendar No. 437115TH CONGRESS
2^D SESSION**S. 2975****[Report No. 115–258]**

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2019, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 24, 2018

Mr. ALEXANDER, from the Committee on Appropriations, reported the following original bill; which was read twice and placed on the calendar

A BILL

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2019, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for en-
5 ergy and water development and related agencies for the
6 fiscal year ending September 30, 2019, and for other pur-
7 poses, namely:

1 TITLE III
2 DEPARTMENT OF ENERGY
3 ENERGY PROGRAMS
4 ENERGY EFFICIENCY AND RENEWABLE ENERGY
5 For Department of Energy expenses including the
6 purchase, construction, and acquisition of plant and cap-
7 ital equipment, and other expenses necessary for energy
8 efficiency and renewable energy activities in carrying out
9 the purposes of the Department of Energy Organization
10 Act (42 U.S.C. 7101 et seq.), including the acquisition or
11 condemnation of any real property or any facility or for
12 plant or facility acquisition, construction, or expansion,
13 \$2,322,000,000, to remain available until expended: *Pro-*
14 *vided*, That of such amount, \$162,500,000 shall be avail-
15 able until September 30, 2020, for program direction.

16 CYBERSECURITY, ENERGY SECURITY, AND EMERGENCY
17 RESPONSE
18 For Department of Energy expenses including the
19 purchase, construction, and acquisition of plant and cap-
20 ital equipment, and other expenses necessary for energy
21 sector cybersecurity, energy security, emergency response,
22 and electricity delivery activities in carrying out the pur-
23 poses of the Department of Energy Organization Act (42
24 U.S.C. 7101 et seq.), including the acquisition or con-
25 demnation of any real property or any facility or for plant

1 or facility acquisition, construction, or expansion,
2 \$260,000,000, to remain available until expended: *Pro-*
3 *vided*, That of such amount, \$28,500,000 shall be avail-
4 able until September 30, 2020, for program direction.

5 NUCLEAR ENERGY

6 For Department of Energy expenses including the
7 purchase, construction, and acquisition of plant and cap-
8 ital equipment, and other expenses necessary for nuclear
9 energy activities in carrying out the purposes of the De-
10 partment of Energy Organization Act (42 U.S.C. 7101 et
11 seq.), including the acquisition or condemnation of any
12 real property or any facility or for plant or facility acquisi-
13 tion, construction, or expansion, \$1,206,000,000, to re-
14 main available until expended: *Provided*, That of such
15 amount, \$80,000,000 shall be available until September
16 30, 2020, for program direction.

17 FOSSIL ENERGY RESEARCH AND DEVELOPMENT

18 For Department of Energy expenses necessary in car-
19 rying out fossil energy research and development activi-
20 ties, under the authority of the Department of Energy Or-
21 ganization Act (42 U.S.C. 7101 et seq.), including the ac-
22 quisition of interest, including defeasible and equitable in-
23 terests in any real property or any facility or for plant
24 or facility acquisition or expansion, and for conducting in-
25 quires, technological investigations and research con-

1 cerning the extraction, processing, use, and disposal of
2 mineral substances without objectionable social and envi-
3 ronmental costs (30 U.S.C. 3, 1602, and 1603),
4 \$727,000,000, to remain available until expended: *Pro-*
5 *vided*, That of such amount \$61,070,000 shall be available
6 until September 30, 2020, for program direction.

7 NAVAL PETROLEUM AND OIL SHALE RESERVES

8 For Department of Energy expenses necessary to
9 carry out naval petroleum and oil shale reserve activities,
10 \$10,000,000, to remain available until expended: *Pro-*
11 *vided*, That notwithstanding any other provision of law,
12 unobligated funds remaining from prior years shall be
13 available for all naval petroleum and oil shale reserve ac-
14 tivities.

15 STRATEGIC PETROLEUM RESERVE

16 For Department of Energy expenses necessary for
17 Strategic Petroleum Reserve facility development and op-
18 erations and program management activities pursuant to
19 the Energy Policy and Conservation Act (42 U.S.C. 6201
20 et seq.), \$175,105,000, to remain available until expended:
21 *Provided*, That, as authorized by section 404 of the Bipar-
22 tisan Budget Act of 2015 (Public Law 114–74; 42 U.S.C.
23 6239 note), the Secretary of Energy shall draw down and
24 sell not to exceed \$350,000,000 of crude oil from the Stra-
25 tegic Petroleum Reserve in fiscal year 2019: *Provided fur-*

1 *ther*, That the proceeds from such drawdown and sale shall
2 be deposited into the “Energy Security and Infrastructure
3 Modernization Fund” during fiscal year 2019: *Provided*
4 *further*, That such amounts shall be made available and
5 remain available until expended for necessary expenses to
6 carry out the Life Extension II project for the Strategic
7 Petroleum Reserve.

8 SPR PETROLEUM ACCOUNT

9 For the acquisition, transportation, and injection of
10 petroleum products, and for other necessary expenses pur-
11 suant to the Energy Policy and Conservation Act of 1975,
12 as amended (42 U.S.C. 6201 et seq.), sections 403 and
13 404 of the Bipartisan Budget Act of 2015 (42 U.S.C.
14 6241, 6239 note), and section 5010 of the 21st Century
15 Cures Act (Public Law 114–255), \$8,400,000, to remain
16 available until expended.

17 NORTHEAST HOME HEATING OIL RESERVE

18 For Department of Energy expenses necessary for
19 Northeast Home Heating Oil Reserve storage, operation,
20 and management activities pursuant to the Energy Policy
21 and Conservation Act (42 U.S.C. 6201 et seq.),
22 \$10,000,000, to remain available until expended.

23 ENERGY INFORMATION ADMINISTRATION

24 For Department of Energy expenses necessary in car-
25 rying out the activities of the Energy Information Admin-

1 istration, \$125,000,000, to remain available until ex-
2 pended.

3 NON-DEFENSE ENVIRONMENTAL CLEANUP

4 For Department of Energy expenses, including the
5 purchase, construction, and acquisition of plant and cap-
6 ital equipment and other expenses necessary for non-de-
7 fense environmental cleanup activities in carrying out the
8 purposes of the Department of Energy Organization Act
9 (42 U.S.C. 7101 et seq.), including the acquisition or con-
10 demnation of any real property or any facility or for plant
11 or facility acquisition, construction, or expansion,
12 \$353,240,000, to remain available until expended.

13 URANIUM ENRICHMENT DECONTAMINATION AND
14 DECOMMISSIONING FUND

15 For Department of Energy expenses necessary in car-
16 rying out uranium enrichment facility decontamination
17 and decommissioning, remedial actions, and other activi-
18 ties of title II of the Atomic Energy Act of 1954, and
19 title X, subtitle A, of the Energy Policy Act of 1992,
20 \$840,818,000, to be derived from the Uranium Enrich-
21 ment Decontamination and Decommissioning Fund, to re-
22 main available until expended, of which \$10,689,000 shall
23 be available in accordance with title X, subtitle A, of the
24 Energy Policy Act of 1992.

1 SCIENCE

2 For Department of Energy expenses including the
3 purchase, construction, and acquisition of plant and cap-
4 ital equipment, and other expenses necessary for science
5 activities in carrying out the purposes of the Department
6 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
7 cluding the acquisition or condemnation of any real prop-
8 erty or facility or for plant or facility acquisition, construc-
9 tion, or expansion, and purchase of not more than 16 pas-
10 senger motor vehicles including one ambulance and one
11 bus, and one airplane for replacement only,
12 \$6,650,000,000, to remain available until expended: *Pro-*
13 *vided*, That of such amount, \$184,000,000 shall be avail-
14 able until September 30, 2020, for program direction.

15 ADVANCED RESEARCH PROJECTS AGENCY—ENERGY

16 For Department of Energy expenses necessary in car-
17 rying out the activities authorized by section 5012 of the
18 America COMPETES Act (Public Law 110–69),
19 \$375,000,000, to remain available until expended: *Pro-*
20 *vided*, That of such amount, \$33,250,000 shall be avail-
21 able until September 30, 2020, for program direction.

22 TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE
23 PROGRAM

24 Such sums as are derived from amounts received
25 from borrowers pursuant to section 1702(b) of the Energy

1 Policy Act of 2005 under this heading in prior Acts, shall
2 be collected in accordance with section 502(7) of the Con-
3 gressional Budget Act of 1974: *Provided*, That for nec-
4 essary administrative expenses of the Title 17 Innovative
5 Technology Loan Guarantee Program, as authorized,
6 \$33,000,000 is appropriated, to remain available until
7 September 30, 2020: *Provided further*, That up to
8 \$33,000,000 of fees collected in fiscal year 2019 pursuant
9 to section 1702(h) of the Energy Policy Act of 2005 shall
10 be credited as offsetting collections under this heading and
11 used for necessary administrative expenses in this appro-
12 priation and shall remain available until September 30,
13 2020: *Provided further*, That to the extent that fees col-
14 lected in fiscal year 2019 exceed \$33,000,000, those ex-
15 cess amounts shall be credited as offsetting collections
16 under this heading and available in future fiscal years only
17 to the extent provided in advance in appropriations Acts:
18 *Provided further*, That the sum herein appropriated from
19 the general fund shall be reduced (1) as such fees are re-
20 ceived during fiscal year 2019 (estimated at \$15,000,000)
21 and (2) to the extent that any remaining general fund ap-
22 propriations can be derived from fees collected in previous
23 fiscal years that are not otherwise appropriated, so as to
24 result in a final fiscal year 2019 appropriation from the
25 general fund estimated at \$0: *Provided further*, That the

1 DEPARTMENTAL ADMINISTRATION

2 For salaries and expenses of the Department of En-
3 ergy necessary for departmental administration in car-
4 rying out the purposes of the Department of Energy Orga-
5 nization Act (42 U.S.C. 7101 et seq.), \$266,000,000, to
6 remain available until September 30, 2020, including the
7 hire of passenger motor vehicles and official reception and
8 representation expenses not to exceed \$30,000, plus such
9 additional amounts as necessary to cover increases in the
10 estimated amount of cost of work for others notwith-
11 standing the provisions of the Anti-Deficiency Act (31
12 U.S.C. 1511 et seq.): *Provided*, That such increases in
13 cost of work are offset by revenue increases of the same
14 or greater amount: *Provided further*, That moneys received
15 by the Department for miscellaneous revenues estimated
16 to total \$96,000,000 in fiscal year 2019 may be retained
17 and used for operating expenses within this account, as
18 authorized by section 201 of Public Law 95–238, notwith-
19 standing the provisions of 31 U.S.C. 3302: *Provided fur-*
20 *ther*, That the sum herein appropriated shall be reduced
21 as collections are received during the fiscal year so as to
22 result in a final fiscal year 2019 appropriation from the
23 general fund estimated at not more than \$170,000,000.

1 OFFICE OF THE INSPECTOR GENERAL

2 For expenses necessary for the Office of the Inspector
3 General in carrying out the provisions of the Inspector
4 General Act of 1978, \$51,330,000, to remain available
5 until September 30, 2020.

6 ATOMIC ENERGY DEFENSE ACTIVITIES

7 NATIONAL NUCLEAR SECURITY

8 ADMINISTRATION

9 WEAPONS ACTIVITIES

10 For Department of Energy expenses, including the
11 purchase, construction, and acquisition of plant and cap-
12 ital equipment and other incidental expenses necessary for
13 atomic energy defense weapons activities in carrying out
14 the purposes of the Department of Energy Organization
15 Act (42 U.S.C. 7101 et seq.), including the acquisition or
16 condemnation of any real property or any facility or for
17 plant or facility acquisition, construction, or expansion,
18 \$10,850,000,000, to remain available until expended: *Pro-*
19 *vided*, That of such amount, \$102,022,000 shall be avail-
20 able until September 30, 2020, for program direction.

21 DEFENSE NUCLEAR NONPROLIFERATION

22 For Department of Energy expenses, including the
23 purchase, construction, and acquisition of plant and cap-
24 ital equipment and other incidental expenses necessary for
25 defense nuclear nonproliferation activities, in carrying out

1 ENVIRONMENTAL AND OTHER DEFENSE
2 ACTIVITIES

3 DEFENSE ENVIRONMENTAL CLEANUP

4 For Department of Energy expenses, including the
5 purchase, construction, and acquisition of plant and cap-
6 ital equipment and other expenses necessary for atomic
7 energy defense environmental cleanup activities in car-
8 rying out the purposes of the Department of Energy Orga-
9 nization Act (42 U.S.C. 7101 et seq.), including the acqui-
10 sition or condemnation of any real property or any facility
11 or for plant or facility acquisition, construction, or expan-
12 sion, \$5,988,000,000, to remain available until expended:
13 *Provided*, That of such amount, \$300,000,000 shall be
14 available until September 30, 2020, for program direction.

15 OTHER DEFENSE ACTIVITIES

16 For Department of Energy expenses, including the
17 purchase, construction, and acquisition of plant and cap-
18 ital equipment and other expenses, necessary for atomic
19 energy defense, other defense activities, and classified ac-
20 tivities, in carrying out the purposes of the Department
21 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
22 cluding the acquisition or condemnation of any real prop-
23 erty or any facility or for plant or facility acquisition, con-
24 struction, or expansion, \$840,000,000, to remain available
25 until expended: *Provided*, That of such amount,

1 \$288,396,000 shall be available until September 30, 2020,
2 for program direction.

3 POWER MARKETING ADMINISTRATIONS

4 BONNEVILLE POWER ADMINISTRATION FUND

5 Expenditures from the Bonneville Power Administra-
6 tion Fund, established pursuant to Public Law 93-454,
7 are approved for official reception and representation ex-
8 penses in an amount not to exceed \$5,000: *Provided*, That
9 during fiscal year 2019, no new direct loan obligations
10 may be made.

11 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
12 ADMINISTRATION

13 For expenses necessary for operation and mainte-
14 nance of power transmission facilities and for marketing
15 electric power and energy, including transmission wheeling
16 and ancillary services, pursuant to section 5 of the Flood
17 Control Act of 1944 (16 U.S.C. 825s), as applied to the
18 southeastern power area, \$6,500,000, including official re-
19 ception and representation expenses in an amount not to
20 exceed \$1,500, to remain available until expended: *Pro-*
21 *vided*, That notwithstanding 31 U.S.C. 3302 and section
22 5 of the Flood Control Act of 1944, up to \$6,500,000 col-
23 lected by the Southeastern Power Administration from the
24 sale of power and related services shall be credited to this
25 account as discretionary offsetting collections, to remain

1 available until expended for the sole purpose of funding
2 the annual expenses of the Southeastern Power Adminis-
3 tration: *Provided further*, That the sum herein appro-
4 priated for annual expenses shall be reduced as collections
5 are received during the fiscal year so as to result in a final
6 fiscal year 2019 appropriation estimated at not more than
7 \$0: *Provided further*, That notwithstanding 31 U.S.C.
8 3302, up to \$55,000,000 collected by the Southeastern
9 Power Administration pursuant to the Flood Control Act
10 of 1944 to recover purchase power and wheeling expenses
11 shall be credited to this account as offsetting collections,
12 to remain available until expended for the sole purpose
13 of making purchase power and wheeling expenditures:
14 *Provided further*, That for purposes of this appropriation,
15 annual expenses means expenditures that are generally re-
16 covered in the same year that they are incurred (excluding
17 purchase power and wheeling expenses).

18 OPERATION AND MAINTENANCE, SOUTHWESTERN

19 POWER ADMINISTRATION

20 For expenses necessary for operation and mainte-
21 nance of power transmission facilities and for marketing
22 electric power and energy, for construction and acquisition
23 of transmission lines, substations and appurtenant facili-
24 ties, and for administrative expenses, including official re-
25 ception and representation expenses in an amount not to

1 exceed \$1,500 in carrying out section 5 of the Flood Con-
2 trol Act of 1944 (16 U.S.C. 825s), as applied to the
3 Southwestern Power Administration, \$29,802,000, to re-
4 main available until expended: *Provided*, That notwith-
5 standing 31 U.S.C. 3302 and section 5 of the Flood Con-
6 trol Act of 1944 (16 U.S.C. 825s), up to \$19,402,000 col-
7 lected by the Southwestern Power Administration from
8 the sale of power and related services shall be credited to
9 this account as discretionary offsetting collections, to re-
10 main available until expended, for the sole purpose of
11 funding the annual expenses of the Southwestern Power
12 Administration: *Provided further*, That the sum herein ap-
13 propriated for annual expenses shall be reduced as collec-
14 tions are received during the fiscal year so as to result
15 in a final fiscal year 2019 appropriation estimated at not
16 more than \$10,400,000: *Provided further*, That notwith-
17 standing 31 U.S.C. 3302, up to \$10,000,000 collected by
18 the Southwestern Power Administration pursuant to the
19 Flood Control Act of 1944 to recover purchase power and
20 wheeling expenses shall be credited to this account as off-
21 setting collections, to remain available until expended for
22 the sole purpose of making purchase power and wheeling
23 expenditures: *Provided further*, That for purposes of this
24 appropriation, annual expenses means expenditures that

1 are generally recovered in the same year that they are in-
2 curred (excluding purchase power and wheeling expenses).

3 CONSTRUCTION, REHABILITATION, OPERATION AND
4 MAINTENANCE, WESTERN AREA POWER ADMINIS-
5 TRATION

6 For carrying out the functions authorized by title III,
7 section 302(a)(1)(E) of the Act of August 4, 1977 (42
8 U.S.C. 7152), and other related activities including con-
9 servation and renewable resources programs as author-
10 ized, \$222,142,000, including official reception and rep-
11 resentation expenses in an amount not to exceed \$1,500,
12 to remain available until expended, of which \$220,000,000
13 shall be derived from the Department of the Interior Rec-
14 lamation Fund: *Provided*, That notwithstanding 31 U.S.C.
15 3302, section 5 of the Flood Control Act of 1944 (16
16 U.S.C. 825s), and section 1 of the Interior Department
17 Appropriation Act, 1939 (43 U.S.C. 392a), up to
18 \$132,770,000 collected by the Western Area Power Ad-
19 ministration from the sale of power and related services
20 shall be credited to this account as discretionary offsetting
21 collections, to remain available until expended, for the sole
22 purpose of funding the annual expenses of the Western
23 Area Power Administration: *Provided further*, That the
24 sum herein appropriated for annual expenses shall be re-
25 duced as collections are received during the fiscal year so

1 as to result in a final fiscal year 2019 appropriation esti-
2 mated at not more than \$89,372,000, of which
3 \$89,000,000 is derived from the Reclamation Fund: *Pro-*
4 *vided further*, That notwithstanding 31 U.S.C. 3302, up
5 to \$180,000,000 collected by the Western Area Power Ad-
6 ministration pursuant to the Flood Control Act of 1944
7 and the Reclamation Project Act of 1939 to recover pur-
8 chase power and wheeling expenses shall be credited to
9 this account as offsetting collections, to remain available
10 until expended for the sole purpose of making purchase
11 power and wheeling expenditures: *Provided further*, That
12 for purposes of this appropriation, annual expenses means
13 expenditures that are generally recovered in the same year
14 that they are incurred (excluding purchase power and
15 wheeling expenses).

16 FALCON AND AMISTAD OPERATING AND MAINTENANCE
17 FUND

18 For operation, maintenance, and emergency costs for
19 the hydroelectric facilities at the Falcon and Amistad
20 Dams, \$5,207,000, to remain available until expended,
21 and to be derived from the Falcon and Amistad Operating
22 and Maintenance Fund of the Western Area Power Ad-
23 ministration, as provided in section 2 of the Act of June
24 18, 1954 (68 Stat. 255): *Provided*, That notwithstanding
25 the provisions of that Act and of 31 U.S.C. 3302, up to

1 \$4,979,000 collected by the Western Area Power Adminis-
2 tration from the sale of power and related services from
3 the Falcon and Amistad Dams shall be credited to this
4 account as discretionary offsetting collections, to remain
5 available until expended for the sole purpose of funding
6 the annual expenses of the hydroelectric facilities of these
7 Dams and associated Western Area Power Administration
8 activities: *Provided further*, That the sum herein appro-
9 priated for annual expenses shall be reduced as collections
10 are received during the fiscal year so as to result in a final
11 fiscal year 2019 appropriation estimated at not more than
12 \$228,000: *Provided further*, That for purposes of this ap-
13 propriation, annual expenses means expenditures that are
14 generally recovered in the same year that they are in-
15 curred: *Provided further*, That for fiscal year 2019, the
16 Administrator of the Western Area Power Administration
17 may accept up to \$122,000 in funds contributed by United
18 States power customers of the Falcon and Amistad Dams
19 for deposit into the Falcon and Amistad Operating and
20 Maintenance Fund, and such funds shall be available for
21 the purpose for which contributed in like manner as if said
22 sums had been specifically appropriated for such purpose:
23 *Provided further*, That any such funds shall be available
24 without further appropriation and without fiscal year limi-
25 tation for use by the Commissioner of the United States

1 Section of the International Boundary and Water Com-
2 mission for the sole purpose of operating, maintaining, re-
3 pairing, rehabilitating, replacing, or upgrading the hydro-
4 electric facilities at these Dams in accordance with agree-
5 ments reached between the Administrator, Commissioner,
6 and the power customers.

7 FEDERAL ENERGY REGULATORY COMMISSION

8 SALARIES AND EXPENSES

9 For expenses necessary for the Federal Energy Regu-
10 latory Commission to carry out the provisions of the De-
11 partment of Energy Organization Act (42 U.S.C. 7101 et
12 seq.), including services as authorized by 5 U.S.C. 3109,
13 official reception and representation expenses not to ex-
14 ceed \$3,000, and the hire of passenger motor vehicles,
15 \$369,900,000, to remain available until expended: *Pro-*
16 *vided*, That notwithstanding any other provision of law,
17 not to exceed \$369,900,000 of revenues from fees and an-
18 nual charges, and other services and collections in fiscal
19 year 2019 shall be retained and used for expenses nec-
20 essary in this account, and shall remain available until ex-
21 pended: *Provided further*, That the sum herein appro-
22 priated from the general fund shall be reduced as revenues
23 are received during fiscal year 2019 so as to result in a
24 final fiscal year 2019 appropriation from the general fund
25 estimated at not more than \$0.

1 (D) announce publicly the intention to make an
2 allocation, award, or Agreement in excess of the lim-
3 its in subparagraph (A) or (B).

4 (2) The Secretary of Energy shall submit to the Com-
5 mittees on Appropriations of both Houses of Congress
6 within 15 days of the conclusion of each quarter a report
7 detailing each grant allocation or discretionary grant
8 award totaling less than \$1,000,000 provided during the
9 previous quarter.

10 (3) The notification required by paragraph (1) and
11 the report required by paragraph (2) shall include the re-
12 cipient of the award, the amount of the award, the fiscal
13 year for which the funds for the award were appropriated,
14 the account and program, project, or activity from which
15 the funds are being drawn, the title of the award, and
16 a brief description of the activity for which the award is
17 made.

18 (c) The Department of Energy may not, with respect
19 to any program, project, or activity that uses budget au-
20 thority made available in this title under the heading “De-
21 partment of Energy—Energy Programs”, enter into a
22 multiyear contract, award a multiyear grant, or enter into
23 a multiyear cooperative agreement unless—

1 (1) the contract, grant, or cooperative agree-
2 ment is funded for the full period of performance as
3 anticipated at the time of award; or

4 (2) the contract, grant, or cooperative agree-
5 ment includes a clause conditioning the Federal Gov-
6 ernment’s obligation on the availability of future
7 year budget authority and the Secretary notifies the
8 Committees on Appropriations of both Houses of
9 Congress at least 3 days in advance.

10 (d) Except as provided in subsections (e), (f), and (g),
11 the amounts made available by this title shall be expended
12 as authorized by law for the programs, projects, and ac-
13 tivities specified in the “FY 2019 Senate” column in the
14 “Department of Energy” table included under the heading
15 “Title III—Department of Energy” in the report of the
16 Committee on Appropriations accompanying this Act.

17 (e) The amounts made available by this title may be
18 reprogrammed for any program, project, or activity, and
19 the Department shall notify, and obtain the prior approval
20 of, the Committees on Appropriations of both Houses of
21 Congress at least 30 days prior to the use of any proposed
22 reprogramming that would cause any program, project, or
23 activity funding level to increase or decrease by more than
24 \$5,000,000 or 10 percent, whichever is less, during the
25 time period covered by this Act.

1 (f) None of the funds provided in this title shall be
2 available for obligation or expenditure through a re-
3 programming of funds that—

4 (1) creates, initiates, or eliminates a program,
5 project, or activity;

6 (2) increases funds or personnel for any pro-
7 gram, project, or activity for which funds are denied
8 or restricted by this Act; or

9 (3) reduces funds that are directed to be used
10 for a specific program, project, or activity by this
11 Act.

12 (g)(1) The Secretary of Energy may waive any re-
13 quirement or restriction in this section that applies to the
14 use of funds made available for the Department of Energy
15 if compliance with such requirement or restriction would
16 pose a substantial risk to human health, the environment,
17 welfare, or national security.

18 (2) The Secretary of Energy shall notify the Commit-
19 tees on Appropriations of both Houses of Congress of any
20 waiver under paragraph (1) as soon as practicable, but
21 not later than 3 days after the date of the activity to which
22 a requirement or restriction would otherwise have applied.
23 Such notice shall include an explanation of the substantial
24 risk under paragraph (1) that permitted such waiver.

1 (h) The unexpended balances of prior appropriations
2 provided for activities in this Act may be available to the
3 same appropriation accounts for such activities established
4 pursuant to this title. Available balances may be merged
5 with funds in the applicable established accounts and
6 thereafter may be accounted for as one fund for the same
7 time period as originally enacted.

8 SEC. 302. Funds appropriated by this or any other
9 Act, or made available by the transfer of funds in this
10 Act, for intelligence activities are deemed to be specifically
11 authorized by the Congress for purposes of section 504
12 of the National Security Act of 1947 (50 U.S.C. 3094)
13 during fiscal year 2019 until the enactment of the Intel-
14 ligence Authorization Act for fiscal year 2019.

15 SEC. 303. None of the funds made available in this
16 title may be used to approve critical decision-2 or critical
17 decision-3 under Department of Energy Order 413.3B, or
18 any successive departmental guidance, for construction
19 projects where the total project cost exceeds
20 \$100,000,000, until a separate independent cost estimate
21 has been developed for the project for that critical deci-
22 sion.

23 SEC. 304. (a) DEFINITIONS.—In this section:

24 (1) AFFECTED INDIAN TRIBE.—The term “af-
25 fected Indian tribe” has the meaning given the term

1 in section 2 of the Nuclear Waste Policy Act of 1982
2 (42 U.S.C. 10101).

3 (2) HIGH-LEVEL RADIOACTIVE WASTE.—The
4 term “high-level radioactive waste” has the meaning
5 given the term in section 2 of the Nuclear Waste
6 Policy Act of 1982 (42 U.S.C. 10101).

7 (3) NUCLEAR WASTE FUND.—The term “Nu-
8 clear Waste Fund” means the Nuclear Waste Fund
9 established under section 302(c) of the Nuclear
10 Waste Policy Act of 1982 (42 U.S.C. 10222(c)).

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of Energy.

13 (5) SPENT NUCLEAR FUEL.—The term “spent
14 nuclear fuel” has the meaning given the term in sec-
15 tion 2 of the Nuclear Waste Policy Act of 1982 (42
16 U.S.C. 10101).

17 (b) PILOT PROGRAM.—Notwithstanding any provi-
18 sion of the Nuclear Waste Policy Act of 1982 (42 U.S.C.
19 10101 et seq.), the Secretary is authorized, in the current
20 fiscal year and subsequent fiscal years, to conduct a pilot
21 program to license, construct, and operate 1 or more Fed-
22 eral consolidated storage facilities to provide interim stor-
23 age as needed for spent nuclear fuel and high-level radio-
24 active waste, with priority for storage given to spent nu-

1 clear fuel located on sites without an operating nuclear
2 reactor.

3 (c) REQUESTS FOR PROPOSALS.—Not later than 120
4 days after the date of enactment of this Act, the Secretary
5 shall issue a request for proposals for cooperative agree-
6 ments—

7 (1) to obtain any license necessary from the
8 Nuclear Regulatory Commission for the construction
9 of 1 or more consolidated storage facilities;

10 (2) to demonstrate the safe transportation of
11 spent nuclear fuel and high-level radioactive waste,
12 as applicable; and

13 (3) to demonstrate the safe storage of spent nu-
14 clear fuel and high-level radioactive waste, as appli-
15 cable, at the 1 or more consolidated storage facilities
16 pending the construction and operation of deep geo-
17 logic disposal capacity for the permanent disposal of
18 the spent nuclear fuel.

19 (d) CONSENT-BASED APPROVAL.—Prior to siting a
20 consolidated storage facility pursuant to this section, the
21 Secretary shall enter into an agreement to host the facility
22 with—

23 (1) the Governor of the State;

1 (2) each unit of local government within the ju-
2 risdiction of which the facility is proposed to be lo-
3 cated; and

4 (3) each affected Indian tribe.

5 (e) APPLICABILITY.—In executing this section, the
6 Secretary shall comply with—

7 (1) all licensing requirements and regulations of
8 the Nuclear Regulatory Commission; and

9 (2) all other applicable laws (including regula-
10 tions).

11 (f) PILOT PROGRAM PLAN.—Not later than 120 days
12 after the date on which the Secretary issues the request
13 for proposals under subsection (c), the Secretary shall sub-
14 mit to Congress a plan to carry out this section that in-
15 cludes—

16 (1) an estimate of the cost of licensing, con-
17 structing, and operating a consolidated storage facil-
18 ity, including the transportation costs, on an annual
19 basis, over the expected lifetime of the facility;

20 (2) a schedule for—

21 (A) obtaining any license necessary to con-
22 struct and operate a consolidated storage facil-
23 ity from the Nuclear Regulatory Commission;

24 (B) constructing the facility;

1 (C) transporting spent fuel to the facility;

2 and

3 (D) removing the spent fuel and decom-
4 missioning the facility;

5 (3) an estimate of the cost of any financial as-
6 sistance, compensation, or incentives proposed to be
7 paid to the host State, Indian tribe, or local govern-
8 ment;

9 (4) an estimate of any future reductions in the
10 damages expected to be paid by the United States
11 for the delay of the Department of Energy in accept-
12 ing spent fuel expected to result from the pilot pro-
13 gram;

14 (5) recommendations for any additional legisla-
15 tion needed to authorize and implement the pilot
16 program; and

17 (6) recommendations for a mechanism to en-
18 sure that any spent nuclear fuel or high-level radio-
19 active waste stored at a consolidated storage facility
20 pursuant to this section shall move to deep geologic
21 disposal capacity, following a consent-based approval
22 process for that deep geologic disposal capacity con-
23 sistent with subsection (d), within a reasonable time
24 after the issuance of a license to construct and oper-
25 ate the consolidated storage facility.

1 (g) PUBLIC PARTICIPATION.—Prior to choosing a
2 site for the construction of a consolidated storage facility
3 under this section, the Secretary shall conduct 1 or more
4 public hearings in the vicinity of each potential site and
5 in at least 1 other location within the State in which the
6 site is located to solicit public comments and recommenda-
7 tions.

8 (h) USE OF NUCLEAR WASTE FUND.—The Secretary
9 may make expenditures from the Nuclear Waste Fund to
10 carry out this section, subject to appropriations.