

their money. To those on the other side and the Vice President, who is running for President, they must be risky because they give back to the American people some real tax reform money.

If we want to go on to debate whether the Vice President even has a plan to give Americans back any of their tax money, we can do that at any time. I am not on the tax writing committee, but I will volunteer. I will be here. And I can tell you right up front, very little of what the President proposes goes to taxpayers for tax relief. Almost all of it goes to Americans whom the Vice President chooses to give back money, by way of just giving them a check that matches or exceeds their own money, in a huge way. The largest transfer of wealth that we probably have ever seen is tucked away in what the Vice President calls tax cuts for the American people.

Read the Washington Post editorial of 4 days ago. While they are quick to criticize Republicans, they have a very good paragraph in the middle of their editorial saying: Mr. Vice President, Democrats, why do you insist on telling the taxpayers, including middle income taxpayers, how they should spend the tax dollars you want to give them back? The Washington Post says: If you want to give them a tax cut give them a tax cut. They don't do that. They create some new targeted programs. If you want to use them, you have to use it for college tuition. If you want to use it, you have to use it for this, that, or the other.

Question: Don't some Americans have more concern about how to use it and where to use it, and would do that right, rather than to have the Government do that for you while making the Tax Code more complicated and claiming they are giving you tax relief?

Frankly, I could answer many more of the questions but I will just do the issues raised by the minority leader, and I will only address one.

The President of the United States has never attempted to seriously do a bipartisan Medicare prescription bill—never. He has sent us his own, but never has negotiated with Republicans. The one time we had a bipartisan committee, since you required a supermajority, he pulled his support so it would not have a supermajority—yet it had a majority, bipartisan, for a major reform and prescription drug bill. So one of the reasons most of the things not getting done are not getting done is because they have become so partisan that the other side of the aisle says, "Our way or no way." The President says, "My way or no way." The Vice President says, "I am running for President and here is what I propose. It will be that way or no way."

That is what the American people will find out, I hope, as we debate these issues in an effort in the next 5 weeks to resolve many of them. And I hope we do.

## ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2001

The PRESIDING OFFICER. Under the previous order, the clerk will report the bill.

The bill clerk read the title as follows:

A bill (H.R. 4733) making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with an amendment as follows:

Strike all after the enacting clause and insert the part printed in italic.

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, for energy and water development, and for other purposes, namely:*

### TITLE I

#### DEPARTMENT OF DEFENSE—CIVIL

#### DEPARTMENT OF THE ARMY

#### CORPS OF ENGINEERS—CIVIL

*The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.*

#### GENERAL INVESTIGATIONS

*For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, \$139,219,000, to remain available until expended.*

#### CONSTRUCTION, GENERAL

*For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), \$1,361,449,000, to remain available until expended, of which such sums as are necessary for the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund, as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 24, Mississippi River, Illinois and Missouri; Lock and Dam 3, Mississippi River, Minnesota; London Locks and Dam; Kanawha River, West Virginia; and Lock and Dam 12, Mississippi River, Iowa projects; and of which funds are provided for the following projects in the amounts specified:*

*Indianapolis Central Waterfront, Indiana, \$4,000,000;*

*Jackson County, Mississippi, \$2,000,000; and*

*Upper Mingo County (including Mingo County Tributaries), Lower Mingo County (Kermit), Wayne County, and McDowell County, elements*

*of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project in West Virginia, \$4,100,000:*

*Provided, That no part of any appropriation contained in this Act shall be expended or obligated to begin Phase II on the John Day Draw-down study or to initiate a study of the draw-down of McNary Dam unless authorized by law: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed hereafter to use available Construction, General funds in addition to funding provided to Public Law 104-206 to complete design and construction of the Red River Regional Visitors Center in the vicinity of Shreveport, Louisiana at an estimated cost of \$6,000,000: Provided further, That section 101(b)(4) of the Water Resources Development Act of 1996, is amended by striking "total cost of \$8,600,000" and inserting in lieu thereof, "total cost of \$15,000,000": Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$3,000,000 of the funds appropriated herein for additional emergency bank stabilization measures at Galena, Alaska under the same terms and conditions as previous emergency bank stabilization work undertaken at Galena, Alaska pursuant to Section 116 of Public Law 99-190: Provided further, That with \$4,200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Brunswick County Beaches, North Carolina-Ocean Isle Beach portion in accordance with the General Reevaluation Report approved by the Chief of Engineers on May 15, 1998: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use not to exceed \$300,000 of funds appropriated herein to reimburse the City of Renton, Washington, at full Federal expense, for mitigation expenses incurred for the flood control project constructed pursuant to 33 U.S.C. 701s at Cedar River, City of Renton, Washington, as a result of over-dredging by the Army Corps of Engineers: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, may use Construction, General funding as directed in Public Law 105-62 and Public Law 105-245 to initiate construction of an emergency outlet from Devils Lake, North Dakota, to the Sheyenne River, except that the funds shall not become available unless the Secretary of the Army determines that an emergency (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) exists with respect to the emergency need for the outlet and reports to Congress that the construction is technically sound, economically justified, and environmentally acceptable, and in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): Provided further, That the economic justification for the emergency outlet shall be prepared in accordance with the principles and guidelines for economic evaluation as required by regulations and procedures of the Army Corps of Engineers for all flood control projects, and that the economic justification be fully described, including the analysis of the benefits and costs, in the project plan documents: Provided further, That the plans for the emergency outlet shall be reviewed and, to be effective, shall contain assurances provided by the Secretary of State, after consultation with the International Joint Commission, that the project will not violate the requirements or intent of the Treaty Between the United States and Great Britain Relating to Boundary Waters Between the United States and Canada, signed at Washington January 11, 1909 (36 Stat. 2448; TS 548) (commonly known as the "Boundary Waters Treaty of 1909"): Provided further, That the Secretary of the Army*

shall submit the final plans and other documents for the emergency outlet to Congress: Provided further, That no funds made available under this Act or any other Act for any fiscal year may be used by the Secretary of the Army to carry out the portion of the feasibility study of the Devils Lake Basin, North Dakota, authorized under the Energy and Water Development Appropriations Act, 1993 (Public Law 102-377), that addresses the needs of the area for stabilized lake levels through inlet controls, or to otherwise study any facility or carry out any activity that would permit the transfer of water from the Missouri River Basin into Devils Lake.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a and 702g-1), \$324,450,000, to remain available until expended: Provided, That the Secretary of the Army is directed to complete his analysis and determination of Federal maintenance of the Greenville Inner Harbor, Mississippi navigation project in accordance with Section 509 of the Water Resources Development Act of 1996.

#### OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, \$1,862,471,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that Fund; and of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460I), may be derived from that account for construction, operation, and maintenance of outdoor recreation facilities: Provided, That the Secretary of the Army, acting through the Chief of Engineers, from the funds provided herein for the operation and maintenance of New York Harbor, New York, is directed to prepare the necessary documentation and initiate removal of submerged obstructions and debris in the area previously marked by the Ambrose Light Tower in the interest of safe navigation.

#### REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$120,000,000, to remain available until expended: Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated herein to: (1) by March 1, 2001, supplement the report, Cost Analysis For the 1999 Proposal to Issue and Modify Nationwide Permits, to reflect the Nationwide Permits actually issued on March 9, 2000, including changes in the acreage limits, preconstruction notification requirements and general conditions between the rule proposed on July 21, 1999, and the rule promulgated and published in the Federal Register; (2) after consideration of the cost analysis for the 1999 proposal to issue and modify nationwide permits and the supplement prepared pursuant to this Act and by September 30, 2001, prepare, submit to Congress and publish in the Federal Register a Permit Processing Management Plan by which the Corps of Engineers will handle the addi-

tional work associated with all projected increases in the number of individual permit applications and preconstruction notifications related to the new and replacement permits and general conditions. The Permit Processing Management Plan shall include specific objective goals and criteria by which the Corps of Engineers' progress towards reducing any permit backlog can be measured; (3) beginning on December 31, 2001, and on a biannual basis thereafter, report to Congress and publish in the Federal Register, an analysis of the performance of its program as measured against the criteria set out in the Permit Processing Management Plan; (4) implement a 1-year pilot program to publish quarterly on the U.S. Army Corps of Engineer's Regulatory Program website all Regulatory Analysis and Management Systems (RAMS) data for the South Pacific Division and North Atlantic Division beginning within 30 days of the enactment of this Act; and (5) publish in Division Office websites all findings, rulings, and decisions rendered under the administrative appeals process for the Corps of Engineers Regulatory Program as established in Public Law 106-60: Provided further, That, through the period ending on September 30, 2003, the Corps of Engineers shall allow any appellant to keep a verbatim record of the proceedings of the appeals conference under the aforementioned administrative appeals process: Provided further, That within 30 days of the enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall require all U.S. Army Corps of Engineers Divisions and Districts to record the date on which a Section 404 individual permit application or nationwide permit notification is filed with the Corps of Engineers: Provided further, That the Corps of Engineers, when reporting permit processing times, shall track both the date a permit application is first received and the date the application is considered complete, as well as the reason that the application is not considered complete upon first submission.

#### FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination from sites throughout the United States resulting from work performed as part of the Nation's early atomic energy program, \$140,000,000, to remain available until expended.

#### GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, the Water Resources Support Center, and headquarters support functions at the USACE Finance Center, \$152,000,000, to remain available until expended: Provided, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices: Provided further, That none of these funds shall be available to support an office of congressional affairs within the executive office of the Chief of Engineers.

#### REVOLVING FUND

Amounts in the Revolving fund are available for the costs of relocating the U.S. Army Corps of Engineers headquarters to office space in the General Accounting Office headquarters building in Washington, D.C.

#### ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for official reception and representation expenses (not to exceed \$5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not

to exceed 100 for replacement only) and hire of passenger motor vehicles.

#### GENERAL PROVISIONS—CORPS OF ENGINEERS—CIVIL

SEC. 101. Notwithstanding any other provisions of law, no fully allocated funding policy shall be applied to projects for which funds are identified in the Committee reports accompanying this Act under the Construction, General; Operation and Maintenance, General; and Flood Control, Mississippi River and Tributaries, appropriation accounts: Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake these projects using continuing contracts, as authorized in section 10 of the Rivers and Harbors Act of September 22, 1922 (33 U.S.C. 621).

SEC. 102. Agreements proposed for execution by the Assistant Secretary of the Army for Civil Works or the United States Army Corps of Engineers after the date of the enactment of this Act pursuant to section 4 of the Rivers and Harbor Act of 1915, Public Law 64-291; section 11 of the River and Harbor Act of 1925, Public Law 68-585; the Civil Functions Appropriations Act, 1936, Public Law 75-208; section 215 of the Flood Control Act of 1968, as amended, Public Law 90-483; sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended (Public Law 99-662); section 206 of the Water Resources Development Act of 1992, as amended, Public Law 102-580; section 211 of the Water Resources Development Act of 1996, Public Law 104-303, and any other specific project authority, shall be limited to credits and reimbursements per project not to exceed \$10,000,000 in each fiscal year, and total credits and reimbursements for all applicable projects not to exceed \$50,000,000 in each fiscal year.

SEC. 103. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the spring-time water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.

#### TITLE II

#### DEPARTMENT OF THE INTERIOR

#### CENTRAL UTAH PROJECT

#### CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, \$38,724,000, to remain available until expended, of which \$19,158,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: Provided, That of the amounts deposited into that account, \$5,000,000 shall be considered the Federal contribution authorized by paragraph 402(b)(2) of the Central Utah Project Completion Act and \$14,158,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under that Act.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,216,000, to remain available until expended.

#### BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

#### WATER AND RELATED RESOURCES (INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation,

maintenance and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, \$655,192,000, to remain available until expended, of which \$1,916,000 shall be available for transfer to the Upper Colorado River Basin Fund and \$38,667,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which \$16,000,000 shall be for on-reservation water development, feasibility studies, and related administrative costs under Public Law 106-163; of which not more than 25 percent of the amount provided for drought emergency assistance may be used for financial assistance for the preparation of cooperative drought contingency plans under Title II of Public Law 102-250; and of which not more than \$500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: Provided, That such transfers may be increased or decreased within the overall appropriation under this heading: Provided further, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 4601-6a(i) shall be derived from that Fund or account: Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: Provided further, That section 301 of Public Law 102-250, Reclamation States Emergency Drought Relief Act of 1991, as amended, is amended further by inserting "2000, and 2001" in lieu of "and 2000": Provided further, That the amount authorized for Indian municipal, rural, and industrial water features by section 10 of Public Law 89-108, as amended by section 8 of Public Law 99-294, section 1701(b) of Public Law 102-575, Public Law 105-245, and Public Law 106-60 is increased by \$2,000,000 (October 1998 prices): Provided further, That the amount authorized for Minidoka Project North Side Pumping Division, Idaho, by section 5 of Public Law 81-864, is increased by \$2,805,000: Provided further, That the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended as follows: (1) by inserting in Section 4(c) after "1984," and before "costs" the following: "and the additional \$95,000,000 further authorized to be appropriated by amendments to that Act in 2000,"; (2) by inserting in Section 5 after "levels," and before "plus" the following: "and, effective October 1, 2000, not to exceed an additional \$95,000,000 (October 1, 2000, price levels),"; and (3) by striking "sixty days (which)" and all that follows through "day certain)" and inserting in lieu thereof "30 calendar days".

#### BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, \$8,944,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a-422i): Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obli-

gations for the principal amount of direct loans not to exceed \$27,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, \$425,000, to remain available until expended: Provided, That of the total sums appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

#### CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, \$38,382,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended: Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575.

#### POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, \$50,224,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

#### ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed four passenger motor vehicles for replacement only.

SEC. 202. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase: Provided, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

#### GENERAL PROVISION

SEC. 203. (a) For fiscal year 2001 and each fiscal year thereafter, the Secretary of the Interior shall continue the funding of monitoring and research, as authorized by section 1807 of the Grand Canyon Protection Act of 1992 (106 Stat. 4672), at not more than \$7,687,000, adjusted to reflect changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(b) The activities to be funded as provided under subsection (a) include activities required to meet the requirements of subsections (a) and (b) of section 1805 of the Grand Canyon Protection Act of 1992 (106 Stat. 4672), including the requirements of the Biological Opinion on the Operation of Glen Canyon Dam and activities required by the Programmatic Agreement on Cultural and Historic Properties.

(c) To the extent that funding under subsection (a) is insufficient to pay the costs of the monitoring and research, the Secretary of the Interior may use funds appropriated to carry out section 8 of the Act of April 11, 1956 (commonly known as the "Colorado River Storage Project Act") (43 U.S.C. 620g), to pay those costs.

SEC. 204. Effective for fiscal year 2000, and each subsequent fiscal year, notwithstanding any other provision of law, no funds appropriated in this or any other act shall be ex-

pendent to implement the policies articulated in the memorandum dated June 19, 2000, concerning the Middle Rio Grande Project, written by the Solicitor of the Department of the Interior to the Commissioner of the Bureau of Reclamation and the Director of the Fish and Wildlife Service, and the legal analysis referenced in the memorandum or any subsequent recommendations, directives or other correspondence including a letter referenced ALB-105 ENV-4.00, dated July 6, 2000, to the Chief Executive Officer of the Middle Rio Grande Conservancy District from the Albuquerque Area Manager of the Bureau of Reclamation addressing the issues raised by this Solicitor's memorandum except as may be provided in an agreement entered into by all affected holders of water rights within the Middle Rio Grande Conservancy District and which agreement has been approved by the New Mexico State Engineer, or as may be required by a final non-appealable court order.

Effective for fiscal year 2000, and each subsequent fiscal year, notwithstanding any other provision of law, no funds appropriated in this or any other Act shall be expended to implement the policies, recommendations and directives articulated in a letter referenced ENV-4.00, ALB-105, dated June 29, 2000, to the Chairman of the Board of Directors for the Fort Sumner Irrigation District from the Albuquerque Area Manager of the Bureau of Reclamation regarding the Fort Sumner Diversion Dam Water Operations except as may be provided in an agreement entered into by all affected holders of water rights within the Fort Sumner Irrigation District and which agreement has been approved by the New Mexico State Engineer, or as may be required by a final non-appealable court order.

SEC. 205. Section 202 of Division B, Title I, Chapter 2 of Public Law 106-246 is amended by adding at the end the following: "This section shall be effective through September 30, 2001."

#### TITLE III

#### DEPARTMENT OF ENERGY

#### ENERGY PROGRAMS

#### ENERGY SUPPLY

#### (INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for energy supply, and uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 17 passenger motor vehicles for replacement only, \$691,520,000 to remain available until September 30, 2002, of which \$12,000,000 shall be derived by transfer from the United States Enrichment Corporation Fund: Provided, That, in addition, royalties received to compensate the Department of Energy for its participation in the First-Of-A-Kind-Engineering program shall be credited to this account to be available until September 30, 2002 for the purposes of Nuclear Energy, Science and Technology activities.

#### NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction or expansion, \$309,141,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND  
DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, \$297,778,000, to be derived from the Fund, to remain available until expended: Provided, That \$30,000,000 of amounts derived from the Fund for such expenses shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed 58 passenger motor vehicles for replacement only, \$2,870,112,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed \$51,163,000 of the funds appropriated herein may be obligated for the Small Business Innovation Research program and not to exceed \$3,069,000 of the funds appropriated herein may be obligated for the Small Business Technology Transfer program.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$59,175,000, to remain available until expended and to be derived from the Nuclear Waste Fund: Provided, That not to exceed \$2,500,000 may be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, (Public Law 97-425) as amended: Provided further, That not to exceed \$5,887,000 may be provided to affected units of local governments, as defined in Public Law 97-425, to conduct appropriate activities pursuant to the Act: Provided further, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: Provided further, That the funds for the State of Nevada shall be made solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: Provided further, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Environmental Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department of Energy, that all funds expended from such payments have been expended for activities authorized by Public Law 97-425. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-state efforts or other coalition building activities inconsistent with the restrictions contained in this Act: Provided further, That all proceeds and recoveries by the Secretary in carrying out activities authorized by the Nuclear Waste Policy Act of 1982 in Public Law 97-425, as amended, including but not limited to, any proceeds from the sale of assets, shall be available with-

out further appropriation and shall remain available until expended.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$35,000), \$210,128,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): Provided, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: Provided further, That moneys received by the Department for miscellaneous revenues estimated to total \$128,762,000 in fiscal year 2001 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2001 so as to result in a final fiscal year 2001 appropriation from the General Fund estimated at not more than \$81,366,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$28,988,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 12 for replacement only), \$4,883,289,000, to remain available until expended.

DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, Defense Nuclear Nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$908,967,000, to remain available until expended: Provided, That not to exceed \$5,000 may be used for official reception and representation expenses for national security and non-proliferation (including transparency) activities in fiscal year 2001.

NAVAL REACTORS

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, Naval Reactor activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$694,600,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator of the National Nuclear Security

Administration, including official reception and representation expenses (not to exceed \$5,000), \$10,000,000, to remain available until expended.

OTHER DEFENSE RELATED ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND  
WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of 67 passenger motor vehicles for replacement only, \$4,635,763,000, to remain available until expended: Provided, That any amounts appropriated under this heading that are used to provide economic assistance under section 15 of the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102-579) shall be utilized to the extent necessary to reimburse costs of financial assurances required of a contractor by any permit or license of the Waste Isolation Pilot Plant issued by the State of New Mexico.

DEFENSE FACILITIES CLOSURE PROJECTS

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and capital equipment and other necessary expenses, \$1,082,297,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT  
PRIVATIZATION

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental management activities authorized by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), \$324,000,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$579,463,000, to remain available until expended, of which \$17,000,000 shall be for the Department of Energy Employees Compensation Initiative upon enactment of authorization legislation into law.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$292,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for the Nez Perce Tribe Resident Fish Substitution Program, the Cour D'Alene Tribe Trout Production facility, and for official reception and representation expenses in an amount not to exceed \$1,500.

During fiscal year 2001, no new direct loan obligations may be made. Section 511 of the Energy and Water Development Appropriations Act, 1997 (Public Law 104-206), is amended by striking the last sentence and inserting, "This authority shall expire September 30, 2005."

OPERATION AND MAINTENANCE, SOUTHEASTERN  
POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services, pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$3,900,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, amounts collected by the Southeastern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures as follows: for fiscal year 2001, up to \$34,463,000; for fiscal year 2002, up to \$26,463,000; for fiscal year 2003, up to \$20,000,000; and for fiscal year 2004, up to \$15,000,000.

OPERATION AND MAINTENANCE, SOUTHWESTERN  
POWER ADMINISTRATION

## (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed \$1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, \$28,100,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed \$4,200,000 in reimbursements, to remain available until expended: Provided, That amounts collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures as follows: for fiscal year 2001, up to \$288,000; for fiscal year 2002, up to \$288,000; for fiscal year 2003, up to \$288,000; and for fiscal year 2004, up to \$288,000.

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

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500, \$164,916,000, to remain available until expended, of which \$154,616,000 shall be derived from the Department of the Interior Reclamation Fund: Provided, That of the amount herein appropriated, \$5,950,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That amounts collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures as follows: for fiscal year 2001, up to \$42,500,000; for fiscal year 2002, up to \$33,500,000; for fiscal year 2003, up to \$30,000,000; and for fiscal year 2004, up to \$20,000,000.

FALCON AND AMISTAD OPERATING AND  
MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, \$2,670,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION  
SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed \$3,000), \$175,200,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed \$175,200,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2001 shall be retained and used for necessary 2001 expenses in this account, and shall remain available until expended: Provided further, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 2001 so as to result in a final fiscal year 2001 appropriation from the General Fund estimated at not more than \$0.

GENERAL PROVISIONS—DEPARTMENT OF  
ENERGY

SEC. 301. (a) None of the funds appropriated by this Act for Department of Energy programs may be used to award, amend, or modify a contract in a manner that deviates from the Federal Acquisition Regulation unless, on a case-by-case basis, a waiver to allow for such a deviation is granted.

(b) The Administrator of the National Nuclear Security Administration shall have the exclusive waiver authority for activities under "Atomic Energy Defense Activities, National Nuclear Security Administration" and may not delegate the authority to grant such a waiver. The Secretary of Energy shall have the exclusive waiver authority for all other activities which may not be delegated.

(c) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver as provided for in subsection (b), the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

(d) At least 60 days before a contract award, amendment, or modification for which the Administrator of the National Nuclear Security Administration intends to grant such a waiver as provided in subsection (b), the Administrator shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 302. (a) None of the funds appropriated by this Act under "Atomic Energy Defense Activities, National Nuclear Security Administration" may be used to award, amend, or modify a contract in a manner that deviates from the Federal Acquisition Regulation, unless the Administrator of the National Nuclear Security Administration grants, on a case-by-case basis, a waiver to allow for such a deviation. The Administrator may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award, amendment, or modification for which the Administrator intends to grant such a waiver, the Administrator shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 303. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy, under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 304. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

## (TRANSFERS OF UNEXPENDED BALANCES)

SEC. 305. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 306. Notwithstanding 41 U.S.C. 254c(a), the Secretary of Energy may use funds appropriated by this Act to enter into or continue multi-year contracts for the acquisition of property or services under the head, "Energy Supply" without obligating the estimated costs associated with any necessary cancellation or termination of the contract. The Secretary of Energy may pay costs of termination or cancellation from—

(1) appropriations originally available for the performance of the contract concerned;

(2) appropriations currently available for procurement of the type of property or services concerned, and not otherwise obligated; or

(3) funds appropriated for those payments.

SEC. 307. Of the funds in this Act provided to government-owned, contractor-operated laboratories, up to 6 percent shall be available to be used for Laboratory Directed Research and Development: Provided, That the funds in the Environmental Management programs of the Department of Energy are available for Laboratory Directed Research and Development.

SEC. 308. (a) Of the funds appropriated by this title to the Department of Energy, not more than \$200,000,000 shall be available for reimbursement of management and operating contractor travel expenses.

(b) Funds appropriated by this title to the Department of Energy may be used to reimburse a Department of Energy management and operating contractor for travel costs of its employees under the contract only to the extent that the contractor applies to its employees the same rates and amounts as those that apply to Federal employees under subchapter I of chapter 57 of title 5, United States Code, or rates and amounts established by the Secretary of Energy. The Secretary of Energy may provide exceptions to the reimbursement requirements of this section as the Secretary considers appropriate.

SEC. 309. (a) None of the funds in this Act or any future Energy and Water Development Appropriations Act may be expended after December 31 of each year under a covered contract unless the funds are expended in accordance with a Laboratory Funding Plan that has been approved by the Administrator of the National Nuclear Security Administration. At the beginning

of each fiscal year, the Administrator shall issue directions to the laboratories for the programs, projects, and activities to be conducted in that fiscal year. The Administrator and the Laboratories shall devise a Laboratory Funding Plan that identifies the resources needed to carry out these programs, projects, and activities. Funds shall be released to the Laboratories only after the Administrator has approved the Laboratory Funding Plan. The Administrator of the National Nuclear Security Administration may provide exceptions to this requirement as the Secretary considers appropriate.

(b) For purposes of this section, "covered contract" means a contract for the management and operation of the following laboratories: Lawrence Livermore National Laboratory, Los Alamos National Laboratory, and Sandia National Laboratories.

SEC. 310. Section 310(b) of Public Law 106-60 (113 Stat. 496) is amended by striking "Lawrence Livermore National Laboratory, Los Alamos National Laboratory, Oak Ridge National Laboratory, Pacific Northwest National Laboratory, and Sandia National Laboratories." in paragraph (b), and inserting "Oak Ridge National Laboratory, and Pacific Northwest National Laboratory."

SEC. 311. None of the funds provided in this Act may be used to establish or maintain independent centers at a Department of Energy laboratory or facility unless such funds have been specifically identified in the budget submission.

SEC. 312. None of the funds made available in this or any other Act may be used to restart the High Flux Beam Reactor.

SEC. 313. None of the funds in this Act may be used to dispose of transuranic waste in the Waste Isolation Pilot Plant which contains concentrations of plutonium in excess of 20 percent by weight for the aggregate of any material category on the date of the enactment of this Act, or is generated after such date.

SEC. 314. TERM OF OFFICE OF PERSON FIRST APPOINTED AS UNDER SECRETARY FOR NUCLEAR SECURITY OF THE DEPARTMENT OF ENERGY. (a) LENGTH OF TERM.—The term of office as Under Secretary for Nuclear Security of the Department of Energy of the first person appointed to that position shall be three years.

(b) EXCLUSIVE REASONS FOR REMOVAL.—The exclusive reasons for removal from office as Under Secretary for Nuclear Security of the person described in subsection (a) shall be inefficiency, neglect of duty, or malfeasance in office.

(c) POSITION DESCRIBED.—The position of Under Secretary for Nuclear Security of the Department of Energy referred to in this section is the position established by subsection (c) of section 202 of the Department of Energy Organization Act (42 U.S.C. 7132), as added by section 3202 of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 113 Stat. 954).

SEC. 315. SCOPE OF AUTHORITY OF SECRETARY OF ENERGY TO MODIFY ORGANIZATION OF NATIONAL NUCLEAR SECURITY ADMINISTRATION. (a) SCOPE OF AUTHORITY.—Subtitle A of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 113 Stat. 957; 50 U.S.C. 2401 et seq.) is amended by adding at the end the following new section:

"SEC. 3219. SCOPE OF AUTHORITY OF SECRETARY OF ENERGY TO MODIFY ORGANIZATION OF ADMINISTRATION.

"Notwithstanding the authority granted by section 643 of the Department of Energy Organization Act (42 U.S.C. 7253) or any other provision of law, the Secretary of Energy may not establish, abolish, alter, consolidate, or discontinue any organizational unit or component, or transfer any function, of the Administration, except as authorized by subsection (b) or (c) of section 3291."

(b) CONFORMING AMENDMENTS.—Section 643 of the Department of Energy Organization Act (42 U.S.C. 7253) is amended—

(1) by striking "The Secretary" and inserting "(a) Subject to subsection (b), the Secretary"; and

(2) by adding at the end the following new subsection:

"(b) The authority of the Secretary to establish, abolish, alter, consolidate, or discontinue any organizational unit or component of the National Nuclear Security Administration is governed by the provisions of section 3219 of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65)."

SEC. 316. PROHIBITION ON PAY OF PERSONNEL ENGAGED IN CONCURRENT SERVICE OR DUTIES INSIDE AND OUTSIDE NATIONAL NUCLEAR SECURITY ADMINISTRATION. Subtitle C of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 50 U.S.C. 2441 et seq.) is amended by adding at the end the following new section:

"SEC. 3245. PROHIBITION ON PAY OF PERSONNEL ENGAGED IN CONCURRENT SERVICE OR DUTIES INSIDE AND OUTSIDE ADMINISTRATION.

"(a) Except as otherwise expressly provided by statute, no funds authorized to be appropriated or otherwise made available for the Department of Energy may be obligated or utilized to pay the basic pay of an officer or employee of the Department of Energy who—

"(1) serves concurrently in a position in the Administration and a position outside the Administration; or

"(2) performs concurrently the duties of a position in the Administration and the duties of a position outside the Administration."

"(b) The provision of this section shall take effect 60 days after the date of enactment of this section."

SEC. 317. The Administrator of the National Nuclear Security Administration may authorize the plant manager of a covered nuclear weapons production plant to engage in research, development, and demonstration activities with respect to the engineering and manufacturing capabilities at such plant in order to maintain and enhance such capabilities at such plant: Provided, That of the amount allocated to a covered nuclear weapons production plant each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 2 percent of such amount may be used for these activities: Provided further, That for purposes of this section, the term "covered nuclear weapons production plant" means the following:

(1) The Kansas City Plant, Kansas City, Missouri.

(2) The Y-12 Plant, Oak Ridge, Tennessee.

(3) The Pantex Plant, Amarillo, Texas.

SEC. 318. LIMITING THE INCLUSION OF COSTS OF PROTECTION OF, MITIGATION OF DAMAGE TO, AND ENHANCEMENT OF FISH AND WILDLIFE, WITHIN RATES CHARGED BY THE BONNEVILLE POWER ADMINISTRATION, TO THE RATE PERIOD IN WHICH THE COSTS ARE INCURRED. Section 7 of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e) is amended by adding at the end the following:

"(m) LIMITING THE INCLUSION OF COSTS OF PROTECTION OF, MITIGATION OF DAMAGE TO, AND ENHANCEMENT OF FISH AND WILDLIFE, WITHIN RATES CHARGED BY THE BONNEVILLE POWER ADMINISTRATION, TO THE RATE PERIOD IN WHICH THE COSTS ARE INCURRED.—Notwithstanding any other provision of this section, rates established by the Administrator, under this section shall recover costs for protection, mitigation and enhancement of fish and wildlife, whether under the Pacific Northwest Electric Power Planning and Conservation Act or any other Act, not to exceed such amounts the

Administrator forecasts will be expended during the fiscal year 2002-2006 rate period, while preserving the Administrator's ability to establish appropriate reserves and maintain a high Treasury payment probability for the subsequent rate period."

SEC. 319. Notwithstanding any other law, and without fiscal year limitation, each Federal Power Marketing Administration is authorized to engage in activities and solicit, undertake and review studies and proposals relating to the formation and operation of a regional transmission organization.

#### TITLE IV

#### INDEPENDENT AGENCIES

##### APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$66,400,000, to remain available until expended.

##### DEFENSE NUCLEAR FACILITIES SAFETY BOARD SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, \$18,500,000, to remain available until expended.

##### DELTA REGIONAL AUTHORITY

##### SALARIES AND EXPENSES

For necessary expenses to establish the Delta Regional Authority and to carry out its activities, \$20,000,000, to remain available until expended, subject to enactment of authorization by law.

##### DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses, \$30,000,000, to remain available until expended.

##### NUCLEAR REGULATORY COMMISSION

##### SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$15,000), \$481,900,000, to remain available until expended: Provided, That of the amount appropriated herein, \$21,600,000 shall be derived from the Nuclear Waste Fund: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at \$457,100,000 in fiscal year 2001 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That \$3,200,000 of the funds herein appropriated for regulatory reviews and assistance to other Federal agencies and States shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2001 so as to result in a final fiscal year 2001 appropriation estimated at not more than \$24,800,000.

##### OFFICE OF INSPECTOR GENERAL

##### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$5,500,000, to remain available until expended: Provided, That revenues from licensing fees, inspection services, and other services and collections estimated at \$5,500,000 in fiscal year 2001

shall be retained and be available until expended, for necessary salaries and expenses in this account: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2001 so as to result in a final fiscal year 2001 appropriation estimated at not more than \$0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, \$3,000,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TITLE V

FISCAL YEAR 2000 SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

CERRO GRANDE FIRE ACTIVITIES

For necessary expenses for fiscal year 2000 to remediate damaged Department of Energy facilities and for other expenses associated with the Cerro Grande fire, \$203,460,000, to remain available until expended and to become available upon enactment: Provided, That the entire amount shall be available only to the extent an official budget request for \$204,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

TITLE VI

RESCISSION

DEPARTMENT OF ENERGY

DEFENSE NUCLEAR WASTE DISPOSAL

(RESCISSION)

Of the funds appropriated in Public Law 104-46 for interim storage of nuclear waste, \$85,000,000 are transferred to this heading and are hereby rescinded.

TITLE VII

GENERAL PROVISIONS

SEC. 701. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in section 1913 of title 18, United States Code.

SEC. 702. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement included in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made

with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 703. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program—Alternative Repayment Plan" and the "SJVDP—Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal Reclamation law.

SEC. 704. Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990, as amended (42 U.S.C. 2214(a)(3)) and Public Law 106-60 (113 Stat. 501), is further amended by striking "September 30, 2000" and inserting "September 30, 2001".

SEC. 705. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

SEC. 706. (a) Sections 5105, 5106 and 5109 of Division B of an Act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes (Public Law 106-246), are repealed.

(b) Subsection (a) shall take effect on the date of enactment of this Act.

This Act may be cited as the "Energy and Water Development Appropriations Act, 2001".

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent—and this has been approved by the other side—that the committee amendment to H.R. 4733 be adopted and that the bill as amended be considered as original text for the purpose of further amendments, provided that no points of order are waived by this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, the Committee on Appropriations favorably reported H.R. 4733 by a vote of 28 to 0 on Tuesday, July 18.

Senator REID and I have worked very hard this year to put together a fair bill under extremely difficult circumstances. As reported by the committee, the recommendation would provide \$22.470 billion in new budget authority for fiscal year 2001. That total is broken out between a defense allocation that is pretty good, and a non-defense allocation that is extremely limited.

The Defense BA allocation is \$13.484 billion. That is \$400 million over the President's request and \$1.384 billion over last year. The committee requested the additional money to address some very serious needs in the nuclear weapons complex, defense environmental clean-up, and in ongoing international nonproliferation programs.

However, the BA allocation on the non-defense side of the bill is much more difficult—it provides \$8.986 billion, which is \$603 million below the President's request and \$73 million below the current year level.

In order to accommodate some serious shortfalls in the President's request, and some very legitimate requests from Members, we have had to cut a significant amount more than the \$603 million we are short from the request.

The allocation has also forced the committee to make very difficult choices, and we have tried to do that on as fair a basis as possible. We have followed certain criteria. In the water accounts for example:

No. 1, we have tried to focus available funding, to the greatest extent possible, to ongoing studies and construction projects.

No. 2, we have included no new construction starts or new initiatives in fiscal year 2001, and only a very limited number of new studies or planning projects.

No. 3, we have not included unauthorized projects or water and sewer infrastructure projects contained in the Water Resources Development Act of 1999.

No. 4, numerous projects budgeted at or near the Corps' capability have been reduced in order to pick-up funds for congressional priorities and to restore funding not requested by the administration for flood control and inland navigation projects.

No. 5, given these constraints, we have been limited to accommodating only the highest priority requests of Members where possible.

Having said that, the recommendation for the U.S. Army Corps of Engineers totals \$4.104 billion. This is \$41 million above the budget request and \$22 million below the FY 2000 enacted level. The following is a highlight of the recommendation of the Corps Budget for FY 2000:

General Investigations totals \$139 million, down \$23 million below the current year.

Construction General totals \$1.361 billion, down \$24 million below the current year.

Operation and Maintenance totals \$1.862 billion which is \$8 million over the current year.

Moving on to the Bureau of Reclamation, the recommendation before the committee totals \$753 million. This is \$48 million below the budget request and \$13 million below the current year level. The recommendation includes:

Six hundred and fifty-five million dollars for Water and Related Resources which includes both construction and operation and maintenance of Bureau projects. This is \$50 million over the current year level.

None of the \$60 million requested for the California Bay-Delta Restoration program is provided in the bill, as the authorization for this program expires in fiscal year 2000.

Thirty-eight million dollars for the Central Valley Project Restoration Fund a reduction of \$4 million from the current year.

For the Department of Energy's non-defense accounts, we have proposed some substantial reductions from the President's request. However, in many cases, those reductions appear large only because the President proposed large increases we will not be able to accommodate, given our non-defense allocation.

In other accounts such as Nuclear Energy R&D, the administration request was 4 percent below current year. Therefore, the committee has tried to balance the Department's research efforts by providing reasonable increases to these important research efforts.

For the Science programs at the Department of Energy, the committee recommends \$2.870 billion, an increase of \$82 million over last year, but still \$292 million below the request.

Over half of the total proposed increase to Science was in one construction project, the Spallation Neutron Source in Tennessee. The committee strongly supports this project and has provided \$240 million, an increase of \$140 million over current year.

The allocation forced the committee into some very difficult decisions regarding many otherwise outstanding programs and initiatives under the Office of Science. For example, although the committee has traditionally provided strong support to High Energy Physics, Nuclear Physics and Fusion Energy, all are funded at below last year's level.

Within the defense allocation, we have been able to add significant funds to some very pressing problems.

Within Weapons Activities, the committee has provided \$4.883 billion, an increase of \$244 million over the budget request. The committee is very concerned about the state of the science based Stockpile Stewardship Program. As it is now, the program is not on

schedule, given the current budget, to develop the tools, technologies and skill-base to refurbish our weapons and certify them for the stockpile. For example, we are behind schedule and over cost on the production of both pits and secondaries for our nuclear weapons. The committee has provided significant increases to these areas.

Furthermore, DOE has failed to keep good modern facilities and our production complex is in a terrible state of disrepair. To address these problems, the mark provides an increase of over \$100 million for the production plants in Texas, Missouri, Tennessee, and South Carolina.

But it is not just the physical infrastructure that is deteriorating within the weapons complex, morale among the scientists at the three weapons laboratories is at an all-time low. For example, the last two years at Los Alamos have witnessed security problems that greatly damaged the trust relationship between the government and its scientists. Additionally, research funds have been cut and punitive restrictions on travel imposed.

As a result, the labs are having great difficulty recruiting and retaining America's greatest scientists. To help address this problem, the bill has increased the travel cap from \$150 million to \$200 million, and increased Laboratory Directed Research and Development. And I intend to offer additional amendments to increase LDRD and travel.

For security, the committee recommends \$336 million for the Department's security office, an increase of \$213 million over last year. This is in addition to the \$45 million for increased Cyber Security that was just enacted as part of the fiscal year 2000 Supplemental. In addition, the committee has made sure General Gordon, as the new head of the NNSA, will have the resources and the authority to take care of security throughout the weapons complex.

The Department has experienced tremendous difficulty in constructing its special experimental and computational facilities within budget and within schedule. The National Ignition Facility is only the most recent example, and on that issue, Senator REID and I have agreed to recommend at this time only the \$74 million requested by the administration, recognizing that much more money will be required this year if this project is to continue.

Regarding accelerator production of tritium, the committee has combined that with other programs to begin an exciting new program called Advanced Accelerator Applications. The committee recommendation includes \$60 million to continue the important work on a back-up tritium source for defense purposes, but will also fund important work on accelerator transmutation of waste and other accelerator applications.

The committee continues its strong tradition of support for nuclear non-proliferation issues. We recommend \$909 million, an increase of \$43 million over the request, and \$180 million more than last year.

For Defense Environmental Management, the committee recommends \$6.042 billion, a \$326 million increase over last year. To the extent possible, we have tried to address the needs of Members with environmental management sites. We have provided increases at Savannah River and the Hanford site, and provided additional funds for environmental science and technology research at Idaho and other labs.

In summary, the recommendation before you is for \$22.47 billion, a reduction of \$225 million from the request. Within that amount, non-defense programs are reduced \$603 million while defense accounts increase \$400 million. This is going to be a difficult year, but I look forward to consideration by the full Senate.

It is our intention to work hard over the next few evenings to complete work on the bill. It is my intention to seek a unanimous consent that all amendments be filed by noon on Wednesday. We will be here all evening, and I urge my colleagues to bring any amendments they may have to the floor so we can consider them. It is my intention, shortly after all amendments have been filed, to act on a package of managers amendments.

Before I yield back, I would like to thank Chairman STEVENS for the strong support he has given to the energy and water bill, particularly on the defense funding side. I would also like to thank my ranking member, senator REID, for all the effort he has put forth in working together on this bill.

Mr. JEFFORDS. Mr. President, I wonder if the Senator from New Mexico will allow me to add a glowing statement about the bill he is about to speak to?

Mr. DOMENICI. I would be pleased to do that even if it were not glowing but, since it is, I am delighted.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise today to praise the managers of this bill for their commitment to renewable energy. I particularly want to thank Senator HARRY REID for his leadership in bringing additional funding to advance the cause of clean energy in this nation.

Earlier this year the Senate renewable energy caucus, led by Senators ROTH, BINGAMAN, ALLARD and myself, sent a letter to the bill managers asking that they put the U.S. Senate on record in support of wind, solar, biomass, geothermal and other renewable energy resources.

Mr. President, 54 of our colleagues signed that letter and they should know that the bill before us today

boosts funding for renewable energy by \$87 million over last years levels. This is a great achievement. And unlike in past years, I come to the Senate floor without the annual renewable energy funding amendment but with what will hopefully be an annual effort praising the managers of this bill.

We thank you Senator REID for your vision and commitment to reducing this nation's reliance on foreign oil and advancing our investment in clean, domestic energy resources.

This increase puts our country back onto the path of a sustainable energy policy.

In recent years, the U.S. trade deficit has soared. The number one contributor to the trade deficit is imported foreign oil—and its contribution has reached record levels.

Since the oil embargo of 1973–74, imports of foreign oil have risen from a little over 30 percent to 55 percent, and will hit 65 percent in a decade. By then, most of the world's oil will come from potentially unstable Persian Gulf nations.

These imports account for over \$60 billion. That is more than 36 percent of the U.S. trade deficit. These are U.S. dollars being shipped overseas to the Middle East when they could be put to better use here at home.

In 1976, myself and a number of freshmen Members of the House of Representatives proposed such a provision and nearly passed it to the exact same 10 percent. Unfortunately, that failed. But at that time we, a number of us working together, did start the wind energy program, which is now blossoming, with Vermont being the leader in that field, and also, with a very good amendment I was able to get on, we started, really, the solar voltaic program at that particular time. During the period since that time, a couple of times we have come very close to putting into a mandatory situation where we would decrease the consumption of oil by 10 percent through renewables.

Now we are on our way, finally. Hopefully, this bill will pass.

We are lowering our balance of payments.

We are providing an invaluable insurance policy to enhance our national security.

And we are protecting our environmental and reducing air pollution.

Federal support for renewable energy research and development has been a major success story in the United States. Costs have declined, reliability has improved, and a growing domestic industry has been born.

Through this boost in the renewables budget, we are building upon our successes. We are helping to develop industries which reduce our trade deficit and boost national security. We are helping farmers, ranchers, rural communities, and small businesses.

The 54 Senators who signed this letter—and in particular—Senator REID,

deserve a great deal of credit for protecting the environment, promoting job growth, and advancing America's future.

Again, I thank the two sponsors of the bill, Senators REID and DOMENICI. I praise them for their efforts and helping in any way possible. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, if I can respond before the Senator from Vermont leaves the floor, this has been a very difficult issue for Senator DOMENICI and me for a number of years. We acknowledge the leadership of the Senator from Vermont on this issue. But for him, we probably would not be in the position we are now. I appreciate his nice words and recognize his leadership on this issue over the many years.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the distinguished Senator from Nevada, Mr. REID, for what he has said, and I echo the compliments. I think the Senator from Vermont understands the delicate position we are in this year in that the nondefense portion of this appropriations bill is inadequate to cover the nondefense research and water projects we ought to be covering in the bill.

I believe when we were able to almost match the Senator's and his cosponsors' request on solar and wind, they understand we are hopeful when we get to conference of getting some additional money from the budget and the appropriators for the nondefense portion of this bill which will make it easier for us to keep this and hold it all the way through. I have been sure and careful to explain that to the Senator from Vermont. I am sure he is aware of it. I wanted to put it in the RECORD.

Mr. JEFFORDS. Mr. President, if the Senator will yield, I agree with him 100 percent, and I am going to do all I can to assist him.

Mr. DOMENICI. Mr. President, while Senators are going to talk about projects, programs, activities, and amendments to add \$5 million here or \$7 million there, I want to break this appropriations bill into two parts—I wish I had it on a chart, and maybe I will have it the next time we are on this bill—so that when anybody offers an amendment that costs money, if it is in the nondefense part, whatever it is for, maybe some science research, maybe a water project that we did not fund, maybe operation and maintenance for some part of the Mississippi, a levy system, we are going to try to show you where we are really hurting for money is the nondefense part of this budget, the water projects and the nondefense science.

As a matter of fact, the allocation is about \$604 million below the President's request in the nondefense part of this appropriations bill. That is \$73

million less than last year's appropriations. It is not a question only of not being able to meet the President's request. We are, in essence, below last year's appropriated number, which many people say isn't realistic unless you are prepared to take some programs out of the Department—and we can hardly do that. That is a negative \$73 million.

Fortunately, on the defense side, we have talked our way through all these different hurdles of how much defense money is available, and I am very appreciative of the fact that through the efforts of our chairman of the Appropriations Committee, the appropriators who spend defense money—that is the big defense bill, the smaller bill on military construction and a very small bill on Commerce that spends some money on defense—they have left, as part of the increase, sufficient money to cover the defense in this bill, which is \$13.5 billion.

I regret to say the problem we have is when we go to the House, we have to raise the House's number because they are about \$600 million below us on the defense side of their bill. It is a difficult problem.

I do believe the allocation that both chairmen of the House and Senate Appropriations Committees are going to ultimately come up with will make us whole at the Senate level on defense. I just explained why. The money is there, and I hope before this is over, we will convince everyone we are in an area where we have to be very concerned how much money we are spending on the defense side because the morale and capability of our National Laboratories to maintain our nuclear weapons activities is getting very close as to whether it can continue in a manner we have expected over the years.

When somebody says it is only \$7 million and I need it for a levy and I need to start a program even though we said no new starts, I want to keep in front of everybody that we are \$604 million below the President on nondefense, and the House is \$600 million below ours on defense, and we are \$500 million higher than the President's on defense. Those will be put up here for everybody to see.

If anybody wants an interpretation of what is in this bill, I tried very hard in a nonpartisan way to explain it in my earlier statement. I have given full credit to the magic of bipartisanship when it comes to writing a bill like this. We have to try to work together. Maintaining our nuclear capacity through science and research and nonproliferation should not be a partisan issue. Thanks to Senator REID, it is not. There are a few disagreements he and I have. We will iron them out on the floor.

I want to make sure everybody understands that right now, this day, 5 weeks before the new fiscal year, the

nuclear defense laboratories, which essentially are made up of a piece of the National Laboratory in Tennessee called Oak Ridge, called Y-12, plus Los Alamos National Laboratory, Sandia National Laboratories in Albuquerque and Livermore, and Lawrence Livermore National Laboratory, are the laboratories that maintain our nuclear weapons activities that measure the performance and ability of our nuclear weapons, and their safety and reliability.

Right now, they are fragile because the morale is low. Throughout this short debate, I will keep mentioning to Senators that we better be careful with reference to the scientists who have done the big defense work who we must retain at these laboratories to perfect our Stockpile Stewardship Program, which allows no weapons testing while we are still going to protect the reliability of our weapons. We need to retain the old heads who have done this work for so long. At Los Alamos there are about 40 of them who are in the X division, including NEST or the Nuclear Emergency Search Team.

Their morale is very low because, my colleagues will recall, that is the area where that hard drive was found behind a machine, and they did not know how it got there. They have now been under investigation for 14 weeks. Fourteen weeks is a long time to have the very best scientists in the world who have maintained our nuclear capacity, some of them for 30 years, some for 25, some more 40, under investigation. We do not want them to leave the laboratories, and we want to attract the best new scientists to follow in their footsteps and have them educated by the other scientists. We are not succeeding at either.

The new recruits of the very best scientists are at an all-time low, and that is measurable. In other words, we know how many scientists we invited to work and how many accepted. I will put that in the RECORD. It is very low compared to 5 years ago. We also know how many are planning to leave, and it is very high compared to other years.

Everybody knows I have a parochial interest. At least they would assume that. If one of my colleagues had a laboratory like Los Alamos in his or her State, I say to any Senator, I assume they would be concerned about it. If they had a Sandia National Laboratory, which is the engineering laboratory for nuclear weapons, I assume they would be concerned.

I am concerned, and I have to try to convince the Senate that we have to put back some money in terms of morale builders, and we have to start telling those great scientists that they have done a wonderful job for America.

So something got messed up. If you can't prove there is spying or espionage, pretty soon you ought to get off their backs and you ought to say to

them: We are going to fix this administratively.

I could go on tonight and tell you how we are going to do that because we have a new administrative approach to running the nuclear weapons activities of America. We have a great man, General Gordon, heading it. Give him a chance. Give him a chance to restructure. At the same time, let somebody who knows their problems lead this effort. He is about as knowledgeable as anyone we could get to head the NNSA, the National Nuclear Security Administration. It is hard to remember that name, but it will not be hard in a couple years because this general is going to make sure we know about it.

He is already showing some real leadership in terms of our understanding what NNSA is. It is the entire package of activities for our nuclear safety as far as our weapons and nonproliferation. We know he is going to fix this morale issue if we give him a chance.

For now we have to be very careful. For instance, the House limits their travel again, even lower than the President recommends. Does it ever occur to anyone that the great scientists travel? Was that ever an astonishing conclusion? If you did not know it, let me tell you: Great scientists travel. They love to go to conventions and conferences to share ideas. And if you say to a young crop of the best scientists in America: Come and work at Los Alamos, but you had better remember that you can only make one trip a year—well, what they are telling us already is: Hey, I have a company that doesn't limit me. They are offering me some stock options. They want me to come.

Pay isn't a problem. We pay our scientists pretty well at these laboratories, as a matter of fact. I must tell you, if they like their work they will stay there.

So my concern is a very serious one. We could not do what I think we must do and live with the House number on defense in this bill. We are \$600 million higher than the House. We tell the Senate that with much pride because you have to give these laboratories what they need.

Let me give you just one area. The National Laboratory structure, with reference to nuclear weapons, is in need of an entire new, let's say, 10-year plan for rebuilding ancient buildings. I use the word "ancient" because some of them are so old that if you could apply the historic preservation statutes in the State of New Mexico, some of them would be untouchable because they are too old. That is how old they are. I do not want to tell you how old. But it is not very old to be labeled "old" anymore if you are a building.

But we started a plan. We started an approach for \$100 million in this bill, to start some of that—for lack of a better word, we will call it infrastructure. But

it is buildings; it is equipment. We must go on beyond that for a few years and get the nuclear weapons complex, so to speak, built up or decide we are going to have an inferior one. We would not be able to tell Americans the best people work there.

The best brainpower of America is devoted to making sure our nuclear weapons are right and safe. As we lower the numbers—which we are going to be doing; that, we can all say—even with lower numbers, we know what we are doing. We do not have to have tests because we know they are safe.

If we do not, I am going to support people who come to the floor and say: Let's start testing again. Have no doubt about it. We voted in the Mark Hatfield amendment to start a moratorium. We are doing it unilaterally. They are saying: Why don't we sign the treaty? We are not doing any testing by statute right now.

So these great scientists have to substitute brainpower and equipment for what underground testing used to give them, with information about the adequacy, the safety, the reliability.

Now we have to do it by computers, by new machines, new, fantastic x-ray machines that look inside bombs. We had better have the very best people in America working there, wouldn't you think? I would.

My distinguished friend from Nevada wants to speak.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. It is my understanding the Senator from Maine wishes to make a relatively short statement. I do not want to impose upon her time because we have to be here anyway.

I believe the Senator from New Mexico wishes to be recognized.

Mr. DOMENICI. I had indicated I wanted to send an amendment to the desk so we have one pending.

AMENDMENT NO. 4032

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

THE PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 4032.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Starting on page 64, line 24, strike all through page 66, line 7.

Mr. DOMENICI. The amendment removes from the bill an environmental provision that I had put in there prior to a successful discussion of the issues and termination of the issues temporarily in the State of New Mexico. So I

do not need the amendment. Senator REID knows about it. That is what this amendment is.

Mr. REID. The amendment is pending; is that right?

The PRESIDING OFFICER. The amendment is pending.

Mr. REID. Mr. President, I ask unanimous consent that the amendment be set aside so the Senator from Maine can speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Mr. SCHUMER addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 4033

Mr. SCHUMER. Mr. President, I thank the Senator from New Mexico, the Senator from Nevada, and most particularly, the Senator from Maine for helping arrange time so she and I can discuss the amendment that we are about to send to the desk. I request its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Ms. COLLINS, proposes an amendment numbered 4033.

Mr. SCHUMER. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 93, between lines 7 and 8, insert the following:

GENERAL PROVISIONS—INDEPENDENT AGENCIES

SEC. 4. PRESIDENTIAL ENERGY COMMISSION.

(a) FINDINGS.—Congress finds that—

(1) crude oil and natural gas account for two-thirds of America's energy consumption;

(2) in May 2000, United States natural gas stocks totaled 1,450 billion cubic feet, 36 percent below the normal natural gas inventory of 2,281 billion cubic feet;

(3) in July 2000, United States crude oil inventories totaled 298,000,000 barrels, 11 percent below the 24-year average of 334,000,000 barrels;

(4) in June 2000, distillate fuel (heating oil and diesel fuel) inventories totaled 103,700,000 barrels, 26 percent below the 24-year average of 140,000,000 barrels;

(5) combined shortages in inventories of natural gas, crude oil, and distillate stocks, coupled with steady or increased demand, could cause supply and price shocks that would likely have a severe impact on consumers and the economy; and

(6) energy supply is a critical national security issue.

(b) PRESIDENTIAL ENERGY COMMISSION.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The President shall establish, from among a group of not fewer than 30 persons recommended jointly by the Speaker and Minority Leader of the House of Representatives and the Majority Leader and Minority Leader of the Senate, a Presi-

dential Energy Commission (referred to in this section as the "Commission"), which shall consist of between 15 and 21 representatives from among the following categories:

(i) Oil and natural gas producing States.

(ii) States with no oil or natural gas production.

(iii) Oil and natural gas industries.

(iv) Consumer groups focused on energy issues.

(v) Environmental groups.

(vi) Experts and analysts familiar with the supply and demand characteristics of all energy sectors.

(vii) The Energy Information Administration.

(B) TIMING.—The appointments of the members of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(C) PERIOD OF APPOINTMENT.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(D) CHAIRPERSON.—The members of the Commission shall appoint 1 of the members to serve as Chairperson of the Commission.

(E) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(F) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(2) DUTIES.—

(A) IN GENERAL.—The Commission shall—

(i) conduct a study, focusing primarily on the oil and natural gas industries, of—

(I) the status of inventories of natural gas, crude oil, and distillate fuel in the United States, including trends and projections for those inventories;

(II) the causes for and consequences of energy supply disruptions and energy product shortages nationwide and in particular regions;

(III) ways in which the United States can become less dependent on foreign oil supplies;

(IV) ways in which the United States can better manage and utilize its domestic energy resources;

(V) ways in which alternative energy supplies can be used to reduce demand on traditional energy sectors;

(VI) ways in which the United States can reduce energy consumption;

(VII) the status of, problems with, and ways to improve—

(aa) transportation and delivery systems of energy resources to locations throughout the United States;

(bb) refinery capacity and utilization in the United States; and

(cc) natural gas, crude oil, distillate fuel, and other energy-related petroleum product storage in the United States; and

(VIII) any other energy-related topic that the Commission considers pertinent; and

(ii) not later than 180 days after the date of enactment of this Act, submit to the President and Congress a report that contains—

(I) a detailed statement of the findings and conclusions of the Commission; and

(II) the recommendations of the Commission for such legislation and administrative actions as the Commission considers appropriate.

(B) TIME PERIOD.—The findings made, analyses conducted, conclusions reached, and recommendations developed by the Commission in connection with the study under subparagraph (A) shall cover a period extending 10 years beyond the date of the report.

(c) USE OF FUNDS.—The Secretary of Energy shall use \$500,000 of funds appropriated to the Department of Energy to fund the Commission.

(d) TERMINATION OF COMMISSION.—The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its report under subsection (b)(2)(A)(ii).

Mr. SCHUMER. Mr. President, I thank my colleagues from New Mexico and Nevada for making time. I am proud to join with Ms. COLLINS, the Senator from Maine, in offering this amendment.

The amendment is a very simple one. It calls for a Presidential commission to study and propose, hopefully, consensus recommendations on how to deal with the impending crisis we have in energy.

The crisis is easy to document. U.S. inventories of natural gas, crude oil, heating oil, and diesel fuel are all at or near 25-year historic lows. Motorists in my State of New York and throughout the country are paying gasoline prices that are hovering near record highs in absolute terms and are increasing at record levels.

The current price of heating oil is higher than consumers typically pay in the dead of winter. Natural gas prices are at twice their typical price and are the highest in history at a time when warm weather keeps demand for natural gas low.

We are on the precipice of the most serious, most expensive, and most economically devastating energy crisis since spiraling prices sent our economy into a tailspin in 1976, and, of course, in terms of electricity as well. We have real problems with greater and greater demand and not enough supply.

Alan Greenspan said last July that the high price of oil has been putting inflationary pressure on our economy and that any further market impact "would pose a risk to America's economic outlook."

With crude oil selling for more than \$33 a barrel and natural gas selling for a record nearly \$5 per billion cubic feet, we are at the point that Chairman Greenspan warned about.

This is on top of a very expensive energy season where American consumers spent more than \$75 billion on energy costs over the previous year.

Everyone has their own solution to the energy crisis. I have listened to the chairman of the Energy Committee and some on that side who say we should simply pump more oil. And, in the opinion of others, we should do that despite what we do to the environment.

I have heard many on this side say we have to do many things to reduce demand, such as raise CAFE standards and include SUVs and minivans under the designation of automobiles and raise the average miles per gallon.

I have heard others talk about new types of energy sources and how we need to explore them. Probably every

one of the 100 Members in this Chamber, particularly after the last 6 months, has an idea. There is one problem. Our ideas are so fractured and so lacking consensus that we have done nothing. This is not blame on the Democrats or Republicans, on the White House or the Congress. Basically, there is enough blame to go around so that everybody can point a finger.

The bottom line is simple: Our demand for energy is increasing. Our supply of energy, particularly domestic supply, is decreasing. Unless we come to some kind of national consensus, the problems we faced last winter with home heating oil and this early summer with gasoline will cause new problems.

I have a great deal of respect for the Secretary of Energy. I think he has done a very good job under trying circumstances. I don't blame him. I don't blame the President. I don't blame the majority leader. I don't blame the chairman of the energy committee. But we have a problem. Thus far, we have been unable to deal with it.

The amendment Senator COLLINS and I have offered to the energy and water appropriations bill will create a national energy commission. The energy commission will be established jointly by the President and the majority and minority leaders of the House and Senate and will bring together representatives from the energy producing States, energy consuming States, oil and natural gas industries, consumer groups, environmental groups, and experts and analysts in the energy field. It is just the kind of group needed to bring about the consensus we so sorely lack. There may not be a consensus, but I believe we ought to try.

I, for one, am dubious of many commissions. In this case it is needed because of the paralysis in Washington in terms of addressing this issue, because of the lack of consensus throughout the land in how to deal with something that at the very least is going to cost Americans a lot more money and at its worst could take our fine economic recovery and send it into a tailspin.

The commission was designed by the Senator from Maine and myself to have a broad consensus of parties, branches of government and views and constituencies. It will conduct a study and provide a report to us on the following: the status of inventories of our energy sources; the cause for and consequences of energy supply disruption and energy product shortages nationwide and in particular regions; ways in which the United States can become less dependent on foreign oil supplies; ways in which alternate energy sources can be used to reduce demand on traditional energy sectors; ways in which the U.S. can reduce energy consumption; and ways to improve refinery capacity, utilization, and storage in the United

States of natural gas, crude oil, and distillate fuel.

The commission shall provide a report within 6 months of enactment that shall include an assessment of our problems and recommendations on how to solve them.

In conclusion, last year New Yorkers and New Englanders paid more than \$2 a gallon for heating oil. Home owners paid up to \$1,000 more to heat their homes in my State, not because of weather but because of shortages. Motorists, people going on vacation, people driving cars and trucks for a living also paid hundreds if not thousands of dollars more out of their pockets this year.

As Chairman Greenspan warned, this is one of the few things that looms on the near horizon that could throw our economy off kilter.

Let us not get caught unprepared again. This amendment is the start of an energy policy that will protect consumers and protect our economy.

I thank the Chair and my colleagues from New Mexico and Nevada for their generosity and most particularly the Senator from Maine who is always a pleasure to work with on these and other issues.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Maine.

Ms. COLLINS. Mr. President, I first want to thank the managers of this bill, Senator DOMENICI and Senator REID, for bringing this appropriations bill to the floor in a bipartisan fashion and for making this time available to us tonight.

I am very pleased to join with my good friend and colleague from the State of New York, Senator SCHUMER, in offering this important amendment to the Energy and Water Appropriations bill. As my colleague has explained, this amendment is straightforward. It would establish a Presidential commission to help us develop a comprehensive, sustainable energy policy. The time is long overdue for this Nation to have an energy policy. Unfortunately, the current administration has failed to develop one.

Last year when the home heating oil crisis gripped the Northeast, the Energy Secretary, Bill Richardson, was very forthright. He admitted that the Federal Government had been caught napping and said that we simply were not prepared.

Due largely to OPEC's anticompetitive manipulation of our oil markets, we have been experiencing dramatic price increases that have rippled throughout the four corners of this Nation. This year consumers have paid 47 percent more for gasoline. Truckers have paid 46 percent more for diesel fuel. And Northeasterners have paid 81 percent more for home heating oil than they did just one year earlier.

In my home State of Maine, this problem is reaching crisis proportions.

Seventy-five percent of all Maine households use home heating oil, consuming an average of 800 gallons per year. Last year, the average Maine household spent \$320 more than it did the previous year simply to heat with oil. Of course, heating with natural gas provided little relief as natural gas prices have also soared. And the outlook for this year is even worse.

Meanwhile, although OPEC countries sold 5 percent less oil in 1999, their profits were up by 38 percent.

Today, as a year ago, we find ourselves turning the corner toward cooler weather and another looming home heating oil price crisis. All signs indicate that this one will be even worse than last year's. Consider that crude oil closed Friday at \$33 per barrel, up from \$22 a year ago. Last week heating oil futures hit their highest level since October of 1990. At the same time, as my colleague has pointed out, home heating oil and natural gas inventories are down. Indeed, distillate stocks are roughly 10 million barrels lower than the administration predicted just last month. In fact, stocks of crude oil, gasoline and heating oil in the United States have not been at levels this low since the mid-1970s, when our economy was thrown into turmoil due in large measure to a volatile oil market. Compounding the problem, the demand for distillate fuel is predicted to increase significantly this winter.

In short, the fast approaching winter looks bleak. And judging from the most recent comments of OPEC officials, it is clear that we cannot expect any real relief from the cartel.

As my colleague has pointed out, there is no consensus in the Congress or in the administration about what approach we should take in developing a national energy policy. Policymakers differ on what can be done to provide relief to American consumers.

My friend from New York and I have been advocating for some time that the administration implement a responsible plan to swap oil from our well-stocked Strategic Petroleum Reserve to satisfy market demand and provide some price relief to American consumers. Others in this Chamber advocate different approaches. But I believe we can all find common ground with the notion that, in the long term, we need to conduct a comprehensive study of our oil and natural gas industries in order to develop a strategy to stabilize fuel prices, to explore alternative energy sources, and to reduce our reliance on foreign oil supplies. Our amendment would take an important first step in accomplishing these goals through the creation of a bipartisan energy commission.

I very much appreciate the fact that the managers have been working with us on this legislation, which I hope they will accept. With that, I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, on behalf of myself and with the concurrence of the minority leader, I ask unanimous consent that during the consideration of the energy and water appropriations bill on Wednesday, it be in order for the minority leader, or his designee, to offer an amendment to strike relating to the Missouri River. I further ask consent that there be 3 hours for debate equally divided in the usual form on that amendment, and further, no amendments be in order to the language proposed to be stricken by a vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, as soon as there is a unanimous consent agreement, it is my understanding that what we are going to try to do—there appear to be no more amendments tonight. As soon as there is something from the staff putting us out tonight, I will withhold.

Mr. DOMENICI. The Senator is correct.

#### MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000

Mr. THURMOND. I rise today to express reservations about S. 2869, the Religious Land Use and Institutionalized Persons Act of 2000, and the larger issue of the impact of religious liberty legislation in the context of prisons and the military.

One of the founding principles of our Nation involves the freedom to worship. I have always been a strong supporter of this most basic right. For example, for many years I have introduced a constitutional amendment to permit prayer in public schools, and I would be very pleased if we could pass that amendment.

In the closing hours of the Senate before the August recess, the Senate considered the Religious Land Use and Institutionalized Persons Act, which is essentially an attempt to change the way the courts interpret the Free Exer-

cise Clause of the Constitution regarding prisons and land use regulations throughout the Nation. Ever since the Supreme Court held the Religious Liberty Protection Act unconstitutional as applied to the states, supporters of this legislation have tried to reverse that decision. Just as the Religious Liberty Protection Act has been held unconstitutional as applied to the states and its legality is still unclear regarding the federal government, there are legitimate issues regarding whether S. 2869 is constitutional. Moreover, there are serious questions about whether this bill is good public policy, especially as it relates to the prisons and jails across America.

I first wish to note what this bill is not. It is not directed at laws that intentionally discriminate against a particular religion or even all religions. We all recognize that laws that intentionally discriminate against religious groups cannot be tolerated, and the courts already routinely invalidate such laws. Rather, this bill is directed at laws that apply to everyone equally, but have the effect of burdening someone's exercise of his or her religion. It is this indirect impact that the supporters are trying to address. However, in the process, the bill is entirely inconsistent with the principles of federalism, and it creates significant problems in many areas.

I would like to specifically address prisons. The safe and secure operation of prisons is an extremely difficult and complex task. I fear that establishing new legal rights for inmates through this law will only make that job more difficult and more dangerous.

The Supreme Court under O'Lone and other cases established a reasonable standard for evaluating religious freedom claims in prison, balancing the needs of inmates and the institution. Then, in 1993, the Religious Freedom Restoration Act imposed a very difficult burden on correctional officials when prisoners made demands that they claimed were based on their religious faith. Although R.F.R.A. was held unconstitutional a few years later, the bill will again upset the balance.

Applying this legislation in prison has the real potential to undermine safety and security. Inmates have used religion as a cover to organize prison uprisings, get drugs into prison, promote gang activity, and interfere in important prison health regulations. Additional legal protections will make it much harder for corrections officials to control these abuses of religious rights.

One example of a successful prisoner lawsuit before R.F.R.A. was held unconstitutional concerns an inmate who refused to take a tuberculosis test in *Jolly v. Coughlin*. The New York prison system wished to prevent the spread of T.B. to staff and inmates, so it implemented a mandatory testing program

to screen inmates for T.B. so the disease could be treated before it became active and contagious. The plaintiff refused to take the test based on his religious beliefs, and won. The courts permitted the inmate to violate this very reasonable health policy. This is a clear interference with prison safety and security. There is no excuse for courts to allow inmates to tell authorities what health policies they will or will not follow.

This case is just an example of how S. 2869 has the potential to put courts back in the business of second-guessing correctional officials and micromanaging state and local jails. There should be deference to the expertise and judgement of prison administrators. These professionals know what is needed to protect the safety and security of inmates, staff, and the public.

The possibilities for inmate demands for religious accommodation under S. 2869 are limited only by the criminal's imagination. As the Attorney General of Ohio said in a letter last year, "We have seen inmates sue the states for the 'right' to burn Bibles, the 'right' to engage in animal sacrifices, the 'right' to burn candles for Satanist services, the 'right' to certain special diets, or the 'right' to distribute racist materials."

There was a large increase in prisoner demands and a rise in lawsuits based on religious liberty while R.F.R.A. was in effect. The Solicitor of Ohio testified a few years ago that there were 254 inmate R.F.R.A. cases in the Lexis computer database during the three years the law applied to the states. This does not include cases that were not included in the database, and some of the cases listed actually included many inmates because the cases were class action suits.

Winning lawsuits will encourage inmates to challenge authority more and more often in day to day prison life, and S. 2869 will make it much more likely that they will win. However, even if a prisoner's claim fails, it costs the prison much time and money to defend, at a time when prison costs are rising. The new legal standard will make it much harder to get cases dismissed before trial, greatly increasing the diversion of time and resources.

As former Senator Alan Simpson said during the debate on R.F.R.A. in 1993, applying this legislation to prisons will impose "an unfunded Federal mandate requiring the State and local governments to pay for more frequent, expensive, and protracted prisoner suits in the name of religious freedom."

Some have argued that the fact that S. 2869 must comply with the Prison Litigation Reform Act solves any problems regarding inmates. Unfortunately, as the National Association of Attorneys General has recognized, this is incorrect. It is true that the P.L.R.A. has limited the number of