

## Calendar No. 688

106TH CONGRESS  
2D SESSION

**H.R. 4733**

Making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 28, 2000

Received; read twice and referred to the Committee on Appropriations

JULY 18, 2000

Reported by Mr. DOMENICI, with an amendment

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

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**AN ACT**

Making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*  
 3 ~~That the following sums are appropriated, out of any~~  
 4 ~~money in the Treasury not otherwise appropriated, for the~~  
 5 ~~fiscal year ending September 30, 2001, for energy and~~  
 6 ~~water development, and for other purposes, namely:~~

1       (b) EXCEPTIONS FOR ADMINISTRATOR FOR NU-  
2 CLEAR SECURITY AND DEPUTY ADMINISTRATOR FOR  
3 NAVAL REACTORS.—The limitation in subsection (a) shall  
4 not apply to the following cases:

5           (1) The Under Secretary of Energy for Nuclear  
6 Security serving as the Administrator for Nuclear  
7 Security, as provided in section 3212(a)(2) of the  
8 National Nuclear Security Administration Act (50  
9 U.S.C. 2402(a)(2)).

10          (2) The director of the Naval Nuclear Propul-  
11 sion Program provided for under the Naval Nuclear  
12 Propulsion Executive Order serving as the Deputy  
13 Administrator for Naval Reactors, as provided in  
14 section 3216(a)(1) of such Act (50 U.S.C.  
15 2406(a)(1)).

16       This Act may be cited as the “Energy and Water De-  
17 velopment Appropriations Act, 2001”.

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



1 *cles for replacement only, \$691,520,000 to remain available*  
2 *until September 30, 2002, of which \$12,000,000 shall be de-*  
3 *rived by transfer from the United States Enrichment Cor-*  
4 *poration Fund: Provided, That, in addition, royalties re-*  
5 *ceived to compensate the Department of Energy for its par-*  
6 *ticipation in the First-Of-A-Kind-Engineering program*  
7 *shall be credited to this account to be available until Sep-*  
8 *tember 30, 2002 for the purposes of Nuclear Energy, Science*  
9 *and Technology activities.*

10 *NON-DEFENSE ENVIRONMENTAL MANAGEMENT*

11 *For Department of Energy expenses, including the*  
12 *purchase, construction and acquisition of plant and capital*  
13 *equipment and other expenses necessary for non-defense en-*  
14 *vironmental management activities in carrying out the*  
15 *purposes of the Department of Energy Organization Act (42*  
16 *U.S.C. 7101 et seq.), including the acquisition or con-*  
17 *demnation of any real property or any facility or for plant*  
18 *or facility acquisition, construction or expansion,*  
19 *\$309,141,000, to remain available until expended.*

20 *URANIUM ENRICHMENT DECONTAMINATION AND*  
21 *DECOMMISSIONING FUND*

22 *For necessary expenses in carrying out uranium en-*  
23 *richment facility decontamination and decommissioning,*  
24 *remedial actions and other activities of title II of the Atom-*  
25 *ic Energy Act of 1954 and title X, subtitle A of the Energy*  
26 *Policy Act of 1992, \$297,778,000, to be derived from the*

1 *Fund, to remain available until expended: Provided, That*  
2 *\$30,000,000 of amounts derived from the Fund for such ex-*  
3 *penses shall be available in accordance with title X, subtitle*  
4 *A, of the Energy Policy Act of 1992.*

5 *SCIENCE*

6 *For Department of Energy expenses including the pur-*  
7 *chase, construction and acquisition of plant and capital*  
8 *equipment, and other expenses necessary for science activi-*  
9 *ties in carrying out the purposes of the Department of En-*  
10 *ergy Organization Act (42 U.S.C. 7101 et seq.), including*  
11 *the acquisition or condemnation of any real property or*  
12 *facility or for plant or facility acquisition, construction, or*  
13 *expansion, and purchase of not to exceed 58 passenger*  
14 *motor vehicles for replacement only, \$2,870,112,000, to re-*  
15 *main available until expended: Provided, That notwith-*  
16 *standing any other provision of law, not to exceed*  
17 *\$51,163,000 of the funds appropriated herein may be obli-*  
18 *gated for the Small Business Innovation Research program*  
19 *and not to exceed \$3,069,000 of the funds appropriated*  
20 *herein may be obligated for the Small Business Technology*  
21 *Transfer program.*

22 *NUCLEAR WASTE DISPOSAL*

23 *For nuclear waste disposal activities to carry out the*  
24 *purposes of Public Law 97-425, as amended, including the*  
25 *acquisition of real property or facility construction or ex-*  
26 *pansion, \$59,175,000, to remain available until expended*

1 *and to be derived from the Nuclear Waste Fund: Provided,*  
2 *That not to exceed \$2,500,000 may be provided to the State*  
3 *of Nevada solely for expenditures, other than salaries and*  
4 *expenses of State employees, to conduct scientific oversight*  
5 *responsibilities pursuant to the Nuclear Waste Policy Act*  
6 *of 1982, (Public Law 97-425) as amended: Provided fur-*  
7 *ther, That not to exceed \$5,887,000 may be provided to af-*  
8 *ected units of local governments, as defined in Public Law*  
9 *97-425, to conduct appropriate activities pursuant to the*  
10 *Act: Provided further, That the distribution of the funds*  
11 *as determined by the units of local government shall be ap-*  
12 *proved by the Department of Energy: Provided further,*  
13 *That the funds for the State of Nevada shall be made solely*  
14 *to the Nevada Division of Emergency Management by direct*  
15 *payment and units of local government by direct payment:*  
16 *Provided further, That within 90 days of the completion*  
17 *of each Federal fiscal year, the Nevada Division of Environ-*  
18 *mental Management and the Governor of the State of Ne-*  
19 *vada and each local entity shall provide certification to the*  
20 *Department of Energy, that all funds expended from such*  
21 *payments have been expended for activities authorized by*  
22 *Public Law 97-425. Failure to provide such certification*  
23 *shall cause such entity to be prohibited from any further*  
24 *funding provided for similar activities: Provided, That*  
25 *none of the funds herein appropriated may be: (1) used di-*

1 *rectly or indirectly to influence legislative action on any*  
2 *matter pending before Congress or a State legislature or for*  
3 *lobbying activity as provided in 18 U.S.C. 1913; (2) used*  
4 *for litigation expenses; or (3) used to support multi-state*  
5 *efforts or other coalition building activities inconsistent*  
6 *with the restrictions contained in this Act: Provided further,*  
7 *That all proceeds and recoveries by the Secretary in car-*  
8 *rying out activities authorized by the Nuclear Waste Policy*  
9 *Act of 1982 in Public Law 97-425, as amended, including*  
10 *but not limited to, any proceeds from the sale of assets, shall*  
11 *be available without further appropriation and shall re-*  
12 *main available until expended.*

13 *DEPARTMENTAL ADMINISTRATION*

14 *For salaries and expenses of the Department of Energy*  
15 *necessary for departmental administration in carrying out*  
16 *the purposes of the Department of Energy Organization Act*  
17 *(42 U.S.C. 7101 et seq.), including the hire of passenger*  
18 *motor vehicles and official reception and representation ex-*  
19 *penses (not to exceed \$35,000), \$210,128,000, to remain*  
20 *available until expended, plus such additional amounts as*  
21 *necessary to cover increases in the estimated amount of cost*  
22 *of work for others notwithstanding the provisions of the*  
23 *Anti-Deficiency Act (31 U.S.C. 1511 et seq.): Provided,*  
24 *That such increases in cost of work are offset by revenue*  
25 *increases of the same or greater amount, to remain avail-*  
26 *able until expended: Provided further, That moneys received*

1 *by the Department for miscellaneous revenues estimated to*  
2 *total \$128,762,000 in fiscal year 2001 may be retained and*  
3 *used for operating expenses within this account, and may*  
4 *remain available until expended, as authorized by section*  
5 *201 of Public Law 95-238, notwithstanding the provisions*  
6 *of 31 U.S.C. 3302: Provided further, That the sum herein*  
7 *appropriated shall be reduced by the amount of miscella-*  
8 *neous revenues received during fiscal year 2001 so as to*  
9 *result in a final fiscal year 2001 appropriation from the*  
10 *General Fund estimated at not more than \$81,366,000.*

11 *OFFICE OF THE INSPECTOR GENERAL*

12 *For necessary expenses of the Office of the Inspector*  
13 *General in carrying out the provisions of the Inspector Gen-*  
14 *eral Act of 1978, as amended, \$28,988,000, to remain avail-*  
15 *able until expended.*

16 *ATOMIC ENERGY DEFENSE ACTIVITIES*

17 *NATIONAL NUCLEAR SECURITY ADMINISTRATION*

18 *WEAPONS ACTIVITIES*

19 *For Department of Energy expenses, including the*  
20 *purchase, construction and acquisition of plant and capital*  
21 *equipment and other incidental expenses necessary for*  
22 *atomic energy defense weapons activities in carrying out*  
23 *the purposes of the Department of Energy Organization Act*  
24 *(42 U.S.C. 7101 et seq.), including the acquisition or con-*  
25 *demnation of any real property or any facility or for plant*  
26 *or facility acquisition, construction, or expansion; and the*

1 purchase of passenger motor vehicles (not to exceed 12 for  
2 replacement only), \$4,883,289,000, to remain available  
3 until expended.

4 DEFENSE NUCLEAR NONPROLIFERATION

5 For Department of Energy expenses, including the  
6 purchase, construction and acquisition of plant and capital  
7 equipment and other incidental expenses necessary for  
8 atomic energy defense, Defense Nuclear Nonproliferation ac-  
9 tivities, in carrying out the purposes of the Department of  
10 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-  
11 ing the acquisition or condemnation of any real property  
12 or any facility or for plant or facility acquisition, construc-  
13 tion, or expansion, \$908,967,000, to remain available until  
14 expended: Provided, That not to exceed \$5,000 may be used  
15 for official reception and representation expenses for na-  
16 tional security and nonproliferation (including trans-  
17 parency) activities in fiscal year 2001.

18 NAVAL REACTORS

19 For Department of Energy expenses, including the  
20 purchase, construction and acquisition of plant and capital  
21 equipment and other incidental expenses necessary for  
22 atomic energy defense, Naval Reactor activities, in carrying  
23 out the purposes of the Department of Energy Organization  
24 Act (42 U.S.C. 7101 et seq.), including the acquisition or  
25 condemnation of any real property or any facility or for

1 *plant or facility acquisition, construction, or expansion,*  
2 *\$694,600,000, to remain available until expended.*

3 *OFFICE OF THE ADMINISTRATOR*

4 *For necessary expenses of the Office of the Adminis-*  
5 *trator of the National Nuclear Security Administration, in-*  
6 *cluding official reception and representation expenses (not*  
7 *to exceed \$5,000), \$10,000,000, to remain available until*  
8 *expended.*

9 *OTHER DEFENSE RELATED ACTIVITIES*

10 *DEFENSE ENVIRONMENTAL RESTORATION AND WASTE*

11 *MANAGEMENT*

12 *For Department of Energy expenses, including the*  
13 *purchase, construction and acquisition of plant and capital*  
14 *equipment and other expenses necessary for atomic energy*  
15 *defense environmental restoration and waste management*  
16 *activities in carrying out the purposes of the Department*  
17 *of Energy Organization Act (42 U.S.C. 7101 et seq.), in-*  
18 *cluding the acquisition or condemnation of any real prop-*  
19 *erty or any facility or for plant or facility acquisition, con-*  
20 *struction, or expansion; and the purchase of 67 passenger*  
21 *motor vehicles for replacement only, \$4,635,763,000, to re-*  
22 *main available until expended: Provided, That any*  
23 *amounts appropriated under this heading that are used to*  
24 *provide economic assistance under section 15 of the Waste*  
25 *Isolation Pilot Plant Land Withdrawal Act (Public Law*  
26 *102-579) shall be utilized to the extent necessary to reim-*

1 *burse costs of financial assurances required of a contractor*  
2 *by any permit or license of the Waste Isolation Pilot Plant*  
3 *issued by the State of New Mexico.*

4 *DEFENSE FACILITIES CLOSURE PROJECTS*

5 *For expenses of the Department of Energy to accelerate*  
6 *the closure of defense environmental management sites, in-*  
7 *cluding the purchase, construction and acquisition of plant*  
8 *and capital equipment and other necessary expenses,*  
9 *\$1,082,297,000, to remain available until expended.*

10 *DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION*

11 *For Department of Energy expenses for privatization*  
12 *projects necessary for atomic energy defense environmental*  
13 *management activities authorized by the Department of*  
14 *Energy Organization Act (42 U.S.C. 7101 et seq.),*  
15 *\$324,000,000, to remain available until expended.*

16 *OTHER DEFENSE ACTIVITIES*

17 *For Department of Energy expenses, including the*  
18 *purchase, construction and acquisition of plant and capital*  
19 *equipment and other expenses necessary for atomic energy*  
20 *defense, other defense activities, in carrying out the pur-*  
21 *poses of the Department of Energy Organization Act (42*  
22 *U.S.C. 7101 et seq.), including the acquisition or con-*  
23 *demnation of any real property or any facility or for plant*  
24 *or facility acquisition, construction, or expansion,*  
25 *\$579,463,000, to remain available until expended, of which*

1 \$17,000,000 shall be for the Department of Energy Employ-  
2 ees Compensation Initiative upon enactment of authoriza-  
3 tion legislation into law.

4 *DEFENSE NUCLEAR WASTE DISPOSAL*

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

9 *POWER MARKETING ADMINISTRATIONS*

10 *BONNEVILLE POWER ADMINISTRATION FUND*

11 *Expenditures from the Bonneville Power Administra-*  
12 *tion Fund, established pursuant to Public Law 93-454, are*  
13 *approved for the Nez Perce Tribe Resident Fish Substi-*  
14 *tution Program, the Cour D'Alene Tribe Trout Production*  
15 *facility, and for official reception and representation ex-*  
16 *penses in an amount not to exceed \$1,500.*

17 *During fiscal year 2001, no new direct loan obliga-*  
18 *tions may be made. Section 511 of the Energy and Water*  
19 *Development Appropriations Act, 1997 (Public Law 104-*  
20 *206), is amended by striking the last sentence and inserting,*  
21 *“This authority shall expire September 30, 2005.”.*

22 *OPERATION AND MAINTENANCE, SOUTHEASTERN POWER*  
23 *ADMINISTRATION*

24 *For necessary expenses of operation and maintenance*  
25 *of power transmission facilities and of marketing electric*  
26 *power and energy, including transmission wheeling and*

1 ancillary services, pursuant to the provisions of section 5  
2 of the Flood Control Act of 1944 (16 U.S.C. 825s), as ap-  
3 plied to the southeastern power area, \$3,900,000, to remain  
4 available until expended; in addition, notwithstanding the  
5 provisions of 31 U.S.C. 3302, amounts collected by the  
6 Southeastern Power Administration pursuant to the Flood  
7 Control Act to recover purchase power and wheeling ex-  
8 penses shall be credited to this account as offsetting collec-  
9 tions, to remain available until expended for the sole pur-  
10 pose of making purchase power and wheeling expenditures  
11 as follows: for fiscal year 2001, up to \$34,463,000; for fiscal  
12 year 2002, up to \$26,463,000; for fiscal year 2003, up to  
13 \$20,000,000; and for fiscal year 2004, up to \$15,000,000.

14 OPERATION AND MAINTENANCE, SOUTHWESTERN POWER

15 ADMINISTRATION

16 (INCLUDING TRANSFER OF FUNDS)

17 For necessary expenses of operation and maintenance  
18 of power transmission facilities and of marketing electric  
19 power and energy, and for construction and acquisition of  
20 transmission lines, substations and appurtenant facilities,  
21 and for administrative expenses, including official recep-  
22 tion and representation expenses in an amount not to ex-  
23 ceed \$1,500 in carrying out the provisions of section 5 of  
24 the Flood Control Act of 1944 (16 U.S.C. 825s), as applied  
25 to the southwestern power area, \$28,100,000, to remain  
26 available until expended; in addition, notwithstanding the

1 *provisions of 31 U.S.C. 3302, not to exceed \$4,200,000 in*  
2 *reimbursements, to remain available until expended: Pro-*  
3 *vided, That amounts collected by the Southwestern Power*  
4 *Administration pursuant to the Flood Control Act to re-*  
5 *cover purchase power and wheeling expenses shall be cred-*  
6 *ited to this account as offsetting collections, to remain avail-*  
7 *able until expended for the sole purpose of making purchase*  
8 *power and wheeling expenditures as follows: for fiscal year*  
9 *2001, up to \$288,000; for fiscal year 2002, up to \$288,000;*  
10 *for fiscal year 2003, up to \$288,000; and for fiscal year*  
11 *2004, up to \$288,000.*

12 *CONSTRUCTION, REHABILITATION, OPERATION AND*

13 *MAINTENANCE, WESTERN AREA POWER ADMINISTRATION*

14 *For carrying out the functions authorized by title III,*  
15 *section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C.*  
16 *7152), and other related activities including conservation*  
17 *and renewable resources programs as authorized, including*  
18 *official reception and representation expenses in an amount*  
19 *not to exceed \$1,500, \$164,916,000, to remain available*  
20 *until expended, of which \$154,616,000 shall be derived from*  
21 *the Department of the Interior Reclamation Fund: Pro-*  
22 *vided, That of the amount herein appropriated, \$5,950,000*  
23 *is for deposit into the Utah Reclamation Mitigation and*  
24 *Conservation Account pursuant to title IV of the Reclama-*  
25 *tion Projects Authorization and Adjustment Act of 1992:*  
26 *Provided further, That amounts collected by the Western*

1 *Area Power Administration pursuant to the Flood Control*  
2 *Act of 1944 and the Reclamation Project Act of 1939 to*  
3 *recover purchase power and wheeling expenses shall be cred-*  
4 *ited to this account as offsetting collections, to remain avail-*  
5 *able until expended for the sole purpose of making purchase*  
6 *power and wheeling expenditures as follows: for fiscal year*  
7 *2001, up to \$42,500,000; for fiscal year 2002, up to*  
8 *\$33,500,000; for fiscal year 2003, up to \$30,000,000; and*  
9 *for fiscal year 2004, up to \$20,000,000.*

10 *FALCON AND AMISTAD OPERATING AND MAINTENANCE*

11 *FUND*

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

19 *FEDERAL ENERGY REGULATORY COMMISSION*

20 *SALARIES AND EXPENSES*

21 *For necessary expenses of the Federal Energy Regu-*  
22 *latory Commission to carry out the provisions of the De-*  
23 *partment of Energy Organization Act (42 U.S.C. 7101 et*  
24 *seq.), including services as authorized by 5 U.S.C. 3109,*  
25 *the hire of passenger motor vehicles, and official reception*  
26 *and representation expenses (not to exceed \$3,000),*



1 of Energy shall have the exclusive waiver authority for all  
2 other activities which may not be delegated.

3 (c) At least 60 days before a contract award, amend-  
4 ment, or modification for which the Secretary intends to  
5 grant such a waiver as provided for in subsection (b), the  
6 Secretary shall submit to the Subcommittees on Energy and  
7 Water Development of the Committees on Appropriations  
8 of the House of Representatives and the Senate a report no-  
9 tifying the subcommittees of the waiver and setting forth  
10 the reasons for the waiver.

11 (d) At least 60 days before a contract award, amend-  
12 ment, or modification for which the Administrator of the  
13 National Nuclear Security Administration intends to grant  
14 such a waiver as provided in subsection (b), the Adminis-  
15 trator shall submit to the Subcommittees on Energy and  
16 Water Development of the Committees on Appropriations  
17 of the House of Representatives and the Senate a report no-  
18 tifying the subcommittees of the waiver and setting forth  
19 the reasons for the waiver.

20 SEC. 302. (a) None of the funds appropriated by this  
21 Act under “Atomic Energy Defense Activities, National Nu-  
22 clear Security Administration” may be used to award,  
23 amend, or modify a contract in a manner that deviates  
24 from the Federal Acquisition Regulation, unless the Admin-  
25 istrator of the National Nuclear Security Administration

1 grants, on a case-by-case basis, a waiver to allow for such  
2 a deviation. The Administrator may not delegate the au-  
3 thority to grant such a waiver.

4 (b) At least 60 days before a contract award, amend-  
5 ment, or modification for which the Administrator intends  
6 to grant such a waiver, the Administrator shall submit to  
7 the Subcommittees on Energy and Water Development of  
8 the Committees on Appropriations of the House of Rep-  
9 resentatives and the Senate a report notifying the sub-  
10 committees of the waiver and setting forth the reasons for  
11 the waiver.

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

14 (1) develop or implement a workforce restruc-  
15 turing plan that covers employees of the Department  
16 of Energy; or

17 (2) provide enhanced severance payments or  
18 other benefits for employees of the Department of En-  
19 ergy, under section 3161 of the National Defense Au-  
20 thorization Act for Fiscal Year 1993 (Public Law  
21 102-484; 106 Stat. 2644; 42 U.S.C. 7274h).

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

1                   (TRANSFERS OF UNEXPENDED BALANCES)

2           *SEC. 305. The unexpended balances of prior appro-*  
3 *priations provided for activities in this Act may be trans-*  
4 *ferred to appropriation accounts for such activities estab-*  
5 *lished pursuant to this title. Balances so transferred may*  
6 *be merged with funds in the applicable established accounts*  
7 *and thereafter may be accounted for as one fund for the*  
8 *same time period as originally enacted.*

9           *SEC. 306. Notwithstanding 41 U.S.C. 254c(a), the Sec-*  
10 *retary of Energy may use funds appropriated by this Act*  
11 *to enter into or continue multi-year contracts for the acqui-*  
12 *sition of property or services under the head, "Energy Sup-*  
13 *ply" without obligating the estimated costs associated with*  
14 *any necessary cancellation or termination of the contract.*  
15 *The Secretary of Energy may pay costs of termination or*  
16 *cancellation from—*

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

19                   (2) *appropriations currently available for pro-*  
20 *urement of the type of property or services concerned,*  
21 *and not otherwise obligated; or*

22                   (3) *funds appropriated for those payments.*

23           *SEC. 307. Of the funds in this Act provided to govern-*  
24 *ment-owned, contractor-operated laboratories, up to 6 per-*  
25 *cent shall be available to be used for Laboratory Directed*

1 *Research and Development: Provided, That the funds in the*  
2 *Environmental Management programs of the Department*  
3 *of Energy are available for Laboratory Directed Research*  
4 *and Development.*

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

9 *(b) Funds appropriated by this title to the Department*  
10 *of Energy may be used to reimburse a Department of En-*  
11 *ergy management and operating contractor for travel costs*  
12 *of its employees under the contract only to the extent that*  
13 *the contractor applies to its employees the same rates and*  
14 *amounts as those that apply to Federal employees under*  
15 *subchapter I of chapter 57 of title 5, United States Code,*  
16 *or rates and amounts established by the Secretary of En-*  
17 *ergy. The Secretary of Energy may provide exceptions to*  
18 *the reimbursement requirements of this section as the Sec-*  
19 *retary considers appropriate.*

20 *SEC. 309. (a) None of the funds in this Act or any*  
21 *future Energy and Water Development Appropriations Act*  
22 *may be expended after December 31 of each year under a*  
23 *covered contract unless the funds are expended in accord-*  
24 *ance with a Laboratory Funding Plan that has been ap-*  
25 *proved by the Administrator of the National Nuclear Secu-*

1 rity Administration. At the beginning of each fiscal year,  
2 the Administrator shall issue directions to the laboratories  
3 for the programs, projects, and activities to be conducted  
4 in that fiscal year. The Administrator and the Laboratories  
5 shall devise a Laboratory Funding Plan that identifies the  
6 resources needed to carry out these programs, projects, and  
7 activities. Funds shall be released to the Laboratories only  
8 after the Administrator has approved the Laboratory Fund-  
9 ing Plan. The Administrator of the National Nuclear Secu-  
10 rity Administration may provide exceptions to this require-  
11 ment as the Secretary considers appropriate.

12 (b) For purposes of this section, “covered contract”  
13 means a contract for the management and operation of the  
14 following laboratories: Lawrence Livermore National Lab-  
15 oratory, Los Alamos National Laboratory, and Sandia Na-  
16 tional Laboratories.

17 SEC. 310. Section 310(b) of Public Law 106–60 (113  
18 Stat. 496) is amended by striking “Lawrence Livermore  
19 National Laboratory, Los Alamos National Laboratory,  
20 Oak Ridge National Laboratory, Pacific Northwest Na-  
21 tional Laboratory, and Sandia National Laboratories.” in  
22 paragraph (b), and inserting “Oak Ridge National Labora-  
23 tory, and Pacific Northwest National Laboratory.”.

24 SEC. 311. None of the funds provided in this Act may  
25 be used to establish or maintain independent centers at a

1 *Department of Energy laboratory or facility unless such*  
2 *funds have been specifically identified in the budget submis-*  
3 *sion.*

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

7 *SEC. 313. None of the funds in this Act may be used*  
8 *to dispose of transuranic waste in the Waste Isolation Pilot*  
9 *Plant which contains concentrations of plutonium in excess*  
10 *of 20 percent by weight for the aggregate of any material*  
11 *category on the date of the enactment of this Act, or is gen-*  
12 *erated after such date.*

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

19 *(b) EXCLUSIVE REASONS FOR REMOVAL.—The exclu-*  
20 *sive reasons for removal from office as Under Secretary for*  
21 *Nuclear Security of the person described in subsection (a)*  
22 *shall be inefficiency, neglect of duty, or malfeasance in of-*  
23 *fice.*

24 *(c) POSITION DESCRIBED.—The position of Under*  
25 *Secretary for Nuclear Security of the Department of Energy*

1 referred to in this section is the position established by sub-  
2 section (c) of section 202 of the Department of Energy Orga-  
3 nization Act (42 U.S.C. 7132), as added by section 3202  
4 of the National Nuclear Security Administration Act (title  
5 XXXII of Public Law 106–65; 113 Stat. 954)).

6        *SEC. 315. SCOPE OF AUTHORITY OF SECRETARY OF*  
7 *ENERGY TO MODIFY ORGANIZATION OF NATIONAL NU-*  
8 *CLEAR SECURITY ADMINISTRATION. (a) SCOPE OF AUTHOR-*  
9 *ITY.*—*Subtitle A of the National Nuclear Security Adminis-*  
10 *tration Act (title XXXII of Public Law 106–65; 113 Stat.*  
11 *957; 50 U.S.C. 2401 et seq.) is amended by adding at the*  
12 *end the following new section:*

13 **“SEC. 3219. SCOPE OF AUTHORITY OF SECRETARY OF EN-**  
14 **ERGY TO MODIFY ORGANIZATION OF ADMIN-**  
15 **ISTRATION.**

16        *“Notwithstanding the authority granted by section 643*  
17 *of the Department of Energy Organization Act (42 U.S.C.*  
18 *7253) or any other provision of law, the Secretary of En-*  
19 *ergy may not establish, abolish, alter, consolidate, or dis-*  
20 *continue any organizational unit or component, or transfer*  
21 *any function, of the Administration, except as authorized*  
22 *by subsection (b) or (c) of section 3291.”.*

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



1           “(1) serves concurrently in a position in the Ad-  
2           ministration and a position outside the Administra-  
3           tion; or

4           “(2) performs concurrently the duties of a posi-  
5           tion in the Administration and the duties of a posi-  
6           tion outside the Administration.”

7           “(b) The provision of this section shall take effect 60  
8           days after the date of enactment of this section.”.

9           SEC. 317. *The Administrator of the National Nuclear*  
10          *Security Administration may authorize the plant manager*  
11          *of a covered nuclear weapons production plant to engage*  
12          *in research, development, and demonstration activities with*  
13          *respect to the engineering and manufacturing capabilities*  
14          *at such plant in order to maintain and enhance such capa-*  
15          *bilities at such plant: Provided, That of the amount allo-*  
16          *cated to a covered nuclear weapons production plant each*  
17          *fiscal year from amounts available to the Department of*  
18          *Energy for such fiscal year for national security programs,*  
19          *not more than an amount equal to 2 percent of such amount*  
20          *may be used for these activities: Provided further, That for*  
21          *purposes of this section, the term “covered nuclear weapons*  
22          *production plant” means the following:*

23                 (1) *The Kansas City Plant, Kansas City, Mis-*  
24                 *souri.*

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

1           (3) *The Pantex Plant, Amarillo, Texas.*

2           *SEC. 318. LIMITING THE INCLUSION OF COSTS OF*  
3 *PROTECTION OF, MITIGATION OF DAMAGE TO, AND EN-*  
4 *HANCEMENT OF FISH AND WILDLIFE, WITHIN RATES*  
5 *CHARGED BY THE BONNEVILLE POWER ADMINISTRATION,*  
6 *TO THE RATE PERIOD IN WHICH THE COSTS ARE IN-*  
7 *CURRED. Section 7 of the Pacific Northwest Electric Power*  
8 *Planning and Conservation Act (16 U.S.C. 839e) is amend-*  
9 *ed by adding at the end the following:*

10           “(n) *LIMITING THE INCLUSION OF COSTS OF PROTEC-*  
11 *TION OF, MITIGATION OF DAMAGE TO, AND ENHANCEMENT*  
12 *OF FISH AND WILDLIFE, WITHIN RATES CHARGED BY THE*  
13 *BONNEVILLE POWER ADMINISTRATION, TO THE RATE PE-*  
14 *RIOD IN WHICH THE COSTS ARE INCURRED.—Notwith-*  
15 *standing any other provision of this section, rates estab-*  
16 *lished by the Administrator, under this section shall recover*  
17 *costs for protection, mitigation and enhancement of fish and*  
18 *wildlife, whether under the Pacific Northwest Electric*  
19 *Power Planning and Conservation Act or any other Act,*  
20 *not to exceed such amounts the Administrator forecasts will*  
21 *be expended during the fiscal year 2002–2006 rate period,*  
22 *while preserving the Administrator’s ability to establish ap-*  
23 *propriate reserves and maintain a high Treasury payment*  
24 *probability for the subsequent rate period.”.*



1            *NUCLEAR WASTE TECHNICAL REVIEW BOARD*2                            *SALARIES AND EXPENSES*3                            *(INCLUDING TRANSFER OF FUNDS)*

4            *For necessary expenses of the Nuclear Waste Technical*  
5 *Review Board, as authorized by Public Law 100–203, sec-*  
6 *tion 5051, \$3,000,000, to be derived from the Nuclear Waste*  
7 *Fund, and to remain available until expended.*

8                            *TITLE V*9                            *FISCAL YEAR 2000 SUPPLEMENTAL*10                           *APPROPRIATIONS*11                           *DEPARTMENT OF ENERGY*12                           *ATOMIC ENERGY DEFENSE ACTIVITIES*13                           *CERRO GRANDE FIRE ACTIVITIES*

14           *For necessary expenses for fiscal year 2000 to reme-*  
15 *diate damaged Department of Energy facilities and for*  
16 *other expenses associated with the Cerro Grande fire,*  
17 *\$203,460,000, to remain available until expended and to*  
18 *become available upon enactment: Provided, That the entire*  
19 *amount shall be available only to the extent an official*  
20 *budget request for \$204,000,000, that includes designation*  
21 *of the entire amount of the request as an emergency require-*  
22 *ment as defined in the Balanced Budget and Emergency*  
23 *Deficit Control Act of 1985, as amended, is transmitted by*  
24 *the President to the Congress: Provided further, That the*  
25 *entire amount is designated by the Congress as an emer-*  
26 *gency requirement pursuant to section 251(b)(2)(A) of the*

1 *Balanced Budget and Emergency Deficit Control Act of*  
2 *1985, as amended.*

3 *TITLE VI*

4 *RESCISSION*

5 *DEPARTMENT OF ENERGY*

6 *DEFENSE NUCLEAR WASTE DISPOSAL*

7 *(RESCISSION)*

8 *Of the funds appropriated in Public Law 104–46 for*  
9 *interim storage of nuclear waste, \$85,000,000 are trans-*  
10 *ferred to this heading and are hereby rescinded.*

11 *TITLE VII*

12 *GENERAL PROVISIONS*

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

19 *SEC. 702. (a) PURCHASE OF AMERICAN-MADE EQUIP-*  
20 *MENT AND PRODUCTS.—It is the sense of the Congress that,*  
21 *to the greatest extent practicable, all equipment and prod-*  
22 *ucts purchased with funds made available in this Act should*  
23 *be American-made.*

24 *(b) NOTICE REQUIREMENT.—In providing financial*  
25 *assistance to, or entering into any contract with, any entity*

1 *using funds made available in this Act, the head of each*  
2 *Federal agency, to the greatest extent practicable, shall pro-*  
3 *vide to such entity a notice describing the statement made*  
4 *in subsection (a) by the Congress.*

5 (c) *PROHIBITION OF CONTRACTS WITH PERSONS*  
6 *FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—*  
7 *If it has been finally determined by a court or Federal agen-*  
8 *cy that any person intentionally affixed a label bearing a*  
9 *“Made in America” inscription, or any inscription with*  
10 *the same meaning, to any product sold in or shipped to*  
11 *the United States that is not made in the United States,*  
12 *the person shall be ineligible to receive any contract or sub-*  
13 *contract made with funds made available in this Act, pur-*  
14 *suant to the debarment, suspension, and ineligibility proce-*  
15 *dures described in sections 9.400 through 9.409 of title 48,*  
16 *Code of Federal Regulations.*

17 *SEC. 703. (a) None of the funds appropriated or other-*  
18 *wise made available by this Act may be used to determine*  
19 *the final point of discharge for the interceptor drain for*  
20 *the San Luis Unit until development by the Secretary of*  
21 *the Interior and the State of California of a plan, which*  
22 *shall conform to the water quality standards of the State*  
23 *of California as approved by the Administrator of the Envi-*  
24 *ronmental Protection Agency, to minimize any detrimental*  
25 *effect of the San Luis drainage waters.*

1           (b) *The costs of the Kesterson Reservoir Cleanup Pro-*  
2 *gram and the costs of the San Joaquin Valley Drainage*  
3 *Program shall be classified by the Secretary of the Interior*  
4 *as reimbursable or nonreimbursable and collected until fully*  
5 *repaid pursuant to the “Cleanup Program—Alternative*  
6 *Repayment Plan” and the “SJVDP—Alternative Repay-*  
7 *ment Plan” described in the report entitled “Repayment*  
8 *Report, Kesterson Reservoir Cleanup Program and San*  
9 *Joaquin Valley Drainage Program, February 1995”, pre-*  
10 *pared by the Department of the Interior, Bureau of Rec-*  
11 *lamation. Any future obligations of funds by the United*  
12 *States relating to, or providing for, drainage service or*  
13 *drainage studies for the San Luis Unit shall be fully reim-*  
14 *bursable by San Luis Unit beneficiaries of such service or*  
15 *studies pursuant to Federal Reclamation law.*

16           *SEC. 704. Section 6101(a)(3) of the Omnibus Budget*  
17 *Reconciliation Act of 1990, as amended (42 U.S.C.*  
18 *2214(a)(3)) and Public Law 106–60 (113 Stat. 501), is fur-*  
19 *ther amended by striking “September 30, 2000” and insert-*  
20 *ing “September 30, 2001”.*

21           *SEC. 705. None of the funds appropriated by this Act*  
22 *shall be used to propose or issue rules, regulations, decrees,*  
23 *or orders for the purpose of implementation, or in prepara-*  
24 *tion for implementation, of the Kyoto Protocol which was*  
25 *adopted on December 11, 1997, in Kyoto, Japan at the*

1 *Third Conference of the Parties to the United Nations*  
2 *Framework Convention on Climate Change, which has not*  
3 *been submitted to the Senate for advice and consent to rati-*  
4 *fication pursuant to article II, section 2, clause 2, of the*  
5 *United States Constitution, and which has not entered into*  
6 *force pursuant to article 25 of the Protocol.*

7       *SEC. 706. (a) Sections 5105, 5106 and 5109 of Divi-*  
8 *sion B of an Act making appropriations for military con-*  
9 *struction, family housing, and base realignment and closure*  
10 *for the Department of Defense for the fiscal year ending*  
11 *September 30, 2001, and for other purposes (Public Law*  
12 *106–246), are repealed.*

13       *(b) Subsection (a) shall take effect on the date of enact-*  
14 *ment of this Act.*

15       *This Act may be cited as the “Energy and Water De-*  
16 *velopment Appropriations Act, 2001”.*

**Calendar No. 688**

106TH CONGRESS  
2D SESSION

**H.R. 4733**

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**AN ACT**

Making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

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JUNE 28, 2000

Received; read twice and referred to the Committee on  
Appropriations

JULY 18, 2000

Reported with an amendment