

Calendar No. 79

107TH CONGRESS
1ST SESSION

S. 1171

Making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 12, 2001

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

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2002, 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, 2002, for energy and
6 water development, and for other purposes, namely:

1 of irrigation water, pursuant to sections 206 and 224(c)
2 of the Reclamation Reform Act of 1982 (96 Stat. 1226,
3 1272; 43 U.S.C. 390ff, 390ww(c)), including the amount
4 of associated interest assessed by the Secretary and paid
5 to the United States pursuant to section 224(i) of the Rec-
6 lamation Reform Act of 1982 (101 Stat. 1330–268; 43
7 U.S.C. 390ww(i)).

8 TITLE III

9 DEPARTMENT OF ENERGY

10 ENERGY PROGRAMS

11 ENERGY SUPPLY

12 For Department of Energy expenses including the
13 purchase, construction and acquisition of plant and capital
14 equipment, and other expenses necessary for energy sup-
15 ply, and uranium supply and enrichment activities in car-
16 rying out the purposes of the Department of Energy Orga-
17 nization Act (42 U.S.C. 7101 et seq.), including the acqui-
18 sition or condemnation of any real property or any facility
19 or for plant or facility acquisition, construction, or expan-
20 sion; and the purchase of not to exceed 17 passenger
21 motor vehicles for replacement only, \$736,139,000 to re-
22 main available until expended.

23 NON-DEFENSE ENVIRONMENTAL MANAGEMENT

24 For Department of Energy expenses, including the
25 purchase, construction and acquisition of plant and capital

1 equipment and other expenses necessary for non-defense
2 environmental management activities in carrying out the
3 purposes of the Department of Energy Organization Act
4 (42 U.S.C. 7101 et seq.), including the acquisition or con-
5 demnation of any real property or any facility or for plant
6 or facility acquisition, construction or expansion,
7 \$228,553,000, to remain available until expended.

8 URANIUM FACILITIES MAINTENANCE AND REMEDIATION
9 (INCLUDING TRANSFER OF FUNDS)

10 For necessary expenses to maintain, decontaminate,
11 decommission, and otherwise remediate uranium proc-
12 essing facilities, \$408,725,000, of which \$287,941,000
13 shall be derived from the Uranium Enrichment Decon-
14 tamination and Decommissioning Fund, all of which shall
15 remain available until expended.

16 SCIENCE

17 For Department of Energy expenses including the
18 purchase, construction and acquisition of plant and capital
19 equipment, and other expenses necessary for science ac-
20 tivities in carrying out the purposes of the Department
21 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
22 cluding the acquisition or condemnation of any real prop-
23 erty or facility or for plant or facility acquisition, construc-
24 tion, or expansion, and purchase of not to exceed 25 pas-

1 senger motor vehicles for replacement only,
2 \$3,268,816,000, to remain available until expended.

3 NUCLEAR WASTE DISPOSAL

4 For nuclear waste disposal activities to carry out the
5 purposes of Public Law 97-425, as amended, including
6 the acquisition of real property or facility construction or
7 expansion, \$25,000,000, to remain available until ex-
8 pended and to be derived from the Nuclear Waste Fund:
9 *Provided*, That \$2,500,000 shall be provided to the State
10 of Nevada solely for expenditures, other than salaries and
11 expenses of State employees, to conduct scientific over-
12 sight responsibilities pursuant to the Nuclear Waste Policy
13 Act of 1982, Public Law 97-425, as amended: *Provided*
14 *further*, That \$6,000,000 shall be provided to affected
15 units of local governments, as defined in Public Law 97-
16 425, to conduct appropriate activities pursuant to the Act:
17 *Provided further*, That the distribution of the funds as de-
18 termined by the units of local government shall be ap-
19 proved by the Department of Energy: *Provided further*,
20 That the funds for the State of Nevada shall be made
21 available solely to the Nevada Division of Emergency Man-
22 agement by direct payment and units of local government
23 by direct payment: *Provided further*, That within 90 days
24 of the completion of each Federal fiscal year, the Nevada
25 Division of Emergency Management and the Governor of

1 the State of Nevada and each local entity shall provide
2 certification to the Department of Energy that all funds
3 expended from such payments have been expended for ac-
4 tivities authorized by Public Law 97-425 and this Act.
5 Failure to provide such certification shall cause such enti-
6 ty to be prohibited from any further funding provided for
7 similar activities: *Provided further*, That none of the funds
8 herein appropriated may be: (1) used directly or indirectly
9 to influence legislative action on any matter pending be-
10 fore Congress or a State legislature or for lobbying activity
11 as provided in 18 U.S.C. 1913; (2) used for litigation ex-
12 penses; or (3) used to support multi-State efforts or other
13 coalition building activities inconsistent with the restric-
14 tions contained in this Act: *Provided further*, That all pro-
15 ceeds and recoveries by the Secretary in carrying out ac-
16 tivities authorized by the Nuclear Waste Policy Act of
17 1982 in Public Law 97-425, as amended, including but
18 not limited to, any proceeds from the sale of assets, shall
19 be available without further appropriation and shall re-
20 main available until expended.

21 DEPARTMENTAL ADMINISTRATION

22 For salaries and expenses of the Department of En-
23 ergy necessary for departmental administration in car-
24 rying out the purposes of the Department of Energy Orga-
25 nization Act (42 U.S.C. 7101 et seq.), including the hire

1 of passenger motor vehicles and official reception and rep-
2 resentation expenses (not to exceed \$35,000),
3 \$208,948,000, to remain available until expended, plus
4 such additional amounts as necessary to cover increases
5 in the estimated amount of cost of work for others not-
6 withstanding the provisions of the Anti-Deficiency Act (31
7 U.S.C. 1511 et seq.): *Provided*, That such increases in cost
8 of work are offset by revenue increases of the same or
9 greater amount, to remain available until expended: *Pro-*
10 *vided further*, That moneys received by the Department
11 for miscellaneous revenues estimated to total
12 \$137,810,000 in fiscal year 2002 may be retained and
13 used for operating expenses within this account, and may
14 remain available until expended, as authorized by section
15 201 of Public Law 95–238, notwithstanding the provisions
16 of 31 U.S.C. 3302: *Provided further*, That the sum herein
17 appropriated shall be reduced by the amount of miscella-
18 neous revenues received during fiscal year 2002 so as to
19 result in a final fiscal year 2002 appropriation from the
20 General Fund estimated at not more than \$71,138,000.

21 OFFICE OF THE INSPECTOR GENERAL

22 For necessary expenses of the Office of the Inspector
23 General in carrying out the provisions of the Inspector
24 General Act of 1978, as amended, \$30,000,000, to remain
25 available until expended.

1 ATOMIC ENERGY DEFENSE ACTIVITIES
2 NATIONAL NUCLEAR SECURITY ADMINISTRATION
3 WEAPONS ACTIVITIES

4 For Department of Energy expenses, including the
5 purchase, construction and acquisition of plant and capital
6 equipment and other incidental expenses necessary for
7 atomic energy defense weapons activities in carrying out
8 the purposes of the Department of Energy Organization
9 Act (42 U.S.C. 7101 et seq.), including the acquisition or
10 condemnation of any real property or any facility or for
11 plant or facility acquisition, construction, or expansion;
12 and the purchase of passenger motor vehicles (not to ex-
13 ceed 11 for replacement only), \$6,062,891,000, to remain
14 available until expended.

15 DEFENSE NUCLEAR NONPROLIFERATION

16 For Department of Energy expenses, including the
17 purchase, construction and acquisition of plant and capital
18 equipment and other incidental expenses necessary for
19 atomic energy defense, Defense Nuclear Nonproliferation
20 activities, in carrying out the purposes of the Department
21 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
22 cluding the acquisition or condemnation of any real prop-
23 erty or any facility or for plant or facility acquisition, con-
24 struction, or expansion, \$880,500,000, to remain available
25 until expended: *Provided*, That not to exceed \$7,000 may
26 be used for official reception and representation expenses

1 for national security and nonproliferation (including trans-
2 parency) activities in fiscal year 2002.

3 NAVAL REACTORS

4 For Department of Energy expenses necessary for
5 naval reactors activities to carry out the Department of
6 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-
7 ing the acquisition (by purchase, condemnation, construc-
8 tion, or otherwise) of real property, plant, and capital
9 equipment, facilities, and facility expansion,
10 \$688,045,000, to remain available until expended.

11 OFFICE OF THE ADMINISTRATOR

12 For necessary expenses of the Office of the Adminis-
13 trator of the National Nuclear Security Administration,
14 including official reception and representation expenses
15 (not to exceed \$15,000), \$15,000,000, to remain available
16 until expended.

17 OTHER DEFENSE RELATED ACTIVITIES

18 DEFENSE ENVIRONMENTAL RESTORATION AND WASTE
19 MANAGEMENT

20 For Department of Energy expenses, including the
21 purchase, construction and acquisition of plant and capital
22 equipment and other expenses necessary for atomic energy
23 defense environmental restoration and waste management
24 activities in carrying out the purposes of the Department
25 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
26 cluding the acquisition or condemnation of any real prop-

1 erty or any facility or for plant or facility acquisition, con-
2 struction, or expansion; and the purchase of 30 passenger
3 motor vehicles, of which 27 shall be for replacement only,
4 \$5,389,868,000, to remain available until expended.

5 DEFENSE FACILITIES CLOSURE PROJECTS

6 For expenses of the Department of Energy to accel-
7 erate the closure of defense environmental management
8 sites, including the purchase, construction and acquisition
9 of plant and capital equipment and other necessary ex-
10 penses, \$1,080,538,000, to remain available until ex-
11 pended.

12 DEFENSE ENVIRONMENTAL MANAGEMENT

13 PRIVATIZATION

14 For Department of Energy expenses for privatization
15 projects necessary for atomic energy defense environ-
16 mental management activities authorized by the Depart-
17 ment of Energy Organization Act (42 U.S.C. 7101 et
18 seq.), \$157,537,000, to remain available until expended.

19 OTHER DEFENSE ACTIVITIES

20 For Department of Energy expenses, including the
21 purchase, construction and acquisition of plant and capital
22 equipment and other expenses necessary for atomic energy
23 defense, other defense activities, in carrying out the pur-
24 poses of the Department of Energy Organization Act (42
25 U.S.C. 7101 et seq.), including the acquisition or con-

1 demnation of any real property or any facility or for plant
2 or facility acquisition, construction, or expansion,
3 \$564,168,000, to remain available until expended.

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
7 the acquisition of real property or facility construction or
8 expansion, \$250,000,000, to remain available until ex-
9 pended.

10 POWER MARKETING ADMINISTRATIONS

11 BONNEVILLE POWER ADMINISTRATION FUND

12 Expenditures from the Bonneville Power Administra-
13 tion Fund, established pursuant to Public Law 93-454,
14 are approved for official reception and representation ex-
15 penses in an amount not to exceed \$1,500. For the pur-
16 poses of appropriating funds to assist in financing the con-
17 struction, acquisition, and replacement of the transmission
18 system of the Bonneville Power Administration up to
19 \$2,000,000,000 in borrowing authority is authorized to be
20 appropriated, subject to subsequent annual appropria-
21 tions, to remain outstanding at any given time: *Provided*,
22 That the obligation of such borrowing authority shall not
23 exceed \$0 in fiscal year 2002 and that the Bonneville
24 Power Administration shall not obligate more than

1 \$374,500,000 of its permanent borrowing in fiscal year
2 2002.

3 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
4 ADMINISTRATION

5 For necessary expenses of operation and maintenance
6 of power transmission facilities and of marketing electric
7 power and energy, including transmission wheeling and
8 ancillary services, pursuant to the provisions of section 5
9 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
10 applied to the southeastern power area, \$4,891,000, to re-
11 main available until expended; in addition, notwith-
12 standing the provisions of 31 U.S.C. 3302, up to
13 \$8,000,000 collected by the Southeastern Power Adminis-
14 tration pursuant to the Flood Control Act to recover pur-
15 chase power and wheeling expenses shall be credited to
16 this account as offsetting collections, to remain available
17 until expended for the sole purpose of making purchase
18 power and wheeling expenditures.

19 OPERATION AND MAINTENANCE, SOUTHWESTERN
20 POWER ADMINISTRATION

21 For necessary expenses of operation and maintenance
22 of power transmission facilities and of marketing electric
23 power and energy, and for construction and acquisition of
24 transmission lines, substations and appurtenant facilities,
25 and for administrative expenses, including official recep-

1 tion and representation expenses in an amount not to ex-
2 ceed \$1,500 in carrying out the provisions of section 5
3 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
4 applied to the southwestern power area, \$28,038,000, to
5 remain available until expended; in addition, notwith-
6 standing the provisions of 31 U.S.C. 3302, not to exceed
7 \$5,200,000 in reimbursements, to remain available until
8 expended: *Provided*, That up to \$1,512,000 collected by
9 the Southwestern Power Administration pursuant to the
10 Flood Control Act to recover purchase power and wheeling
11 expenses shall be credited to this account as offsetting col-
12 lections, to remain available until expended for the sole
13 purpose of making purchase power and wheeling expendi-
14 tures.

15 CONSTRUCTION, REHABILITATION, OPERATION AND
16 MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

17 For carrying out the functions authorized by title III,
18 section 302(a)(1)(E) of the Act of August 4, 1977 (42
19 U.S.C. 7152), and other related activities including con-
20 servation and renewable resources programs as author-
21 ized, including official reception and representation ex-
22 penses in an amount not to exceed \$1,500, \$169,465,000,
23 to remain available until expended, of which \$163,951,000
24 shall be derived from the Department of the Interior Rec-
25 lamation Fund: *Provided*, That of the amount herein ap-
26 propriated, \$6,091,000 is for deposit into the Utah Rec-

1 lamation Mitigation and Conservation Account pursuant
2 to title IV of the Reclamation Projects Authorization and
3 Adjustment Act of 1992: *Provided further*, That up to
4 \$152,624,000 collected by the Western Area Power Ad-
5 ministration pursuant to the Flood Control Act of 1944
6 and the Reclamation Project Act of 1939 to recover pur-
7 chase power and wheeling expenses shall be credited to
8 this account as offsetting collections, to remain available
9 until expended for the sole purpose of making purchase
10 power and wheeling expenditures.

11 FALCON AND AMISTAD OPERATING AND MAINTENANCE
12 FUND

13 For operation, maintenance, and emergency costs for
14 the hydroelectric facilities at the Falcon and Amistad
15 Dams, \$2,663,000, to remain available until expended,
16 and to be derived from the Falcon and Amistad Operating
17 and Maintenance Fund of the Western Area Power Ad-
18 ministration, as provided in section 423 of the Foreign
19 Relations Authorization Act, Fiscal Years 1994 and 1995.

20 FEDERAL ENERGY REGULATORY COMMISSION
21 SALARIES AND EXPENSES

22 For necessary expenses of the Federal Energy Regu-
23 latory Commission to carry out the provisions of the De-
24 partment of Energy Organization Act (42 U.S.C. 7101 et
25 seq.), including services as authorized by 5 U.S.C. 3109,

1 the hire of passenger motor vehicles, and official reception
2 and representation expenses (not to exceed \$3,000),
3 \$181,155,000, to remain available until expended: *Pro-*
4 *vided*, That notwithstanding any other provision of law,
5 not to exceed \$181,155,000 of revenues from fees and an-
6 nual charges, and other services and collections in fiscal
7 year 2002 shall be retained and used for necessary ex-
8 penses in this account, and shall remain available until
9 expended: *Provided further*, That the sum herein appro-
10 priated from the General Fund shall be reduced as reve-
11 nues are received during fiscal year 2002 so as to result
12 in a final fiscal year 2002 appropriation from the General
13 Fund estimated at not more than \$0.

14 GENERAL PROVISIONS

15 DEPARTMENT OF ENERGY

16 SEC. 301. (a) None of the funds appropriated by this
17 Act may be used to award a management and operating
18 contract unless such contract is awarded using competitive
19 procedures or the Secretary of Energy grants, on a case-
20 by-case basis, a waiver to allow for such a deviation. The
21 Secretary may not delegate the authority to grant such
22 a waiver.

23 (b) At least 60 days before a contract award, amend-
24 ment, or modification for which the Secretary intends to
25 grant such a waiver, the Secretary shall submit to the

1 Subcommittees on Energy and Water Development of the
2 Committees on Appropriations of the House of Represent-
3 atives and the Senate a report notifying the subcommit-
4 tees of the waiver and setting forth the reasons for the
5 waiver.

6 SEC. 302. None of the funds appropriated by this Act
7 may be used to—

8 (1) develop or implement a workforce restruc-
9 turing plan that covers employees of the Department
10 of Energy; or

11 (2) provide enhanced severance payments or
12 other benefits for employees of the Department of
13 Energy,

14 under section 3161 of the National Defense Authorization
15 Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat.
16 2644; 42 U.S.C. 7274h).

17 SEC. 303. None of the funds appropriated by this Act
18 may be used to augment the \$20,000,000 made available
19 for obligation by this Act for severance payments and
20 other benefits and community assistance grants under sec-
21 tion 3161 of the National Defense Authorization Act for
22 Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644;
23 42 U.S.C. 7274h) unless the Department of Energy sub-
24 mits a reprogramming request subject to approval by the
25 appropriate Congressional committees.

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

5 (TRANSFERS OF UNEXPENDED BALANCES)

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

13 SEC. 306. Of the funds in this Act or any other Act
14 provided to government-owned, contractor-operated lab-
15 oratories, not to exceed 6 percent shall be available to be
16 used for Laboratory Directed Research and Development.

17 SEC. 307. None of the funds in this Act may be used
18 to dispose of transuranic waste in the Waste Isolation
19 Pilot Plant which contains concentrations of plutonium in
20 excess of 20 percent by weight for the aggregate of any
21 material category on the date of enactment of this Act,
22 or is generated after such date. For the purposes of this
23 section, the material categories of transuranic waste at the
24 Rocky Flats Environmental Technology Site include: (1)
25 ash residues; (2) salt residues; (3) wet residues; (4) direct
26 repackage residues; and (5) scrub alloy as referenced in

1 the “Final Environmental Impact Statement on Manage-
2 ment of Certain Plutonium Residues and Scrub Alloy
3 Stored at the Rocky Flats Environmental Technology
4 Site”.

5 SEC. 308. The Administrator of the National Nuclear
6 Security Administration may authorize the plant manager
7 of a covered nuclear weapons production plant to engage
8 in research, development, and demonstration activities
9 with respect to the engineering and manufacturing capa-
10 bilities at such plant in order to maintain and enhance
11 such capabilities at such plant: *Provided*, That of the
12 amount allocated to a covered nuclear weapons production
13 plant each fiscal year from amounts available to the De-
14 partment of Energy for such fiscal year for national secu-
15 rity programs, not more than an amount equal to 2 per-
16 cent of such amount may be used for these activities: *Pro-*
17 *vided further*, That for purposes of this section, the term
18 “covered nuclear weapons production plant” means the
19 following:

20 (1) The Kansas City Plant, Kansas City, Mis-
21 souri.

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

23 (3) The Pantex Plant, Amarillo, Texas.

24 (4) The Savannah River Plant, South Carolina.

1 SEC. 309. Notwithstanding any other law, and with-
2 out fiscal year limitation, each Federal Power Marketing
3 Administration is authorized to engage in activities and
4 solicit, undertake and review studies and proposals relat-
5 ing to the formation and operation of a regional trans-
6 mission organization.

7 SEC. 310. The Administrator of the National Nuclear
8 Security Administration may authorize the manager of the
9 Nevada Operations Office to engage in research, develop-
10 ment, and demonstration activities with respect to the de-
11 velopment, test, and evaluation capabilities necessary for
12 operations and readiness of the Nevada Test Site: *Pro-*
13 *vided*, That of the amount allocated to the Nevada Oper-
14 ations Office each fiscal year from amounts available to
15 the Department of Energy for such fiscal year for national
16 security programs at the Nevada Test Site, not more than
17 an amount equal to 2 percent of such amount may be used
18 for these activities.

19 SEC. 311. DEPLETED URANIUM HEXAFLUORIDE.
20 Section 1 of Public Law 105–204 is amended in sub-
21 section (b)—

22 (1) by inserting “except as provided in sub-
23 section (c),” after “1321–349,”; and

24 (2) by striking “fiscal year 2002” and inserting
25 “fiscal year 2005”.

1 NUCLEAR WASTE TECHNICAL REVIEW BOARD

2 SALARIES AND EXPENSES

3 For necessary expenses of the Nuclear Waste Tech-
4 nical Review Board, as authorized by Public Law 100-
5 203, section 5051, \$3,500,000, to be derived from the Nu-
6 clear Waste Fund, and to remain available until expended.

7 TITLE V

8 GENERAL PROVISIONS

9 SEC. 501. None of the funds appropriated by this Act
10 may be used in any way, directly or indirectly, to influence
11 congressional action on any legislation or appropriation
12 matters pending before Congress, other than to commu-
13 nicate to Members of Congress as described in section
14 1913 of title 18, United States Code.

15 SEC. 502. (a) PURCHASE OF AMERICAN-MADE
16 EQUIPMENT AND PRODUCTS.—It is the sense of the Con-
17 gress that, to the greatest extent practicable, all equip-
18 ment and products purchased with funds made available
19 in this Act should be American-made.

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

1 (c) PROHIBITION OF CONTRACTS WITH PERSONS

2 FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—

3 If it has been finally determined by a court or Federal
4 agency that any person intentionally affixed a label bear-
5 ing a “Made in America” inscription, or any inscription
6 with the same meaning, to any product sold in or shipped
7 to the United States that is not made in the United
8 States, the person shall be ineligible to receive any con-
9 tract or subcontract made with funds made available in
10 this Act, pursuant to the debarment, suspension, and ineli-
11 gibility procedures described in sections 9.400 through
12 9.409 of title 48, Code of Federal Regulations.

13 This Act may be cited as the “Energy and Water De-
14 velopment Appropriations Act, 2002”.

Calendar No. 79

107TH CONGRESS
1ST SESSION

S. 1171

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

JULY 12, 2001

Read twice and placed on the calendar