



## H.R. 2028—Fiscal Year 2016 Energy and Water Appropriations (Simpson, R-ID)

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**FLOOR SCHEDULE:** H.R. 2028 IS EXPECTED TO BE CONSIDERED ON APRIL 29, 2015, UNDER AN [OPEN RULE](#), PERMITTING ALL GERMANE AMENDMENTS TO BE OFFERED. THE RULE PROVIDES FOR ONE HOUR OF GENERAL DEBATE. MEMBERS WHO HAVE PRE-PRINTED THEIR AMENDMENTS IN THE CONGRESSIONAL RECORD WILL BE GIVEN PRIORITY IN RECOGNITION. THE RULE FURTHER PROVIDES FOR AN OPEN RULE ON THE FY 2016 MILITARY CONSTRUCTION AND VETERANS AFFAIRS APPROPRIATIONS BILL. AS A REMINDER, AMENDMENTS MUST BE OFFERED AT THE APPROPRIATE TIME DURING THE READING OF THE BILL.

### TOPLINE SUMMARY

*In thousands of dollars*

	FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level
<b>Net Total Base Discretionary</b>	34,010,000	34,202,277	36,036,014	35,402,978

Net Total Base Discretionary Budget Authority is:

- \$633 million below the president’s budget request.
- \$1.2 billion above the enacted FY 2015 level.
- \$1.4 billion above the level proposed by the Appropriations Committee for FY 2015.

The bill provides a net total of \$35.403 billion in FY 2016 base discretionary budget authority. Of this total, \$18.884 billion is for defense purposes and \$16.519 is for non-defense purposes.

**CONSERVATIVE CONCERNS:** Some conservatives may be concerned that this legislation contains billions of dollars in energy subsidies that pick winners and losers instead of embracing a market driven all-of-the-above strategy.

- **Expand** the Size and Scope of the Federal Government?: No
- **Encroach** into State or Local Authority?: No
- **Delegate** Any Legislative Authority to the Executive Branch?: No
- **Contain** Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No, according to the [committee report](#).

## DETAILED SUMMARY AND ANALYSIS:

### Title I: Corps of Engineers - Civil:

*Net Total Discretionary in Thousands of Dollars*

FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level	FY16 vs 15 House	FY16 vs 15 Enacted	FY16 vs President
5,492,499	5,454,500	4,732,000	5,596,750	+ 104,251	+ 142,250	+ 864,750

The Army Corps of Engineers is appropriated \$5.597 billion, a level that is \$865 million above the president's budget request, \$142 million above the FY 2015 enacted level, and \$104 million above the level proposed by the House Appropriations Committee for FY 2015.

**No New Starts:** The bill does not provide for any new starts in FY 2016, with the exception of an investigation project that is intended to reduce federal responsibilities. According to [CRS](#), "there is a backlog of more than 1,000 authorized studies and construction projects."

**Additional Funding for Ongoing Work:** The bill provides a total of \$879.807 million in additional funding for authorized projects not specifically included in the president's budget request in the accounts that fund ongoing Corps work. The administration is given authority to allocate these funds to a project if (1) it has received funding, other than through a reprogramming, in at least one of the previous three fiscal years; or (2) it was previously funded and could reach a significant milestone or produce significant outputs in FY 2016. The Corps is required to submit a work plan within 60 days of enactment. These allocations allow the Congress to fund projects in addition to just those included in the president's budget, while staying compliant with the earmark ban, because the bill does not specify which projects should be supported with these funds.

**Investigations:** The Investigations Account is appropriated \$110 million, a level that is \$13 million above the president's budget request, \$12 million below the FY 2015 enacted level, and \$5 million above the level proposed by the House Appropriations Committee for FY 2015. This account funds studies to determine the need for and feasibility of Corps projects as well as preconstruction engineering and design. The specific projects that are funded can be found in the [committee report](#).

**Construction:** The Construction Account is appropriated \$1.631 billion, a level that is \$459 million above the president's budget request, \$8.5 million below the FY 2015 enacted level, and \$73 million below the level proposed by the House Appropriations Committee for FY 2015. This account funds the construction and major rehabilitation of water infrastructure projects. The specific projects that are funded can be found in the [committee report](#).

**Mississippi River and Tributaries:** The Mississippi River and Tributaries Account is appropriated \$275 million, a level that is \$50 million above the president's budget request, \$27 million below the FY 2015 enacted level, and \$15 million above the level proposed by the House Appropriations Committee for FY 2015. This account funds planning, construction, and operations and maintenance of flood control projects in the lower Mississippi River Valley. The specific projects that are funded can be found in the [committee report](#). \$6 million is provided in additional funding for ongoing work.

**Operation and Maintenance:** The Operation and Maintenance Account is appropriated \$3.058 billion, a level that is \$348 million above the president's budget request, \$149 million above the FY 2015 enacted level, and \$153 million above the level proposed by the House Appropriations Committee for FY 2015. This account funds activities such as dredging, repair, aquatic plant control, monitoring of completed projects, removal of sunken

vessels, and the collection of waterborne commerce statistics. The specific projects that are funded can be found in the [committee report](#).

**Fill Material Regulations:** Section 104 of the bill permanently prohibits the Army Corps of Engineers from implementing regulations to change the definition of fill material under the Clean Water Act. [CRS](#) has additional information on this issue.

**Navigable Waters:** Section 105 of the bill permanently prohibits the Army Corps of Engineers from changing the definition of “navigable waters” under the Clean Water Act. In 2014, the EPA and the Corps proposed regulations that would reverse the long-standing definition of what waters would be regulated by the Clean Water Act. These regulations would place significant permitting and regulatory costs on many property owners. [CRS](#) has additional information on this issue.

**Firearms on Army Corps Property:** Section 107 of the bill permanently prohibits the Army Corps from adopting regulations that ban individuals not otherwise prohibited from possessing a firearm. In 2009, legislation was enacted that allowed the possession of firearms on property controlled by the National Park Service and National Wildlife Refuge System. The NRA [supports](#) standalone legislation that would allow possession on Corps property.

**Title II: Department of the Interior**

*In thousands of dollars*

FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level	FY16 vs 15 House	FY16 vs 15 Enacted	FY16 vs President
1,013,569	1,140,000	1,105,968	1,104,542	+ 90,973	- 35,458	- 1,426

The agencies within the Department of the Interior funded by the bill are appropriated \$1.104 billion, a level that is \$1 million below the president’s budget request, \$35 million below the FY 2015 enacted level, and \$91 million above the level proposed by the House Appropriations Committee for FY 2015.

**Bureau of Reclamation:** The Bureau of Reclamation is appropriated \$1.095 billion, a level that is \$4 million below the president’s budget request, \$35 million below the FY 2015 enacted level, and \$91 million above the level proposed by the House Appropriations Committee for FY 2015. The [Bureau of Reclamation](#) is charged with managing water resources in 17 western states. The specific projects that are funded can be found in the [committee report](#).

**Title III: Department of Energy**

*In thousands of dollars*

FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level	FY16 vs 15 House	FY16 vs 15 Enacted	FY16 vs President
27,305,845	27,916,797	30,527,136	29,012,069	+ 1,706,224	+ 1,095,272	- 1,515,067

The Department of Energy (DOE) is appropriated \$29.012 billion, a level that is \$1.515 billion below the president’s budget request, \$1.095 billion above the FY 2015 enacted level, and \$1.706 billion above the level proposed by the House Appropriations Committee for FY 2015.

**Energy Efficiency and Renewable Energy (EERE):** EERE is appropriated \$1.658 billion, a level that is \$1.065 billion below the president’s budget request, \$279 million below the FY 2015 enacted level, and \$131 million

below the level proposed by the House Appropriations Committee for FY 2015. This program subsidizes “green energy” projects.

The [RSC Budget](#) proposed eliminating EERE, stating “Not only does this [account] allow the federal government to pick winners and losers, but also it limits research to a small sector of the energy economy—renewables. The U.S. should pursue a market-based, all-of-the-above energy policy.” Many conservative groups oppose all or portions of this program, including: [American Energy Alliance](#), [Americans for Prosperity](#), [Cato](#), [Citizens Against Government Waste](#), [Heritage](#), and [National Taxpayers Union](#).

The major EERE lines are shown in the table below:

(Dollar figures in millions)	FY16 House Level	Vs. FY15 Enacted	Vs. President Request
<b>Bioenergy</b>	94.083	- 2.917	- 8.917
<b>Hydrogen and Fuel Cells</b>	165.3	- 59.7	- 80.7
<b>Vehicle Technologies</b>	255.4	- 24.6	-188.6
<b>Advanced Manufacturing</b>	205	+ 5	- 199
<b>Building Technologies</b>	150.362	- 21.638	- 113.638
<b>Geothermal</b>	46	- 9	- 50
<b>Solar</b>	151.6	- 81.4	- 185.1
<b>Water</b>	38.7	- 22.3	- 28.3
<b>Wind</b>	90.45	- 16.55	- 55.05
<b>Weatherization</b>	93.4	+ .4	- 34.999

**Electricity Delivery and Energy Reliability:** Electricity Delivery and Energy Reliability is appropriated \$187.5 million, a level that is \$83 million below the president’s budget request, \$40 million above the FY 2015 enacted level, and \$28 million above the level proposed by the House Appropriations Committee for FY 2015. This program is meant to “increase the efficiency, resilience, and security” of our electricity system. The [American Energy Alliance](#) recommends eliminating this program.

**Nuclear Energy:** The Nuclear Energy program is appropriated \$936 million, a level that is \$29 million above the president’s budget request, \$103 million above the FY 2015 enacted level, and \$37 million above the level proposed by the House Appropriations Committee for FY 2015. Of this amount, \$126 million is classified as for defense purposes and \$810 million is for non-defense. This program conducts research to develop new nuclear reactors. Several outside groups have opposed this funding, including [American Energy Alliance](#), [Cato](#), [Citizens Against Government Waste](#), [Heritage](#), [National Taxpayers Union](#), and [Taxpayers for Common Sense](#).

**Yucca Mountain:** Under the Nuclear Waste Policy Act of 1982, the federal government has a legal responsibility to assume responsibility for spent civilian nuclear fuel. Because the administration has halted the Yucca Mountain project, the taxpayers face a liability of \$22.6 billion in penalties. In 2013, the D.C. Circuit Court of Appeals ruled that the administration’s refusal to complete the Yucca project was in contravention of the Nuclear Waste Policy Act. The bill provides \$150 million for Yucca Mountain and \$25 million for the adjudication of the Yucca Mountain license application. Section 504 of the bill prohibits any funds to be used to close Yucca Mountain. [CRS](#) has additional background on nuclear waste management. [Heritage](#) has said that “finishing the review of Yucca Mountain is a critical part of any plan moving forward”, and [Cato](#) says that a “new report confirms that the current proposed site, Yucca Mountain in Nevada, is safe for use.”

**Fossil Energy Research and Development:** Fossil Energy Research and Development is appropriated \$605 million, a level that is \$45 million above the president’s budget request, \$34 million above the FY 2015 enacted level, and \$12 million above the level proposed by the House Appropriations Committee for FY 2015. This program conducts research on fossil fuels, such as coal, oil, and natural gas. Of the total amount, \$423.9 million is for coal. Several conservative groups have opposed this program, including [American Energy Alliance](#), [Cato](#), [Citizens Against Government Waste](#), [Heritage](#), and [National Taxpayers Union](#).

**Strategic Petroleum Reserve (SPR):** The SPR is provided \$212 million, a level that is \$45 million below the president’s budget request, \$12 million above the FY 2015 enacted level, and \$12 million above the level proposed by the House Appropriations Committee for FY 2015. According to the [committee Report](#), the SPR’s current available inventory is equal to about 112 days of net import protection. [Cato](#) and [Citizens Against Government Waste](#) have proposed eliminating the SPR.

**Non-Defense Environmental Cleanup:** Non-Defense Environmental Cleanup is appropriated \$229 million, a level that is \$9 million above the president’s budget request, \$17 million below the FY 2015 enacted level, and \$12 million below the level proposed by the House Appropriations Committee for FY 2015. This program restores radioactive and hazardous sites that were used for civilian energy research activities.

**Uranium Enrichment Decontamination and Decommissioning Fund:** The fund is appropriated \$625 million, a level that is \$83 million above the president’s budget request, equal to the FY 2015 enacted level, and \$39 million above the level proposed by the House Appropriations Committee for FY 2015. This Fund is meant to pay for cleanup activities at plants in Portsmouth, Ohio; Paducah, Kentucky; and the East Tennessee Technology Park in Oak Ridge, Tennessee.

**DOE Office of Science:** The DOE Office of Science is appropriated \$5.1 billion, a level that is \$240 million below the president’s budget request, \$29 million above the FY 2015 enacted level, and \$29 million above the level proposed by the House Appropriations Committee for FY 2015. The Office of Science funds physics, biology, and chemistry science research at national laboratories and universities. Within the total amount, \$538 million is for Advanced Scientific Computing Research, \$1.77 billion is for Basic Energy Sciences, \$538 million is for Biological and Environmental Research, \$468 million is for Fusion Energy Sciences, \$776 million is for High Energy Physics, and \$616 million is for Nuclear Physics. [Cato](#) and [Heritage](#) have supported spending cuts to the Office of Science.

**Advanced Research Projects Agency - Energy (ARPA-E):** ARPA-E is appropriated \$280 million, a level that is \$45 million below the president’s budget request, equal to the FY 2015 enacted level, and \$equal to the level proposed by the House Appropriations Committee for FY 2015. This agency was started by the 2009 stimulus law and is meant to fund high-risk green energy projects. [Heritage](#) and [Taxpayers for Common Sense](#) have supported eliminating this program.

**Title 17 Innovative Technology Loan Guarantee Program Administrative Expenses:** Administrative expenses for the Title 17 Loan Guarantee Program are provided a net appropriation of \$17 million, a level that is equal to the President’s budget request, equal to the FY 2015 enacted level, and equal to the level proposed by the House Appropriations Committee for FY 2015.

The [RSC Budget](#) proposed eliminating the appropriations to this program, stating: “This is the program that gave us the Solyndra scandal that resulted in the taxpayers losing more than \$500 million after the administration gambled on a politically favored company.” The House Oversight and Government Reform Committee published a report in 2012 titled [The Department of Energy’s Disastrous Management of Loan Guarantee](#)

[Programs](#). Several conservative groups have supported eliminating this program, including [American Energy Alliance](#), [Americans for Prosperity](#), [Cato](#), [Heritage](#), [Mercatus](#), and [Taxpayers for Common Sense](#).

**Advanced Technology Vehicles Manufacturing Loan Program:** The Advanced Technology Vehicles Manufacturing Loan Program is appropriated \$6 million for administrative expenses, a level that is equal to the president's budget request, \$2 million below the FY 2015 enacted level, and \$2 million below the level proposed by the House Appropriations Committee for FY 2015. This program provides guaranteed loans to automotive companies to support the development of "greener" cars. [Cato](#) support eliminating this program.

**National Nuclear Security Administration (NNSA):** The NNSA is appropriated \$12.329 billion, a level that is \$236 million below the president's budget request, \$922 million above the FY 2015 enacted level, and \$967 million above the level proposed by the House Appropriations Committee for FY 2015. The [NNSA](#) is a semi-autonomous agency within the U.S. Department of Energy that is charged with sustaining our nuclear weapons, maintaining naval nuclear reactors, and promoting nonproliferation efforts.

**Weapons Activities:** Within the NNSA, Weapons Activities is appropriated \$8.713 billion, a level that is \$136 million below the president's budget request, \$526 million above the FY 2015 enacted level, and \$509 million above the level proposed by the House Appropriations Committee for FY 2015. This account provides for the security, safety, and reliability of the U.S. nuclear weapons stockpile.

**Defense Nuclear Nonproliferation:** Within the NNSA, Defense Nuclear Nonproliferation is appropriated \$1.908 billion, a level that is \$33 million below to the president's budget request, \$291 million below the FY 2015 enacted level, and \$352 million below the level proposed by the House Appropriations Committee for FY 2015. This account supports efforts to prevent the spread of nuclear weapons.

**Naval Reactors:** Within the NNSA, Naval Reactors is appropriated \$1.32 billion, a level that is \$55 million below the president's budget request, \$86 million above the FY 2015 enacted level, and \$1 million above the level proposed by the House Appropriations Committee for FY 2015. This account supports the development, operations and maintenance, and disposal of nuclear propulsion systems for the Navy.

**Defense Environmental Cleanup:** The Defense Environmental Cleanup program is appropriated \$5.056 billion, a level that is equal to the president's budget request, \$56 million above the FY 2015 enacted level, and \$254 million above the level proposed by the House Appropriations Committee for FY 2015. This program is responsible for the cleanup of contamination at sites where defense related nuclear research and production were carried out.

**Power Marketing Administrations:** The bill provides a total net appropriation of \$105 million for the four power marketing administrations ([Bonneville](#), [Southeastern](#), [Southwestern](#), and [Western Area](#)), a level that is equal to the president's budget request, equal to the FY 2015 enacted level, and equal to the level proposed by the House Appropriations Committee for FY 2015. These power marketing administrations produce and sell hydroelectric power. The Southwestern and Western Area power administrations receive appropriated subsidies, while the Bonneville and Southeastern power administrations utilize offsetting collections and do not receive a net appropriation. Conservative groups have supported eliminating the power marketing administrations, including [American Energy Alliance](#), [Cato](#), [Citizens Against Government Waste](#), [Heritage](#) and [National Taxpayers Union](#).

**Title IV: Independent Agencies**

*In thousands of dollars*

FY15 House Level	FY15 Enacted	FY16 President Request	FY16 House Level	FY16 vs 15 House	FY16 vs 15 Enacted	FY16 vs President
312,367	268,980	280,910	297,785	- 14,582	+ 28,805	+ 16,875

The Independent Agencies funded by the bill are appropriated \$298 million, a level that is \$17 million above the president’s budget request, \$29 million above the FY 2015 enacted level, and \$15 million below the level proposed by the House Appropriations Committee for FY 2015.

**Regional Commissions:** The bill provides a net total of \$120 million in appropriations to five regional commissions, a level that is \$5 million below the president’s budget request, \$3 million above the FY 2015 enacted level, and \$15 million above the level proposed by the House Appropriations Committee for FY 2015.

A table showing the funding levels for the five regional commissions is below:

(Dollar figures in thousands)	FY16 House Level	Vs. FY15 Enacted	Vs. President Request
<b>Appalachian Regional Commission (ARC)</b>	95,000	+ 5,000	0
<b>Delta Regional Authority (DRA)</b>	12,000	0	-2,936
<b>Denali Commission</b>	10,000	0	0
<b>Northern Border Regional Commission (NBRC)</b>	3,000	-2,000	-2,000
<b>Southeast Crescent Regional Commission</b>	250	0	+ 250

The [RSC Budget](#) proposed eliminating the regional commissions, stating “The economic development programs are duplicative of other programs in the federal government and provide federal funding for local projects. Not only is the federal government out of money, but also it is ill-equipped to prioritize local infrastructure and development projects. These activities are also more appropriately carried out by state and local governments.” Several conservative organizations have supported eliminating these commissions, including [Americans for Prosperity](#), [Citizens Against Government Waste](#), [Heritage](#) and [National Taxpayers Union](#).

**Nuclear Regulatory Commission (NRC):** The NRC receives a net appropriation of \$141 million, a level that is \$21 million above the president’s budget request, \$23 million above the FY 2015 enacted level, and \$31 million below the level proposed by the House Appropriations Committee for FY 2015. The bill provides an appropriation of \$1.003 billion which is offset by \$862 million in revenues. The NRC’s appropriation has grown from \$669 million since 2005.

**National Ocean Policy:** Section 505 of the bill prohibits any funds to be used to implement the [National Ocean Policy](#) under Executive Order 13547.

**Unauthorized Appropriations:** The bill [provides](#) \$26.192 billion in appropriations for 23 programs that are not authorized. Thirteen unauthorized programs receive \$372 million in appropriations above their current FY 2015 enacted levels.

However, \$18.192 billion of the total unauthorized appropriations are for defense programs that would be authorized by the Fiscal Year 2016 National Defense Authorization Act (NDAA) that is expected to be considered in the coming weeks. Non-Defense programs make up \$8 billion of the total unauthorized amount.

	Unauthorized Programs funded by the bill	Total Unauthorized Appropriations		Programs that Receive more than FY14 Enacted	Total Increases in Programs that Receive more than Enacted
Defense Programs	7	18,192,414		4	141,584
Non-Defense	16	7,999,354		9	230,267
<b>Total</b>	<b>23</b>	26,191,768		13	371,851

### OUTSIDE GROUPS:

- **American Energy Alliance** has posted the [Top 8 Ways to Rein in DOE Spending](#).
- **Cato Institute** recommends closing the [Advanced Technology Vehicles Manufacturing Program](#), [prohibiting new loan guarantees](#), funding [Yucca Mountain](#), and ending a [number of other subsidies](#).
- **Citizens Against Government Waste** criticizes funding for the [Appalachian Regional Commission and the Denali Regional Commission](#) in the CROmnibus and [supports Yucca Mountain](#).
- **Heritage** has posted [\\$34 Billion Energy Bill Could Use a Few More Cuts](#) (2014), [Uranium Enrichment Facilities: Third Time Is Not a Charm](#) (2014), [Eliminate Advanced Manufacturing and Alternative Fuel Programs](#) (2013), [Energy Budget Cuts Are Attack on Subsidies, Not Science](#) (2013), and detailed recommendations in [Department of Energy Budget Cuts: Time to End the Hidden Green Stimulus](#) (2012). Heritage's [Budget Book](#) also lists several specific energy subsidy programs that could be eliminated.
- **Taxpayers for Common Sense** [criticizes](#) risky loan subsidies, ARPA-E, subsidies for small modular nuclear reactors, and the Advanced Technology Vehicles Manufacturing (ATVM) Program. The group has more on energy subsidies [here](#).

**COMMITTEE ACTION:** The House Appropriations Committee marked up H.R. 2028 on [April 22, 2015](#), and approved the bill by a voice vote. The committee additionally held a number of [oversight hearings](#).

**ADMINISTRATION POSITION:** OMB Director Shaun Donovan [wrote to](#) Appropriations Committee Chairman Hal Rogers prior to markup of the bill expressing "serious concerns" about the bill, including with the overall spending levels included in the House budget and funding certain administration priorities such as green energy subsidies below the president's budget request.

**CONSTITUTIONAL AUTHORITY:** "Congress has the power to enact this legislation pursuant to the following: The principal constitutional authority for this legislation is clause 7 of section 9 of article I of the Constitution of the United States (the appropriation power), which states: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law . . . ." In addition, clause 1 of section 8 of article I of the Constitution (the spending power) provides: "The Congress shall have the Power . . . to pay the Debts and provide for the common Defence and general Welfare of the United States . . . ." Together, these specific constitutional provisions establish the congressional power of the purse, granting Congress the authority to appropriate funds, to determine their purpose, amount, and period of availability, and to set forth terms and conditions governing their use."



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**NOTE:** *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

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