

103^D CONGRESS
1ST SESSION

S. 1638

To provide a more effective, efficient, and responsive Department of Energy.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 8 (legislative day, NOVEMBER 2), 1993

Mr. JOHNSTON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide a more effective, efficient, and responsive
Department of Energy.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be referred to as the “Department of
5 Energy Reform and Savings Act of 1993”.

6 **TITLE I—ALASKA POWER ADMIN-**
7 **ISTRATION SALE AUTHORIZA-**
8 **TION ACT**

9 **SEC. 101. SHORT TITLE.**

10 This subtitle may be cited as the “Alaska Power Ad-
11 ministration Sale Authorization Act”.

1 **SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDRO-**
2 **ELECTRIC PROJECTS.**

3 (a) The Secretary of Energy may sell the Snettisham
4 Hydroelectric Project (referred to in this subtitle as
5 “Snettisham”) to the State of Alaska Power Authority
6 (now known as the Alaska Industrial Development and
7 Export Authority, and referred to in this subtitle as the
8 “Authority”), or its successor, in accordance with the Feb-
9 ruary 10, 1989, Snettisham Purchase Agreement between
10 the Alaska Power Administration of the United States De-
11 partment of Energy and the Authority.

12 (b) The Secretary of Energy may sell the Eklutna
13 Hydroelectric Project (referred to in this subtitle as
14 “Eklutna”) to the Municipality of Anchorage doing busi-
15 ness as Municipal Light and Power, the Chugach Electric
16 Association, Inc., and the Matanuska Electric Association,
17 Inc. (referred to in this subtitle as “Eklutna Purchasers”)
18 in accordance with the August 2, 1989, Eklutna Purchase
19 Agreement between the United States Department of En-
20 ergy and the Eklutna Purchasers.

21 (c) The heads of other affected Federal departments
22 and agencies, including the Secretary of the Interior, shall
23 assist the Secretary of Energy in implementing the sales
24 authorized by this Act.

1 (d) The Secretary of Energy shall deposit sale pro-
2 ceeds in the Treasury of the United States to the credit
3 of miscellaneous receipts.

4 (e) There are authorized to be appropriated such
5 sums as are necessary to prepare or acquire Eklutna and
6 Snettisham assets for sale and conveyance, such prepara-
7 tions to provide sufficient title to ensure the beneficial use,
8 enjoyment, and occupancy to the purchasers of the assets
9 to be sold.

10 (f) No later than one year after both of the sales au-
11 thorized in section 102 have occurred, as measured by the
12 Transaction Dates stipulated in the Purchase Agreements,
13 the Secretary of Energy shall—

14 (1) complete the business of, and close out, the
15 Alaska Power Administration; and

16 (2) prepare and submit to Congress a report
17 documenting the sales.

18 **SEC. 103. ASSESSMENT OF ALTERNATIVE OPTIONS.**

19 Before taking any action authorized in section 102,
20 the Secretary shall assess the feasibility of alternative op-
21 tions for maximizing the return to the Treasury from the
22 sale of the Alaska Power Marketing Administration.

1 **TITLE II—FEDERAL-PRIVATE CO-**
2 **GENERATION OF ELEC-**
3 **TRICITY**

4 **SEC. 201. FEDERAL-PRIVATE COGENERATION OF ELEC-**
5 **TRICITY.**

6 Section 804(2)(B) of the National Energy Conserva-
7 tion Policy Act (42 U.S.C. 8287c(2)(B)) is amended by
8 striking “, excluding any cogeneration process for other
9 than a federally owned building or buildings or other fed-
10 erally owned facilities.”.

11 **TITLE III—POWER MARKETING**
12 **ADMINISTRATION DEBT BUYOUT**
13 **PART 1—BONNEVILLE POWER ADMINISTRATION**
14 **DEBT BUYOUT**

15 **SEC. 301. SHORT TITLE.**

16 This part may be cited as the “Bonneville Power Ad-
17 ministration Repayment Bonds Act”.

18 **SEC. 302. SALE OF BONDS.**

19 Notwithstanding any other law and without fiscal
20 year limitation—

21 (1) in addition to the authority in section 13 of
22 the Federal Columbia River Transmission System
23 Act (16 U.S.C. 838k), the Administrator may issue
24 and sell bonds, notes, and other evidences of indebt-
25 edness (referred to in this part as “Bonds”) in the

1 manner and amounts the Administrator, considers
2 appropriate in the name of and for and on behalf of
3 the Bonneville Power Administration, to—

4 (A) satisfy the unpaid repayment obliga-
5 tion associated with the appropriated capital in-
6 vestment made in the Federal Columbia River
7 Power System before the issuance of the Bonds
8 authorized under this part takes place, but not
9 including Federal irrigation investments as-
10 signed to be repaid from power revenues; and

11 (B) refund Bonds;

12 (2) the Administrator shall transfer, and the
13 Secretary of the Treasury shall accept for the ac-
14 count of the General Fund, the net proceeds of the
15 Bonds referred to in paragraph (1)(A), and when
16 the Secretary of the Treasury receives the net pro-
17 ceeds, the repayment obligation associated with the
18 part of the appropriated capital investment in the
19 Federal Columbia River Power System covered by
20 the Bonds is considered to be satisfied forever;

21 (3) the Secretary of the Treasury, in consulta-
22 tion with the Administrator, shall establish the
23 amount of proceeds needed to satisfy the unpaid re-
24 payment obligation associated with the part of the
25 capital investment referred to in paragraph (1)(A)

1 as the amount necessary to increase the sum of the
2 net proceeds and the discounted present value of the
3 remaining Federal debt service of the Federal Co-
4 lumbia River Power System by \$100 million relative
5 to the discounted present value of the total Federal
6 debt service of the Federal Columbia River Power
7 system as provided by the Administrator based upon
8 the repayment schedule that would have been paid
9 under repayment policy and practices in effect on
10 September 1, 1993;

11 (4) to determine the discounted present values
12 in paragraph (3), the Secretary of the Treasury
13 shall use discount rates based on the secondary mar-
14 ket's average yield for the most recently issued 30-
15 year Treasury bonds when the Bonds authorized in
16 paragraph (1) are issued;

17 (5) these Bonds shall be in the forms and de-
18 nominations, bear the maturities (without respect to
19 the remaining average service life of the capital in-
20 vestment associated with the repayment obligation
21 satisfied by the Bonds issued under this part), be is-
22 sued and sold at the times, prices, discounts, and
23 yields, and be subject to other terms and conditions
24 (including variable rates) as the Administrator con-
25 siders appropriate;

1 (6) under section 2(f) of the Bonneville Project
2 Act of 1937 (16 U.S.C. 832a(f)) and this part, the
3 Administrator may enter into any contract that the
4 Administrator considers necessary for the purposes
5 of carrying out this part including, but not limited
6 to, contracts for—

7 (A) the payment of the principal, interest,
8 and premium, if any, on Bonds issued under
9 this part;

10 (B) the purchase or redemption of those
11 Bonds;

12 (C) the payment of costs and expenses in-
13 cidental to this payment, purchase, and re-
14 demption; or

15 (D) the creation of reserve and other funds
16 to be held by a trustee, which funds the Admin-
17 istrator may pledge exclusively to pay those
18 costs for which the funds were created and es-
19 tablish a lien on the funds in favor of the bene-
20 ficiaries of the funds under any indenture, reso-
21 lution, or other agreement entered into in con-
22 nection with the issuance of Bonds under this
23 part;

24 (7) Bonds issued under this part—

1 (A) shall be issuable and payable through
2 the Federal wire system;

3 (B) are negotiable instruments that may
4 be accepted as security for all fiduciary, trust,
5 and public funds, the investment or deposit of
6 which is under the authority or control of any
7 officer or agency of the United States;

8 (C) may be held without limitation by na-
9 tional banks;

10 (D) qualify as legal investments for banks,
11 savings and loan institutions, and credit unions;
12 and

13 (E) are eligible collateral for Federal ad-
14 vances and discounts, for deposits of the United
15 States, and the Treasury tax and loan accounts;

16 (8) Bonds issued under this part are not in-
17 tended to be and are not secured by the full faith
18 and credit of the United States;

19 (9) Bonds issued under this part are exempt
20 both as to principal and interest from all taxation by
21 any State or local taxing authority, except estate, in-
22 heritance, and gift taxes;

23 (10) Bonds issued under this part shall contain
24 a recital that they are issued under this part and
25 this recital is conclusive evidence of the regularity of

1 the issuance and sale of the Bonds and their valid-
2 ity;

3 (11) the Bonds issued under this part, all re-
4 cepts of the Secretary of the Treasury under this
5 part, any portion of the fund established under the
6 Federal Columbia River Transmission System Act
7 (16 U.S.C. 838 et seq.) related to these Bonds, all
8 receipts and disbursements of that fund related to
9 these Bonds, and all expenditures by the Adminis-
10 trator related to these Bonds—

11 (A) are exempt from any general budget
12 limitation imposed by statute on expenditures
13 and net lending (budget outlays) of the United
14 States Government, sequestration order, or dis-
15 cretionary spending limit;

16 (B) are exempt from any order issued pur-
17 suant to sections 251, 252, or 253 of the Bal-
18 anced Budget and Emergency Deficit Control
19 Act of 1985 (2 U.S.C. 900 et seq.); and

20 (C) are not subject to apportionment under
21 subchapter II of chapter 15 of title 31, United
22 States Code;

23 (12) in all future contracts for the sale of elec-
24 tric power, transmission, or other services, the Ad-
25 ministrator shall include provisions specifying that

1 after the repayment obligation is fully and forever
2 satisfied, the Administrator's rates for electric
3 power, transmission, or other services shall not in-
4 clude any form of economic rent to be returned to
5 the United States Government, including, without
6 limitation, a falling water charge or any other fee for
7 use of Federal facilities for power generation or
8 transmission, that relates to a project, facility, or
9 separable unit of a project or facility associated with
10 the satisfied repayment obligation, other than a
11 charge necessary to repay the new indebtedness in-
12 curred under this part. Amounts provided under sec-
13 tion 1304 of title 31, United States Code, shall be
14 the sole source for payment of a judgment against
15 the Administrator or the United States on a claim
16 for a violation of the contract provision required by
17 this paragraph;

18 (13) the Administrator shall offer to amend the
19 Administrator's existing contracts for the sale of
20 electric power, transmission, or other services to in-
21 clude the provisions described in paragraph (12);
22 and

23 (14) the Administrator shall consult with the
24 Secretary of the Treasury regarding the timing and
25 structure of the bonds issued under this part.

1 **SEC. 303. PAYMENT OF BOND COSTS.**

2 Section 11(b)(6) of the Federal Columbia River
3 Transmission System Act (16 U.S.C. 838i(b)(6)), is
4 amended by striking “or” before “(iv)” and by inserting
5 before the semicolon “, or (v) to pay the cost of financing
6 and debt service including premiums, if any, on Bond is-
7 sued by the Bonneville Power Administration”.

8 **SEC. 304. COMBINED REPAYMENT STUDY.**

9 Section 7(a) of the Pacific Northwest Electric Power
10 Planning and Conservation Act (16 U.S.C. 893e(a)), is
11 amended by adding after paragraph (2) the following:

12 “(3) In establishing power and transmission
13 rates, the Administrator may base them on a single,
14 combined generation and transmission repayment
15 study which demonstrates that all indebtedness is
16 repaid by its due date. The use of such a study is
17 sufficient for the commission to approve the rates as
18 meeting repayment requirements.”.

19 **SEC. 305. DEFINITIONS.**

20 For the purposes of this part—

21 (1) “Administrator” means the Administrator
22 of the Bonneville Power Administration; and

23 (2) “appropriated capital investment made in
24 the Federal Columbia River Power System” means
25 an investment made by the United States that—

26 (A) is made using Federal appropriations;

1 (B) is for a project or separable feature of
2 a project that is placed in service;

3 (C) is allocated to power and required by
4 law to be repaid from the power revenues by
5 the Administrator;

6 (D) is not allocated or suballocated to irri-
7 gation; and

8 (E) excludes an investment made using
9 funds borrowed under section 13 of the Federal
10 Columbia River Transmission System Act.

11 **PART 2—OTHER POWER MARKETING**

12 **ADMINISTRATIONS DEBT BUYOUT**

13 **SEC. 306. SHORT TITLE.**

14 This part may be cited as the “Power Marketing Ad-
15 ministrations Financing Act”.

16 **SEC. 307. DEFINITIONS.**

17 For the purposes of this part—

18 (1) “Administrator” means the Administrator
19 of the Southeastern Power Administration, the Ad-
20 ministrator of the Southwestern Power Administra-
21 tion, and the Administrator of the Western Area
22 Power Administration;

23 (2) “Fund” means the Power Marketing Ad-
24 ministration Sinking Fund established under section
25 309; and

1 (3) “Power marketing administration” means
2 the Southeastern Power Administration, the South-
3 western Power Administration, and the Western
4 Area Power Administration.

5 **SEC. 308. REPAYMENT OF EXISTING INDEBTEDNESS.**

6 (a) Notwithstanding any other law, within 12 months
7 after the enactment of this Act, each Administrator shall
8 develop, in consultation with the Secretary of the Treas-
9 ury, and shall implement a plan for paying the United
10 States Treasury the discounted present value of principal
11 and interest payments on power investments scheduled to
12 be paid to the United States Treasury as provided by the
13 Administrator under existing law and repayment practices
14 by that power marketing administration, as well as a one-
15 time additional payment of \$12,500,000 by the Southeast-
16 ern Power Administration, \$12,500,000 by the Southwest-
17 ern Power Administration, and \$50,000,000 by the West-
18 ern Area Power Administration. Each Administrator shall
19 issue revenue bonds as provided in section 310 to pay the
20 obligation to the United States Treasury addressed in this
21 section, except that the issuance of these bonds shall occur
22 only if each Administrator determines by means of finan-
23 cial studies that the refinancing will not cause an increase
24 in power rates over existing repayment practices. When
25 the Treasury receives full payment from an Administrator,

1 it shall consider the repayment obligation of the Adminis-
2 tration associated with the payment fully and forever dis-
3 charged.

4 (b) In all future contracts for the sale of electric
5 power, transmission, or other services, each Administrator
6 shall include provisions agreeing that when the repayment
7 obligation is fully and forever discharged under subsection
8 (a), the Administrator's rates for electric power, trans-
9 mission, or other services shall not, other than is necessary
10 to repay the new indebtedness incurred under this Act,
11 include any charge in place of the satisfied obligation or
12 include any other similar form of economic rent by or re-
13 turned to the United States (including, without limitation,
14 a falling water charge or any other type of user fee for
15 use of Federal facilities for the purpose of power genera-
16 tion and transmission) on account of any project, facility,
17 or separable unit of a project or facility associated with
18 the repayment obligation satisfied.

19 (c) Each Administrator shall offer to amend existing
20 contracts for the sale of electric power, transmission, or
21 other services to include the provision described in sub-
22 section (b).

1 **SEC. 309. POWER MARKETING ADMINISTRATION SINKING**
2 **FUND.**

3 (a) There is established in the Treasury of the United
4 States a Power Marketing Administration Sinking Fund.
5 The Secretary of the Treasury, acting as trustee for the
6 power marketing administrations, shall establish and
7 maintain a separate account in the Fund for each power
8 marketing administration, and monies of one power mar-
9 keting administration shall not be commingled with mon-
10 ies of another power marketing administration. Within the
11 separate account for each power marketing administra-
12 tion, separate projects or systems shall be accounted for
13 separately. An Administrator may deposit into the Fund
14 the monies derived from revenues that the Administrator
15 considers appropriate to ensure that the bonds issued
16 under section 310 are refunded in a timely manner.

17 (b) Balances in the Fund shall earn interest at a rate
18 determined by the Secretary of the Treasury.

19 (c) An Administrator may make expenditures from
20 the Administrator's account in the Fund without further
21 appropriation and without fiscal year limitation to pay in-
22 debtedness incurred from bonds issued under section 310.

23 (d) Each power marketing administration shall main-
24 tain its books of account in substantial conformance with
25 the Uniform System of Accounts of the Federal Energy
26 Regulatory Commission.

1 (e) The financial transactions of an Administrator
2 shall be audited by independent financial auditors, and re-
3 ports of the results of each audit shall be made to the
4 Congress within 6½ months following the end of the fiscal
5 year covered by the audit.

6 **SEC. 310. REVENUE BONDS.**

7 (a) Each Administrator, in consultation with the Sec-
8 retary of the Treasury, may issue and sell from time to
9 time in the name of, and for and on behalf of, the respec-
10 tive power marketing administration bonds, notes, and
11 other evidences of indebtedness (in this section collectively
12 referred to as “bonds”) to refinance existing indebtedness
13 as provided in section 308 and to issue and sell bonds to
14 refund those bonds. The bonds shall be in the forms and
15 denominations, bear maturities (without respect to the re-
16 maining average service life of facilities), and be subject
17 to terms and conditions as prescribed by the Adminis-
18 trator taking into account terms and conditions prevailing
19 in the market for similar bonds and financing practices
20 of the utility industry. Provisions for early retirement of
21 bonds may be prescribed by each Administrator. The
22 bonds shall bear interest at a rate determined by the Ad-
23 ministrator.

24 (b) Each Administrator may enter into any contract
25 that the Administrator considers necessary for the pur-

1 poses of carrying out this part including, but not limited
2 to, contracts for—

3 (1) the payment of the principal, interest, and
4 premium, if any, on bonds issued under this part;

5 (2) their purchase or redemption;

6 (3) the payment of costs and expenses inciden-
7 tal to their payment, purchase, and redemption; or

8 (4) the creation of reserve and other funds to
9 be held by the Secretary of the Treasury as trustee,
10 which funds the Administrator may pledge exclu-
11 sively to pay those costs for which the funds were
12 created and may establish a lien on the funds in
13 favor of the beneficiaries of the funds under any in-
14 denture, resolution, or other agreement entered into
15 in connection with the issuance of bonds under this
16 part.

17 (c) Bonds issued under this part—

18 (1) shall be issuable and negotiable through the
19 Federal wire system;

20 (2) are negotiable instruments that may be ac-
21 cepted as security for all fiduciary, trust, and public
22 funds, the investment or deposit of which is under
23 the authority or control of any officer or agency of
24 the United States;

1 (3) may be held, without limitation, by national
2 banks;

3 (4) qualify as legal instruments for banks, sav-
4 ings and loan institutions, and credit unions; and

5 (5) are eligible collateral for Federal advances
6 and discounts, for deposits of the United States, and
7 for Treasury tax and loan accounts.

8 (d) Bonds issued under this part are exempt both as
9 to principal and interest from all taxation by any State
10 or local taxing authority, except estate, inheritance, and
11 gift taxes.

12 (e) Bonds issued under this part shall contain a re-
13 cital that they are issued under this part and such a recital
14 is conclusive evidence of the regularity of the issuance and
15 sale of the bonds and their validity.

16 (f) These bonds are not intended to be and are not
17 secured by the full faith and credit of the United States.

18 (g) The bonds issued under this part, all receipts of
19 the Secretary of the Treasury under this part, any portion
20 of the Fund established under section 310 related to these
21 bonds, all receipts and disbursements of the Fund related
22 to these bonds, and all expenditures by an Administrator
23 related to these bonds—

24 (1) are exempt from any general budget limita-
25 tion imposed by statute on expenditures and net

1 lending (budget outlays) of the United States Gov-
2 ernment, sequestration order, or discretionary
3 spending limit;

4 (2) are exempt from any order issued pursuant
5 to sections 251, 252, or 253 of the Balanced Budget
6 and Emergency Deficit Control Act of 1985 (2
7 U.S.C. 900 et seq.); and

8 (3) are not subject to apportionment under sub-
9 chapter II of chapter 15 of title 31, United States
10 Code.

11 (h) With respect to the Western Area Power Adminis-
12 tration, except as otherwise provided, this Act is consid-
13 ered to be a supplement to the Federal reclamation laws.

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