

Calendar No. 138112TH CONGRESS
1ST SESSION**S. 519****[Report No. 112-58]**

To further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2011

Mr. REID (for himself, Mr. ENSIGN, Mrs. BOXER, Mrs. FEINSTEIN, and Mr. HELLER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

AUGUST 30 (legislative day, AUGUST 2), 2011

Reported under authority of the order of the Senate of August 2, 2011, by
Mr. BINGAMAN, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To further allocate and expand the availability of hydroelectric power generated at Hoover Dam, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Hoover Power Alloca-
3 tion Act of 2011”.

4 **SEC. 2. ALLOCATION OF CONTRACTS FOR POWER.**

5 (a) SCHEDULE A POWER.—Section 105(a)(1)(A) of
6 the Hoover Power Plant Act of 1984 (43 U.S.C.
7 619a(a)(1)(A)) is amended—

8 (1) by striking “renewal”;

9 (2) by striking “June 1, 1987” and inserting
10 “October 1, 2017”; and

11 (3) by striking Schedule A and inserting the
12 following:

“Schedule A

Long-term Schedule A contingent capacity and associated firm energy for offers of contracts to
Boulder Canyon project contractors

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
Metropolitan Water District of Southern California	249,948	859,163	368,212	1,227,375
City of Los Angeles Southern California Edison Company ..	495,732	464,108	199,175	663,283
City of Glendale	280,245	166,712	71,448	238,160
City of Pasadena	18,178	45,028	19,297	64,325
City of Burbank	11,108	38,622	16,553	55,175
Arizona Power Authority	5,176	14,070	6,030	20,100
Colorado River Commission of Nevada	190,869	429,582	184,107	613,689
United States, for Boulder City	190,869	429,582	184,107	613,689
	20,198	53,200	22,800	76,000
Totals	1,462,323	2,500,067	1,071,729	3,571,796”.

1 (b) SCHEDULE B POWER.—Section 105(a)(1)(B) of
 2 the Hoover Power Plant Act of 1984 (43 U.S.C.
 3 619a(a)(1)(B)) is amended to read as follows:

4 “(B) To each existing contractor for power generated
 5 at Hoover Dam, a contract, for delivery commencing Octo-
 6 ber 1, 2017, of the amount of contingent capacity and
 7 firm energy specified for that contractor in the following
 8 table:

“Schedule B

Long-term Schedule B contingent capacity and associated firm energy for offers of contracts to
 Boulder Canyon project contractors

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
City of Glendale	2,020	2,749	1,194	3,943
City of Pasadena	9,089	2,399	1,041	3,440
City of Burbank	15,149	3,604	1,566	5,170
City of Anaheim	40,396	34,442	14,958	49,400
City of Azusa	4,039	3,312	1,438	4,750
City of Banning	2,020	1,324	576	1,900
City of Colton	3,030	2,650	1,150	3,800
City of Riverside	30,296	25,831	11,219	37,050
City of Vernon	22,218	18,546	8,054	26,600
Arizona	189,860	140,600	60,800	201,400
Nevada	189,860	273,600	117,800	391,400
Totals	507,977	509,057	219,796	728,853”.

9 (c) SCHEDULE C POWER.—Section 105(a)(1)(C) of
 10 the Hoover Power Plant Act of 1984 (43 U.S.C.
 11 619a(a)(1)(C)) is amended—

12 (1) by striking “June 1, 1987” and inserting
 13 “October 1, 2017”; and

14 (2) by striking Schedule C and inserting the
 15 following:

“Schedule C
Excess Energy

Priority of entitlement to excess energy	State
First: Meeting Arizona’s first priority right to delivery of excess energy which is equal in each year of operation to 200 million kilowatthours: Provided, That in the event excess energy in the amount of 200 million kilowatthours is not generated during any year of operation, Arizona shall accumulate a first right to delivery of excess energy subsequently generated in an amount not to exceed 600 million kilowatthours, inclusive of the current year’s 200 million kilowatthours. Said first right of delivery shall accrue at a rate of 200 million kilowatthours per year for each year excess energy in an amount of 200 million kilowatthours is not generated, less amounts of excess energy delivered.	Arizona
Second: Meeting Hoover Dam contractual obligations under Schedule A of subsection (a)(1)(A), under Schedule B of subsection (a)(1)(B), and under Schedule D of subsection (a)(2), not exceeding 26 million kilowatthours in each year of operation.	Arizona, Nevada, and California
Third: Meeting the energy requirements of the three States, such available excess energy to be divided equally among the States.	Arizona, Nevada, and California”.

1 (d) SCHEDULE D POWER.—Section 105(a) of the
2 Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) is
3 amended—
4 (1) by redesignating paragraphs (2), (3), and
5 (4) as paragraphs (3), (4), and (5), respectively; and
6 (2) by inserting after paragraph (1) the fol-
7 lowing:
8 “(2)(A) The Secretary of Energy is authorized to and
9 shall create from the apportioned allocation of contingent
10 capacity and firm energy adjusted from the amounts au-

1 thorized in this Act in 1984 to the amounts shown in
 2 Schedule A and Schedule B, as modified by the Hoover
 3 Power Allocation Act of 2011, a resource pool equal to
 4 5 percent of the full rated capacity of 2,074,000 kilowatts,
 5 and associated firm energy, as shown in Schedule D (re-
 6 ferred to in this section as ‘Schedule D contingent capac-
 7 ity and firm energy’):

“Schedule D

Long-term Schedule D resource pool of contingent capacity and associated firm energy for new allottees

State	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
New Entities Allocated by the Secretary of Energy	69,170	105,637	45,376	151,013
New Entities Allocated by State				
Arizona	11,510	17,580	7,533	25,113
California	11,510	17,580	7,533	25,113
Nevada	11,510	17,580	7,533	25,113
Totals	103,700	158,377	67,975	226,352

8 “(B) The Secretary of Energy shall offer Schedule
 9 D contingency capacity and firm energy to entities not re-
 10 ceiving contingent capacity and firm energy under sub-
 11 paragraphs (A) and (B) of paragraph (1) (referred to in
 12 this section as ‘new allottees’) for delivery commencing
 13 October 1, 2017 pursuant to this subsection. In this sub-
 14 section, the term ‘the marketing area for the Boulder City
 15 Area Projects’ shall have the same meaning as in appendix
 16 A of the General Consolidated Power Marketing Criteria
 17 or Regulations for Boulder City Area Projects published

1 in the Federal Register on December 28, 1984 (49 Fed-
2 eral Register 50582 et seq.) (referred to in this section
3 as the ‘Criteria’).

4 “(C)(i) Within 36 months of the date of enactment
5 of the Hoover Power Allocation Act of 2011, the Secretary
6 of Energy shall allocate through the Western Area Power
7 Administration (referred to in this section as ‘Western’),
8 for delivery commencing October 1, 2017, for use in the
9 marketing area for the Boulder City Area Projects 66.7
10 percent of the Schedule D contingent capacity and firm
11 energy to new allottees that are located within the mar-
12 keting area for the Boulder City Area Projects and that
13 are—

14 “(I) eligible to enter into contracts under sec-
15 tion 5 of the Boulder Canyon Project Act (43 U.S.C.
16 617d); or

17 “(II) federally recognized Indian tribes.

18 “(ii) In the case of Arizona and Nevada, Schedule
19 D contingent capacity and firm energy for new allottees
20 other than federally recognized Indian tribes shall be of-
21 fered through the Arizona Power Authority and the Colo-
22 rado River Commission of Nevada, respectively. Schedule
23 D contingent capacity and firm energy allocated to feder-
24 ally recognized Indian tribes shall be contracted for di-
25 rectly with Western.

1 “(D) Within 1 year of the date of enactment of the
2 Hoover Power Allocation Act of 2011, the Secretary of
3 Energy also shall allocate, for delivery commencing Octo-
4 ber 1, 2017, for use in the marketing area for the Boulder
5 City Area Projects 11.1 percent of the Schedule D contin-
6 gent capacity and firm energy to each of—

7 “(i) the Arizona Power Authority for allocation
8 to new allottees in the State of Arizona;

9 “(ii) the Colorado River Commission of Nevada
10 for allocation to new allottees in the State of Ne-
11 vada; and

12 “(iii) Western for allocation to new allottees
13 within the State of California, provided that Western
14 shall have 36 months to complete such allocation.

15 “(E) Each contract offered pursuant to this sub-
16 section shall include a provision requiring the new allottee
17 to pay a proportionate share of its State’s respective con-
18 tribution (determined in accordance with each State’s ap-
19 plicable funding agreement) to the cost of the Lower Colo-
20 rado River Multi-Species Conservation Program (as de-
21 fined in section 9401 of the Omnibus Public Land Man-
22 agement Act of 2009 (Public Law 111–11; 123 Stat.
23 1327)), and to execute the Boulder Canyon Project Imple-
24 mentation Agreement Contract No. 95–PAO–10616 (re-

1 ferred to in this section as the ‘Implementation Agree-
2 ment’).

3 “(F) Any of the 66.7 percent of Schedule D contin-
4 gent capacity and firm energy that is to be allocated by
5 Western that is not allocated and placed under contract
6 by October 1, 2017, shall be returned to those contractors
7 shown in Schedule A and Schedule B in the same propor-
8 tion as those contractors’ allocations of Schedule A and
9 Schedule B contingent capacity and firm energy. Any of
10 the 33.3 percent of Schedule D contingent capacity and
11 firm energy that is to be distributed within the States of
12 Arizona, Nevada, and California that is not allocated and
13 placed under contract by October 1, 2017, shall be re-
14 turned to the Schedule A and Schedule B contractors
15 within the State in which the Schedule D contingent ca-
16 pacity and firm energy were to be distributed, in the same
17 proportion as those contractors’ allocations of Schedule A
18 and Schedule B contingent capacity and firm energy.”.

19 (e) TOTAL OBLIGATIONS.—Paragraph (3) of section
20 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C.
21 619a(a)) (as ~~redesignated as~~ *redesignated by* subsection
22 (d)(1)) is amended—

23 (1) in the first sentence, by striking “schedule
24 A of section 105(a)(1)(A) and schedule B of section

1 105(a)(1)(B)” and inserting “paragraphs (1)(A),
2 (1)(B), and (2)”;

3 (2) in the second sentence—

4 ~~(A)~~ by striking “any” and inserting
5 “each”;

6 *(A) by striking “any” each place it appears*
7 *and inserting “each”;*

8 (B) by striking “schedule C” and inserting
9 “Schedule C”; and

10 (C) by striking “schedules A and B” and
11 inserting “Schedules A, B, and D”.

12 (f) POWER MARKETING CRITERIA.—Paragraph (4)
13 of section 105(a) of the Hoover Power Plant Act of 1984
14 (43 U.S.C. 619a(a)) (as ~~redesignated as~~ *redesignated by*
15 subsection (d)(1)) is amended to read as follows:

16 “(4) ~~Subdivision E of the Criteria~~ *Subdivision C of*
17 *the Conformed Criteria* shall be deemed to have been modi-
18 fied to conform to this section, as modified by the Hoover
19 Power Allocation Act of 2011. The Secretary of Energy
20 shall cause to be included in the Federal Register a notice
21 conforming the text of the regulations to such modifica-
22 tions.”.

23 (g) CONTRACT TERMS.—Paragraph (5) of section
24 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C.

1 619a(a)) (as redesignated as subsection (d)(1)) is amend-
2 ed—

3 (1) by striking subparagraph (A) and inserting
4 the following:

5 “(A) in accordance with section 5(a) of the
6 Boulder Canyon Project Act (43 U.S.C. 617d(a)),
7 expire September 30, 2067;”;

8 (2) in the proviso of subparagraph (B)—

9 (A) by striking “shall use” and inserting
10 “shall allocate”; and

11 (B) by striking “and” after the semicolon
12 at the end;

13 (3) in subparagraph (C), by striking the period
14 at the end and inserting a semicolon; and

15 (4) by adding at the end the following:

16 “(D) authorize and require Western to collect
17 from new allottees a pro rata share of Hoover Dam
18 repayable advances paid for by contractors prior to
19 October 1, 2017, and remit such amounts to the
20 contractors that paid such advances in proportion to
21 the amounts paid by such contractors as specified in
22 section 6.4 of the Implementation Agreement;

23 “(E) permit transactions with an independent
24 system operator; and

1 “(F) contain the same material terms included
2 in section 5.6 of those long-term contracts for pur-
3 chases from the Hoover Power Plant that were made
4 in accordance with this Act and are in existence on
5 the date of enactment of the Hoover Power Alloca-
6 tion Act of 2011.”.

7 (h) EXISTING RIGHTS.—Section 105(b) of the Hoo-
8 ver Power Plant Act of 1984 (43 U.S.C. 619a(b)) is
9 amended by striking “2017” and inserting “2067”.

10 (i) OFFERS.—Section 105(c) of the Hoover Power
11 Plant Act of 1984 (43 U.S.C. 619a(c)) is amended to read
12 as follows:

13 “(c) OFFER OF CONTRACT TO OTHER ENTITIES.—
14 If any existing contractor fails to accept an offered con-
15 tract, the Secretary of Energy shall offer the contingent
16 capacity and firm energy thus available first to other enti-
17 ties in the same State listed in Schedule A and Schedule
18 B, second to other entities listed in Schedule A and Sched-
19 ule B, third to other entities in the same State which re-
20 ceive contingent capacity and firm energy under sub-
21 section (a)(2) of this section, and last to other entities
22 which receive contingent capacity and firm energy under
23 subsection (a)(2) of this section.”.

1 (j) AVAILABILITY OF WATER.—Section 105(d) of the
2 Hoover Power Plant Act of 1984 (43 U.S.C. 619a(d)) is
3 amended to read as follows:

4 “(d) WATER AVAILABILITY.—Except with respect to
5 energy purchased at the request of an allottee pursuant
6 to subsection (a)(3), the obligation of the Secretary of En-
7 ergy to deliver contingent capacity and firm energy pursu-
8 ant to contracts entered into pursuant to this section shall
9 be subject to availability of the water needed to produce
10 such contingent capacity and firm energy. In the event
11 that water is not available to produce the contingent ca-
12 pacity and firm energy set forth in Schedule A, Schedule
13 B, and Schedule D, the Secretary of Energy shall adjust
14 the contingent capacity and firm energy offered under
15 those Schedules in the same proportion as those contrac-
16 tors’ allocations of Schedule A, Schedule B, and Schedule
17 D contingent capacity and firm energy bears to the full
18 rated contingent capacity and firm energy obligations.”.

19 (k) CONFORMING AMENDMENTS.—Section 105 of the
20 Hoover Power Plant Act of 1984 (43 U.S.C. 619a) is
21 amended—

22 (1) by striking subsections (e) and (f); and

23 (2) by redesignating subsections (g), (h), and

24 (i) as subsections (e), (f), and (g), respectively.

1 (l) CONTINUED CONGRESSIONAL OVERSIGHT.—Sub-
2 section (e) of section 105 of the Hoover Power Plant Act
3 of 1984 (43 U.S.C. 619a) (as redesignated by subsection
4 (k)(2)) is amended—

5 (1) in the first sentence, by striking “the re-
6 newal of”; and

7 (2) in the second sentence, by striking “June 1,
8 1987, and ending September 30, 2017” and insert-
9 ing “October 1, 2017, and ending September 30,
10 2067”.

11 (m) COURT CHALLENGES.—Subsection (f)(1) of sec-
12 tion 105 of the Hoover Power Plant Act of 1984 (43
13 U.S.C. 619a) (as redesignated by subsection (k)(2)) is
14 amended in the first sentence by striking “this Act” and
15 inserting “the Hoover Power Allocation Act of 2011”.

16 (n) REAFFIRMATION OF CONGRESSIONAL DECLARA-
17 TION OF PURPOSE.—Subsection (g) of section 105 of the
18 Hoover Power Plant Act of 1984 (43 U.S.C. 619a) (as
19 redesignated by subsection (k)(2)) is amended—

20 (1) by striking “subsections (e), (g), and (h) of
21 this section” and inserting “this Act”; and

22 (2) by striking “June 1, 1987, and ending Sep-
23 tember 30, 2017” and inserting “October 1, 2017,
24 and ending September 30, 2067”.

1 **SEC. 3. PAYGO.**

2 The budgetary effects of this Act, for the purpose of
3 complying with the Statutory Pay-As-You-Go Act of 2010,
4 shall be determined by reference to the latest statement
5 titled “Budgetary Effects of PAYGO Legislation” for this
6 Act, submitted for printing in the Congressional Record
7 by the Chairman of the Senate Budget Committee, pro-
8 vided that such statement has been submitted prior to the
9 vote on passage.

Calendar No. 138

112TH CONGRESS
1ST Session

S. 519

[Report No. 112-58]

A BILL

To further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.

AUGUST 30 (legislative day, AUGUST 2), 2011
Reported with amendments