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House of Representatives

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. PETRI).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 15, 2014.

I hereby appoint the Honorable THOMAS E. PETRI to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

PRAYER

Reverend Edward Fassett, S.J., Jesuit Conference of the United States, Washington, D.C., offered the following prayer:

Good and gracious God, we give You thanks this day for the life You grant us anew and for the creation that sustains us.

We especially ask Your blessing upon the Members of this assembly. Give them wisdom, empathy, discipline, creativity, patience, and kindness in their dealings with each other and in their discernment about the needs of our great Nation. Help them to be responsible leaders and fellow citizens with those whom they represent. May their work this day reflect our common understanding of what is good and true.

As another school year moves toward commencements and summer vacation, we give thanks for our Nation's appreciation for the value of a good education. May our national policy for education always reflect that same appreciation.

May all that we do this day, both in the people's House and throughout our Nation, be for Your greater honor and glory.

Amen.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to section 2(a) of House Resolution 576, the Journal of the last day's proceedings is approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Pennsylvania (Mr. SHUSTER) come forward and lead the House in the Pledge of Allegiance.

Mr. SHUSTER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

CONFERENCE REPORT ON H.R. 3080, WATER RESOURCES REFORM AND DEVELOPMENT ACT OF 2014

Mr. SHUSTER submitted the following conference report and statement on the bill (H.R. 3080) to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, and for other purposes:

CONFERENCE REPORT (H. REPT. 113–449)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 3080), to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Water Resources Reform and Development Act of 2014''.

(b) TABLE OF CONTENTS.—

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term ''Secretary'' means the Secretary of the Army.

TITLE I—PROGRAM REFORMS AND STREAMLINING

SEC. 1001. VERTICAL INTEGRATION AND ACCELERATION OF STUDIES.

(a) IN GENERAL.—To the extent practicable, a feasibility study initiated by the Secretary, after the date of enactment of this Act, under section 905(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(a)) shall—

(1) result in the completion of a final feasibility report not later than 3 years after the date of initiation;

(2) have a maximum Federal cost of $3,000,000; and

(3) ensure that personnel from the district, division, and headquarters levels of the Corps of Engineers concurrently conduct the review required under that section.

(b) EXTENSION.—If the Secretary determines that a feasibility study described in subsection (a) will not be conducted in accordance with subsection (a), the Secretary, not later than 30 days after the date of making the determination, shall—

(1) prepare an updated feasibility study schedule and cost estimate;

(2) notify the non-Federal feasibility cost-sharing partner that the feasibility study has been delayed; and

(3) provide written notice to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives as to the reasons the requirements of subsection (a) are not attainable.

(c) TERMINATION OF AUTHORIZATION.—A feasibility study for which the Secretary has issued a determination under subsection (b) is not authorized after the last day of the 1-year period beginning on the date of the determination if the Secretary has not completed the study on or before such last day.

(d) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding the requirements of subsection (c), the Secretary may extend the timeline of a study by a period not to exceed 3 years, if the Secretary determines that the feasibility study is too complex to comply with the requirements of subsections (a) and (c).

(2) FACTORS.—In making a determination that a study is too complex to comply with the requirements of subsections (a) and (c), the Secretary shall consider—

(A) the type, size, location, scope, and overall cost of the project;

(B) whether the project will use any innovative design or construction techniques;

(C) whether the project will require significant action by other Federal, State, or local agencies;

(D) whether there is significant public dispute as to the nature or effects of the project; and

(E) whether there is significant public dispute as to the economic or environmental costs or benefits of the project.

(3) NOTIFICATION.—Each time the Secretary makes a determination under this subsection, the Secretary shall provide written notice to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives as to the results of that determination, including an identification of the specific 1 or more factors used in making the determination that the project is complex.

(4) LIMITATION.—The Secretary shall not extend the timeline for a feasibility study for a period of more than 7 years, and any feasibility study that is not completed before that date shall no longer be authorized.

(e) REVIEWS.—Not later than 90 days after the date of the initiation of a study described in subsection (a) for a project, the Secretary shall—

(1) take all steps necessary to initiate the process for completing federally mandated reviews that the Secretary is required to complete as part of the study, including the environmental review process under section 1005;

(2) convene a meeting of all Federal, tribal, and State agencies identified under section 2045(e) of the Water Resources Development Act of 2007 (33 U.S.C. 2348(e)) that may be required by law to conduct or issue a review, analysis, or opinion on or to make a determination concerning a permit or license for the study; and

(3) take all steps necessary to provide information that will enable required reviews and analyses related to the project to be conducted by other agencies in a thorough and timely manner.

(f) INTERIM REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report that describes—

(1) the status of the implementation of the planning process under this section, including the number of participating projects;

(2) a review of project delivery schedules, including a description of any delays on those studies participating in the planning process under this section; and

(3) any recommendations for additional authority necessary to support efforts to expedite the feasibility study process for water resource projects.

(g) FINAL REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report that describes—

(1) the status of the implementation of this section, including a description of each feasibility study subject to the requirements of this section;

(2) the amount of time taken to complete each feasibility study; and

(3) any recommendations for additional authority necessary to support efforts to expedite the feasibility study process, including an analysis of whether the limitation established by subsection (a)(2) needs to be adjusted to address the impacts of inflation.

SEC. 1002. CONSOLIDATION OF STUDIES.

(a) IN GENERAL.—

(1) REPEAL.—Section 905(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(b)) is repealed.

(2) CONFORMING AMENDMENT.—Section 905(a)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(a)(1)) is amended by striking ''perform a reconnaissance study and''.

(b) CONTENTS OF FEASIBILITY REPORTS.—Section 905(a)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(a)(2)) is amended by adding at the end the following: ''A feasibility report shall include a preliminary analysis of the Federal interest and the costs, benefits, and environmental impacts of the project.''.

(c) FEASIBILITY STUDIES.—Section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282) is amended by adding at the end the following:

''(g) DETAILED PROJECT SCHEDULE.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall determine a set of milestones needed for the completion of a feasibility study under this subsection, including all major actions, report submissions and responses, reviews, and comment periods.

''(2) DETAILED PROJECT SCHEDULE MILESTONES.—Each District Engineer shall, to the maximum extent practicable, establish a detailed project schedule, based on full funding capability, that lists all deadlines for milestones relating to feasibility studies in the District developed by the Secretary under paragraph (1).

''(3) NON-FEDERAL INTEREST NOTIFICATION.—Each District Engineer shall submit by certified mail the detailed project schedule under paragraph (2) to each relevant non-Federal interest—

''(A) for projects that have received funding from the General Investigations Account of the Corps of Engineers in the period beginning on October 1, 2009, and ending on the date of enactment of this subsection, not later than 180 days after the establishment of milestones under paragraph (1); and

''(B) for projects for which a feasibility cost-sharing agreement is executed after the establishment of milestones under paragraph (1), not later than 90 days after the date on which the agreement is executed.

''(4) CONGRESSIONAL AND PUBLIC NOTIFICATION.—Beginning in the first full fiscal year after the date of enactment of this subsection, the Secretary shall—

''(A) submit an annual report that lists all detailed project schedules under paragraph (2) and an explanation of any missed deadlines to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

''(B) make publicly available, including on the Internet, a copy of the annual report described in subparagraph (A) not later than 14 days after date on which a report is submitted to Congress.

''(5) FAILURE TO ACT.—If a District Engineer fails to meet any of the deadlines in the project schedule under paragraph (2), the District Engineer shall—

''(A) not later than 30 days after each missed deadline, submit to the non-Federal interest a report detailing—

''(i) why the District Engineer failed to meet the deadline; and

''(ii) a revised project schedule reflecting amended deadlines for the feasibility study; and

''(B) not later than 30 days after each missed deadline, make publicly available, including on the Internet, a copy of the amended project schedule described in subparagraph (A)(ii).''.

(d) APPLICABILITY.—The Secretary shall continue to carry out a study for which a reconnaissance level investigation has been initiated before the date of enactment of this Act as if this section, including the amendments made by this section, had not been enacted.

SEC. 1003. EXPEDITED COMPLETION OF REPORTS.

The Secretary shall—

(1) expedite the completion of any on-going feasibility study for a project initiated before the date of enactment of this Act; and

(2) if the Secretary determines that the project is justified in a completed report, proceed directly to preconstruction planning, engineering, and design of the project in accordance with section 910 of the Water Resources Development Act of 1986 (33 U.S.C. 2287).

SEC. 1004. REMOVAL OF DUPLICATIVE ANALYSES.

Section 911 of the Water Resources Development Act of 1986 (33 U.S.C. 2288) is repealed.

SEC. 1005. PROJECT ACCELERATION.

(a) PROJECT ACCELERATION.—

(1) AMENDMENT.—Section 2045 of the Water Resources Development Act of 2007 (33 U.S.C. 2348) is amended to read as follows:

''SEC. 2045. PROJECT ACCELERATION.

''(a) DEFINITIONS.—In this section:

''(1) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means the detailed statement of environmental impacts of a project required to be prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) ENVIRONMENTAL REVIEW PROCESS.—

''(A) IN GENERAL.—The term 'environmental review process' means the process of preparing an environmental impact statement, environmental assessment, categorical exclusion, or other document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project study.

''(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a project study under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(3) FEDERAL JURISDICTIONAL AGENCY.—The term 'Federal jurisdictional agency' means a Federal agency with jurisdiction delegated by law, regulation, order, or otherwise over a review, analysis, opinion, statement, permit, license, or other approval or decision required for a project study under applicable Federal laws (including regulations).

''(4) FEDERAL LEAD AGENCY.—The term 'Federal lead agency' means the Corps of Engineers.

''(5) PROJECT.—The term 'project' means a water resources development project to be carried out by the Secretary.

''(6) PROJECT SPONSOR.—The term 'project sponsor' has the meaning given the term 'non-Federal interest' in section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)).

''(7) PROJECT STUDY.—The term 'project study' means a feasibility study for a project carried out pursuant to section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282).

''(b) APPLICABILITY.—

''(1) IN GENERAL.—This section—

''(A) shall apply to each project study that is initiated after the date of enactment of the Water Resources Reform and Development Act of 2014 and for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(B) may be applied, to the extent determined appropriate by the Secretary, to other project studies initiated after such date of enactment and for which an environmental review process document is prepared under that Act.

''(2) FLEXIBILITY.—Any authority granted under this section may be exercised, and any requirement established under this section may be satisfied, for the conduct of an environmental review process for a project study, a class of project studies, or a program of project studies.

''(3) LIST OF PROJECT STUDIES.—

''(A) IN GENERAL.—The Secretary shall annually prepare, and make publicly available, a separate list of each study that the Secretary has determined—

''(i) meets the standards described in paragraph (1); and

''(ii) does not have adequate funding to make substantial progress toward the completion of the project study.

''(B) INCLUSIONS.—The Secretary shall include for each project study on the list under subparagraph (A) a description of the estimated amounts necessary to make substantial progress on the project study.

''(c) PROJECT REVIEW PROCESS.—

''(1) IN GENERAL.—The Secretary shall develop and implement a coordinated environmental review process for the development of project studies.

''(2) COORDINATED REVIEW.—The coordinated environmental review process described in paragraph (1) shall require that any review, analysis, opinion, statement, permit, license, or other approval or decision issued or made by a Federal, State, or local governmental agency or an Indian tribe for a project study described in subsection (b) be conducted, to the maximum extent practicable, concurrently with any other applicable governmental agency or Indian tribe.

''(3) TIMING.—The coordinated environmental review process under this subsection shall be completed not later than the date on which the Secretary, in consultation and concurrence with the agencies identified under subsection (e), establishes with respect to the project study.

''(d) LEAD AGENCIES.—

''(1) JOINT LEAD AGENCIES.—

''(A) IN GENERAL.—At the discretion of the Secretary and subject to the requirements of the National Environmental Policy Act of 1969 (42

U.S.C. 4321 et seq.) and the requirements of section 1506.8 of title 40, Code of Federal Regulations (or successor regulations), including the concurrence of the proposed joint lead agency, a project sponsor may serve as the joint lead agency.

''(B) PROJECT SPONSOR AS JOINT LEAD AGENCY.—A project sponsor that is a State or local governmental entity may—

''(i) with the concurrence of the Secretary, serve as a joint lead agency with the Federal lead agency for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(ii) prepare any environmental review process document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) required in support of any action or approval by the Secretary if—

''(I) the Secretary provides guidance in the preparation process and independently evaluates that document;

''(II) the project sponsor complies with all requirements applicable to the Secretary under—

''(aa) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(bb) any regulation implementing that Act; and

''(cc) any other applicable Federal law; and

''(III) the Secretary approves and adopts the document before the Secretary takes any subsequent action or makes any approval based on that document, regardless of whether the action or approval of the Secretary results in Federal funding.

''(2) DUTIES.—The Secretary shall ensure that—

''(A) the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection; and

''(B) any environmental document prepared by the project sponsor is appropriately supplemented to address any changes to the project the Secretary determines are necessary.

''(3) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency making any determination related to the project study to the same extent that the Federal agency could adopt or use a document prepared by another Federal agency under—

''(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(B) parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).

''(4) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project study, the Federal lead agency shall have authority and responsibility—

''(A) to take such actions as are necessary and proper and within the authority of the Federal lead agency to facilitate the expeditious resolution of the environmental review process for the project study; and

''(B) to prepare or ensure that any required environmental impact statement or other environmental review document for a project study required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.

''(e) PARTICIPATING AND COOPERATING AGENCIES.—

''(1) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to carrying out the environmental review process for a project study, the Secretary shall identify, as early as practicable in the environmental review process, all Federal, State, and local government agencies and Indian tribes that may—

''(A) have jurisdiction over the project;

''(B) be required by law to conduct or issue a review, analysis, opinion, or statement for the project study; or

''(C) be required to make a determination on issuing a permit, license, or other approval or decision for the project study.

''(2) STATE AUTHORITY.—If the environmental review process is being implemented by the Secretary for a project study within the boundaries of a State, the State, consistent with State law, may choose to participate in the process and to make subject to the process all State agencies that—

''(A) have jurisdiction over the project;

''(B) are required to conduct or issue a review, analysis, opinion, or statement for the project study; or

''(C) are required to make a determination on issuing a permit, license, or other approval or decision for the project study.

''(3) INVITATION.—

''(A) IN GENERAL.—The Federal lead agency shall invite, as early as practicable in the environmental review process, any agency identified under paragraph (1) to become a participating or cooperating agency, as applicable, in the environmental review process for the project study.

''(B) DEADLINE.—An invitation to participate issued under subparagraph (A) shall set a deadline by which a response to the invitation shall be submitted, which may be extended by the Federal lead agency for good cause.

''(4) PROCEDURES.—Section 1501.6 of title 40, Code of Federal Regulations (as in effect on the date of enactment of the Water Resources Reform and Development Act of 2014) shall govern the identification and the participation of a cooperating agency.

''(5) FEDERAL COOPERATING AGENCIES.—Any Federal agency that is invited by the Federal lead agency to participate in the environmental review process for a project study shall be designated as a cooperating agency by the Federal lead agency unless the invited agency informs the Federal lead agency, in writing, by the deadline specified in the invitation that the invited agency—

''(A)(i)(I) has no jurisdiction or authority with respect to the project;

''(II) has no expertise or information relevant to the project; or

''(III) does not have adequate funds to participate in the project; and

''(ii) does not intend to submit comments on the project; or

''(B) does not intend to submit comments on the project.

''(6) ADMINISTRATION.—A participating or cooperating agency shall comply with this section and any schedule established under this section.

''(7) EFFECT OF DESIGNATION.—Designation as a participating or cooperating agency under this subsection shall not imply that the participating or cooperating agency—

''(A) supports a proposed project; or

''(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

''(8) CONCURRENT REVIEWS.—Each participating or cooperating agency shall—

''(A) carry out the obligations of that agency under other applicable law concurrently and in conjunction with the required environmental review process, unless doing so would prevent the participating or cooperating agency from conducting needed analysis or otherwise carrying out those obligations; and

''(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

''(f) PROGRAMMATIC COMPLIANCE.—

''(1) IN GENERAL.—The Secretary shall issue guidance regarding the use of programmatic approaches to carry out the environmental review process that—

''(A) eliminates repetitive discussions of the same issues;

''(B) focuses on the actual issues ripe for analyses at each level of review;

''(C) establishes a formal process for coordinating with participating and cooperating agencies, including the creation of a list of all data that is needed to carry out an environmental review process; and

''(D) complies with—

''(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(ii) all other applicable laws.

''(2) REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall—

''(A) as the first step in drafting guidance under that paragraph, consult with relevant Federal, State, and local governmental agencies, Indian tribes, and the public on the appropriate use and scope of the programmatic approaches;

''(B) emphasize the importance of collaboration among relevant Federal, State, and local governmental agencies, and Indian tribes in undertaking programmatic reviews, especially with respect to including reviews with a broad geographical scope;

''(C) ensure that the programmatic reviews—

''(i) promote transparency, including of the analyses and data used in the environmental review process, the treatment of any deferred issues raised by Federal, State, and local governmental agencies, Indian tribes, or the public, and the temporal and special scales to be used to analyze those issues;

''(ii) use accurate and timely information in the environmental review process, including—

''(I) criteria for determining the general duration of the usefulness of the review; and

''(II) the timeline for updating any out-of-date review;

''(iii) describe—

''(I) the relationship between programmatic analysis and future tiered analysis; and

''(II) the role of the public in the creation of future tiered analysis; and

''(iv) are available to other relevant Federal, State, and local governmental agencies, Indian tribes, and the public;

''(D) allow not fewer than 60 days of public notice and comment on any proposed guidance; and

''(E) address any comments received under subparagraph (D).

''(g) COORDINATED REVIEWS.—

''(1) COORDINATION PLAN.—

''(A) ESTABLISHMENT.—

''(i) IN GENERAL.—The Federal lead agency shall, after consultation with and with the concurrence of each participating and cooperating agency and the project sponsor or joint lead agency, as applicable, establish a plan for coordinating public and agency participation in, and comment on, the environmental review process for a project study or a category of project studies.

''(ii) INCORPORATION.—The plan established under clause (i) shall be incorporated into the project schedule milestones set under section 905(g)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(g)(2)).

''(B) SCHEDULE.—

''(i) IN GENERAL.—As soon as practicable but not later than 45 days after the close of the public comment period on a draft environmental impact statement, the Federal lead agency, after consultation with and the concurrence of each participating and cooperating agency and the project sponsor or joint lead agency, as applicable, shall establish, as part of the coordination plan established in subparagraph (A), a schedule for completion of the environmental review process for the project study.

''(ii) FACTORS FOR CONSIDERATION.—In establishing a schedule, the Secretary shall consider factors such as—

''(I) the responsibilities of participating and cooperating agencies under applicable laws;

''(II) the resources available to the project sponsor, joint lead agency, and other relevant Federal and State agencies, as applicable;

''(III) the overall size and complexity of the project;

''(IV) the overall schedule for and cost of the project; and

''(V) the sensitivity of the natural and historical resources that could be affected by the project.

''(iii) MODIFICATIONS.—The Secretary may—

''(I) lengthen a schedule established under clause (i) for good cause; and

''(II) shorten a schedule only with concurrence of the affected participating and cooperating agencies and the project sponsor or joint lead agency, as applicable.

''(iv) DISSEMINATION.—A copy of a schedule established under clause (i) shall be—

''(I) provided to each participating and cooperating agency and the project sponsor or joint lead agency, as applicable; and

''(II) made available to the public.

''(2) COMMENT DEADLINES.—The Federal lead agency shall establish the following deadlines for comment during the environmental review process for a project study:

''(A) DRAFT ENVIRONMENTAL IMPACT STATEMENTS.—For comments by Federal and States agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of the draft environmental impact statement, unless—

''(i) a different deadline is established by agreement of the Federal lead agency, the project sponsor or joint lead agency, as applicable, and all participating and cooperating agencies; or

''(ii) the deadline is extended by the Federal lead agency for good cause.

''(B) OTHER ENVIRONMENTAL REVIEW PROCESSES.—For all other comment periods established by the Federal lead agency for agency or public comments in the environmental review process, a period of not more than 30 days after the date on which the materials on which comment is requested are made available, unless—

''(i) a different deadline is established by agreement of the Federal lead agency, the project sponsor, or joint lead agency, as applicable, and all participating and cooperating agencies; or

''(ii) the deadline is extended by the Federal lead agency for good cause.

''(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project study, including the issuance or denial of a permit or license, is required to be made by the date described in subsection (h)(5)(B)(ii), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

''(A) as soon as practicable after the 180-day period described in subsection (h)(5)(B)(ii), an initial notice of the failure of the Federal agency to make the decision; and

''(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project study have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

''(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection reduces any time period provided for public comment in the environmental review process under applicable Federal law (including regulations).

''(5) TRANSPARENCY REPORTING.—

''(A) REPORTING REQUIREMENTS.—Not later than 1 year after the date of enactment of the Water Resources Reform and Development Act of 2014, the Secretary shall establish and maintain an electronic database and, in coordination with other Federal and State agencies, issue reporting requirements to make publicly available the status and progress with respect to compliance with applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.) and any other Federal, State, or local approval or action required for a project study for which this section is applicable.

''(B) PROJECT STUDY TRANSPARENCY.—Consistent with the requirements established under subparagraph (A), the Secretary shall publish the status and progress of any Federal, State, or local decision, action, or approval required under applicable laws for each project study for which this section is applicable.

''(h) ISSUE IDENTIFICATION AND RESOLUTION.—

''(1) COOPERATION.—The Federal lead agency, the cooperating agencies, and any participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or result in the denial of any approval required for the project study under applicable laws.

''(2) FEDERAL LEAD AGENCY RESPONSIBILITIES.—

''(A) IN GENERAL.—The Federal lead agency shall make information available to the cooperating agencies and participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

''(B) DATA SOURCES.—The information under subparagraph (A) may be based on existing data sources, including geographic information systems mapping.

''(3) COOPERATING AND PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the Federal lead agency, cooperating and participating agencies shall identify, as early as practicable, any issues of concern regarding the potential environmental or socioeconomic impacts of the project, including any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project study.

''(4) ACCELERATED ISSUE RESOLUTION AND ELEVATION.—

''(A) IN GENERAL.—On the request of a participating or cooperating agency or project sponsor, the Secretary shall convene an issue resolution meeting with the relevant participating and cooperating agencies and the project sponsor or joint lead agency, as applicable, to resolve issues that may—

''(i) delay completion of the environmental review process; or

''(ii) result in denial of any approval required for the project study under applicable laws.

''(B) MEETING DATE.—A meeting requested under this paragraph shall be held not later than 21 days after the date on which the Secretary receives the request for the meeting, unless the Secretary determines that there is good cause to extend that deadline.

''(C) NOTIFICATION.—On receipt of a request for a meeting under this paragraph, the Secretary shall notify all relevant participating and cooperating agencies of the request, including the issue to be resolved and the date for the meeting.

''(D) ELEVATION OF ISSUE RESOLUTION.—If a resolution cannot be achieved within the 30 day-period beginning on the date of a meeting under this paragraph and a determination is made by the Secretary that all information necessary to resolve the issue has been obtained, the Secretary shall forward the dispute to the heads of the relevant agencies for resolution.

''(E) CONVENTION BY SECRETARY.—The Secretary may convene an issue resolution meeting under this paragraph at any time, at the discretion of the Secretary, regardless of whether a meeting is requested under subparagraph (A).

''(5) FINANCIAL PENALTY PROVISIONS.—

''(A) IN GENERAL.—A Federal jurisdictional agency shall complete any required approval or decision for the environmental review process on an expeditious basis using the shortest existing applicable process.

''(B) FAILURE TO DECIDE.—

''(i) IN GENERAL.—If a Federal jurisdictional agency fails to render a decision required under any Federal law relating to a project study that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, statement, opinion, or other approval by the date described in clause (ii), the amount of funds made available to support the office of the head of the Federal jurisdictional agency shall be reduced by an amount of funding equal to the amounts specified in subclause (I) or (II) and those funds shall be made available to the division of the Federal jurisdictional agency charged with rendering the decision by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C)—

''(I) $20,000 for any project study requiring the preparation of an environmental assessment or environmental impact statement; or

''(II) $10,000 for any project study requiring any type of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) other than an environmental assessment or environmental impact statement.

''(ii) DESCRIPTION OF DATE.—The date referred to in clause (i) is the later of—

''(I) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and

''(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(C) LIMITATIONS.—

''(i) IN GENERAL.—No transfer of funds under subparagraph (B) relating to an individual project study shall exceed, in any fiscal year, an amount equal to 1 percent of the funds made available for the applicable agency office.

''(ii) FAILURE TO DECIDE.—The total amount transferred in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 5 percent of the funds made available for the applicable agency office for that fiscal year.

''(iii) AGGREGATE.—Notwithstanding any other provision of law, for each fiscal year, the aggregate amount of financial penalties assessed against each applicable agency office under the Water Resources Reform and Development Act of 2014 and any other Federal law as a result of a failure of the agency to make a decision by an applicable deadline for environmental review, including the total amount transferred under this paragraph, shall not exceed an amount equal to 9.5 percent of the funds made available for the agency office for that fiscal year.

''(D) NO FAULT OF AGENCY.—

''(i) IN GENERAL.—A transfer of funds under this paragraph shall not be made if the applicable agency described in subparagraph (A) notifies, with a supporting explanation, the Federal lead agency, cooperating agencies, and project sponsor, as applicable, that—

''(I) the agency has not received necessary information or approvals from another entity in a manner that affects the ability of the agency to meet any requirements under Federal, State, or local law;

''(II) significant new information, including from public comments, or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application; or

''(III) the agency lacks the financial resources to complete the review under the scheduled time frame, including a description of the number of full-time employees required to complete the review, the amount of funding required to complete the review, and a justification as to why not enough funding is available to complete the review by the deadline.

''(ii) LACK OF FINANCIAL RESOURCES.—If the agency provides notice under clause (i)(III), the Inspector General of the agency shall—

''(I) conduct a financial audit to review the notice; and

''(II) not later than 90 days after the date on which the review described in subclause (I) is completed, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the notice.

''(E) LIMITATION.—The Federal agency from which funds are transferred pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent office, to reimburse that office for the loss of the funds.

''(F) EFFECT OF PARAGRAPH.—Nothing in this paragraph affects or limits the application of, or obligation to comply with, any Federal, State, local, or tribal law.

''(i) MEMORANDUM OF AGREEMENTS FOR EARLY COORDINATION.—

''(1) SENSE OF CONGRESS.—It is the sense of Congress that—

''(A) the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other, State agencies, and Indian tribes on environmental review and project delivery activities at the earliest practicable time to avoid delays and duplication of effort later in the process, prevent potential conflicts, and ensure that planning and project development decisions reflect environmental values; and

''(B) the cooperation referred to in subparagraph (A) should include the development of policies and the designation of staff that advise planning agencies and project sponsors of studies or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

''(2) TECHNICAL ASSISTANCE.—If requested at any time by a State or project sponsor, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the maximum extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or project sponsor in carrying out early coordination activities.

''(3) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or project sponsor, the Federal lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, Indian tribe, State and local governments, and other appropriate entities to carry out the early coordination activities, including providing technical assistance in identifying potential impacts and mitigation issues in an integrated fashion.

''(j) LIMITATIONS.—Nothing in this section preempts or interferes with—

''(1) any obligation to comply with the provisions of any Federal law, including—

''(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(B) any other Federal environmental law;

''(2) the reviewability of any final Federal agency action in a court of the United States or in the court of any State;

''(3) any requirement for seeking, considering, or responding to public comment; or

''(4) any power, jurisdiction, responsibility, duty, or authority that a Federal, State, or local governmental agency, Indian tribe, or project sponsor has with respect to carrying out a project or any other provision of law applicable to projects.

''(k) TIMING OF CLAIMS.—

''(1) TIMING.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or other approval issued by a Federal agency for a project study shall be barred unless the claim is filed not later than 3 years after publication of a notice in the Federal Register announcing that the permit, license, or other approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law that allows judicial review.

''(B) APPLICABILITY.—Nothing in this subsection creates a right to judicial review or places any limit on filing a claim that a person has violated the terms of a permit, license, or other approval.

''(2) NEW INFORMATION.—

''(A) IN GENERAL.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under title 40, Code of Federal Regulations (including successor regulations).

''(B) SEPARATE ACTION.—The preparation of a supplemental environmental impact statement or other environmental document, if required under this section, shall be considered a separate final agency action and the deadline for filing a claim for judicial review of the action shall be 3 years after the date of publication of a notice in the Federal Register announcing the action relating to such supplemental environmental impact statement or other environmental document.

''(l) CATEGORICAL EXCLUSIONS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Water Resources Reform and Development Act of 2014, the Secretary shall—

''(A) survey the use by the Corps of Engineers of categorical exclusions in projects since 2005;

''(B) publish a review of the survey that includes a description of—

''(i) the types of actions that were categorically excluded or could be the basis for developing a new categorical exclusion; and

''(ii) any requests previously received by the Secretary for new categorical exclusions; and

''(C) solicit requests from other Federal agencies and project sponsors for new categorical exclusions.

''(2) NEW CATEGORICAL EXCLUSIONS.—Not later than 1 year after the date of enactment of the Water Resources Reform and Development Act of 2014, if the Secretary has identified a category of activities that merit establishing a categorical exclusion that did not exist on the day before the date of enactment of the Water Resources Reform and Development Act of 2014 based on the review under paragraph (1), the Secretary shall publish a notice of proposed rulemaking to propose that new categorical exclusion, to the extent that the categorical exclusion meets the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (or successor regulation).

''(m) REVIEW OF PROJECT ACCELERATION REFORMS.—

''(1) IN GENERAL.—The Comptroller General of the United States shall—

''(A) assess the reforms carried out under this section; and

''(B) not later than 5 years and not later than 10 years after the date of enactment of the Water Resources Reform and Development Act of 2014, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the results of the assessment.

''(2) CONTENTS.—The reports under paragraph (1) shall include an evaluation of impacts of the reforms carried out under this section on—

''(A) project delivery;

''(B) compliance with environmental laws; and

''(C) the environmental impact of projects.

''(n) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress made toward improving and expediting the planning and environmental review process.

''(o) IMPLEMENTATION GUIDANCE.—The Secretary shall prepare, in consultation with the Council on Environmental Quality and other Federal agencies with jurisdiction over actions or resources that may be impacted by a project, guidance documents that describe the coordinated environmental review processes that the Secretary intends to use to implement this section for the planning of projects, in accordance with the civil works program of the Corps of Engineers and all applicable law.''.

(2) CLERICAL AMENDMENT.—The table of contents contained in section 1(b) of the Water Resources Development Act of 2007 (121 Stat. 1042) is amended by striking the item relating to section 2045 and inserting the following:

''Sec. 2045. Project acceleration.''.

(b) CATEGORICAL EXCLUSIONS IN EMERGENCIES.—For the repair, reconstruction, or rehabilitation of a water resources project that is in operation or under construction when damaged by an event or incident that results in a declaration by the President of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary shall treat such repair, reconstruction, or rehabilitation activity as a class of action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations (or successor regulations), if the repair or reconstruction activity is—

(1) in the same location with the same capacity, dimensions, and design as the original water resources project as before the declaration described in this section; and

(2) commenced within a 2-year period beginning on the date of a declaration described in this subsection.

SEC. 1006. EXPEDITING THE EVALUATION AND PROCESSING OF PERMITS.

Section 214 of the Water Resources Development Act of 2000 (Public Law 106–541; 33 U.S.C. 2201 note) is amended—

(1) in subsection (a)—

(A) by striking ''(a) IN GENERAL.—The Secretary'' and inserting the following:

''(a) FUNDING TO PROCESS PERMITS.—

''(1) DEFINITIONS.—In this subsection:

''(A) NATURAL GAS COMPANY.—The term 'natural gas company' has the meaning given the term in section 1262 of the Public Utility Holding Company Act of 2005 (42 U.S.C. 16451), except that the term also includes a person engaged in the transportation of natural gas in intrastate commerce.

''(B) PUBLIC-UTILITY COMPANY.—The term 'public-utility company' has the meaning given the term in section 1262 of the Public Utility Holding Company Act of 2005 (42 U.S.C. 16451).

''(2) PERMIT PROCESSING.—The Secretary'';

(B) in paragraph (2) (as so designated)—

(i) by inserting ''or a public-utility company or natural gas company'' after ''non-Federal public entity''; and

(ii) by inserting ''or company'' after ''that entity''; and

(C) by adding at the end the following:

''(3) LIMITATION FOR PUBLIC-UTILITY AND NATURAL GAS COMPANIES.—The authority provided under paragraph (2) to a public-utility company or natural gas company shall expire on the date that is 7 years after the date of enactment of this paragraph.

''(4) EFFECT ON OTHER ENTITIES.—To the maximum extent practicable, the Secretary shall ensure that expediting the evaluation of a permit through the use of funds accepted and expended under this section does not adversely affect the timeline for evaluation (in the Corps district in which the project or activity is located) of permits under the jurisdiction of the Department of the Army of other entities that have not contributed funds under this section.

''(5) GAO STUDY.—Not later than 4 years after the date of enactment of this paragraph, the Comptroller General of the United States shall carry out a study of the implementation by the Secretary of the authority provided under paragraph (2) to public-utility companies and natural gas companies.''; and

(2) by striking subsections (d) and (e) and inserting the following:

''(d) PUBLIC AVAILABILITY.—

''(1) IN GENERAL.—The Secretary shall ensure that all final permit decisions carried out using funds authorized under this section are made available to the public in a common format, including on the Internet, and in a manner that distinguishes final permit decisions under this section from other final actions of the Secretary.

''(2) DECISION DOCUMENT.—The Secretary shall—

''(A) use a standard decision document for evaluating all permits using funds accepted under this section; and

''(B) make the standard decision document, along with all final permit decisions, available to the public, including on the Internet.

''(3) AGREEMENTS.—The Secretary shall make all active agreements to accept funds under this section available on a single public Internet site.

''(e) REPORTING.—

''(1) IN GENERAL.—The Secretary shall prepare an annual report on the implementation of this section, which, at a minimum, shall include for each district of the Corps of Engineers that accepts funds under this section—

''(A) a comprehensive list of any funds accepted under this section during the previous fiscal year;

''(B) a comprehensive list of the permits reviewed and approved using funds accepted under this section during the previous fiscal year, including a description of the size and type of resources impacted and the mitigation required for each permit; and

''(C) a description of the training offered in the previous fiscal year for employees that is funded in whole or in part with funds accepted under this section.

''(2) SUBMISSION.—Not later than 90 days after the end of each fiscal year, the Secretary shall—

''(A) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the annual report described in paragraph (1); and

''(B) make each report received under subparagraph (A) available on a single publicly accessible Internet site.''.

SEC. 1007. EXPEDITING APPROVAL OF MODIFICATIONS AND ALTERATIONS OF PROJECTS BY NON-FEDERAL INTERESTS.

(a) SECTION 14 APPLICATION DEFINED.—In this section, the term ''section 14 application'' means an application submitted by an applicant to the Secretary requesting permission for the temporary occupation or use of a public work, or the alteration or permanent occupation or use of a public work, under section 14 of the Act of March 3, 1899 (commonly known as the ''Rivers and Harbors Appropriation Act of 1899'') (33 U.S.C. 408).

(b) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary, after providing notice and an opportunity for comment, shall establish a process for the review of section 14 applications in a timely and consistent manner.

(c) BENCHMARK GOALS.—

(1) ESTABLISHMENT OF BENCHMARK GOALS.—In carrying out subsection (b), the Secretary shall—

(A) establish benchmark goals for determining the amount of time it should take the Secretary to determine whether a section 14 application is complete;

(B) establish benchmark goals for determining the amount of time it should take the Secretary to approve or disapprove a section 14 application; and

(C) to the extent practicable, use such benchmark goals to make a decision on section 14 applications in a timely and consistent manner.

(2) BENCHMARK GOALS.—

(A) BENCHMARK GOALS FOR DETERMINING WHETHER SECTION 14 APPLICATIONS ARE COMPLETE.—To the extent practicable, the benchmark goals established under paragraph (1) shall provide that—

(i) the Secretary reach a decision on whether a section 14 application is complete not later than 15 days after the date of receipt of the application; and

(ii) if the Secretary determines that a section 14 application is not complete, the Secretary promptly notify the applicant of the specific information that is missing or the analysis that is needed to complete the application.

(B) BENCHMARK GOALS FOR REVIEWING COMPLETED APPLICATIONS.—To the extent practicable, the benchmark goals established under paragraph (1) shall provide that—

(i) the Secretary generally approve or disapprove a completed section 14 application not later than 45 days after the date of receipt of the completed application; and

(ii) in a case in which the Secretary determines that additional time is needed to review a completed section 14 application due to the type, size, cost, complexity, or impacts of the actions proposed in the application, the Secretary generally approve or disapprove the application not later than 180 days after the date of receipt of the completed application.

(3) NOTICE.—In any case in which the Secretary determines that it will take the Secretary more than 45 days to review a completed section 14 application, the Secretary shall—

(A) provide written notification to the applicant; and

(B) include in the written notice a best estimate of the Secretary as to the amount of time required for completion of the review.

(d) FAILURE TO ACHIEVE BENCHMARK GOALS.—In any case in which the Secretary fails make a decision on a section 14 application in accordance with the process established under this section, the Secretary shall provide written notice to the applicant, including a detailed description of—

(1) why the Secretary failed to make a decision in accordance with such process;

(2) the additional actions required before the Secretary will issue a decision; and

(3) the amount of time the Secretary will require to issue a decision.

(e) NOTIFICATION.—

(1) SUBMISSION TO CONGRESS.—The Secretary shall provide a copy of any written notice provided under subsection (d) to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) PUBLIC AVAILABILITY.—The Secretary shall maintain a publicly available database, including on the Internet, on—

(A) all section 14 applications received by the Secretary; and

(B) the current status of such applications.

SEC. 1008. EXPEDITING HYDROPOWER AT CORPS OF ENGINEERS FACILITIES.

(a) POLICY.—Congress declares that it is the policy of the United States that—

(1) the development of non-Federal hydroelectric power at Corps of Engineers civil works projects, including locks and dams, shall be given priority;

(2) Corps of Engineers approval of non-Federal hydroelectric power at Corps of Engineers civil works projects, including permitting required under section 14 of the Act of March 3, 1899 (33 U.S.C. 408), shall be completed by the Corps of Engineers in a timely and consistent manner; and

(3) approval of hydropower at Corps of Engineers civil works projects shall in no way diminish the other priorities and missions of the Corps of Engineers, including authorized project purposes and habitat and environmental protection.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act and biennially thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report that, at a minimum, shall include—

(1) a description of initiatives carried out by the Secretary to encourage the development of hydroelectric power by non-Federal entities at Corps of Engineers civil works projects;

(2) a list of all new hydroelectric power activities by non-Federal entities approved at Corps of Engineers civil works projects in that fiscal year, including the length of time the Secretary needed to approve those activities;

(3) a description of the status of each pending application from non-Federal entities for approval to develop hydroelectric power at Corps of Engineers civil works projects;

(4) a description of any benefits or impacts to the environment, recreation, or other uses associated with Corps of Engineers civil works projects at which non-Federal entities have developed hydroelectric power in the previous fiscal year; and

(5) the total annual amount of payments or other services provided to the Corps of Engineers, the Treasury, and any other Federal agency as a result of approved non-Federal hydropower projects at Corps of Engineers civil works projects.

SEC. 1009. ENHANCED USE OF ELECTRONIC COMMERCE IN FEDERAL PROCUREMENT.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report describing the actions of the Secretary in carrying out section 2301 of title 41, United States Code, regarding the use of electronic commerce in Federal procurement.

(b) CONTENTS.—The report submitted under subsection (a) shall include, with respect to the 2 fiscal years most recently ended before the fiscal year in which the report is submitted—

(1) an identification of the number, type, and dollar value of procurement solicitations with respect to which the public was permitted to respond to the solicitation electronically, which shall differentiate between solicitations that allowed full or partial electronic submission;

(2) an analysis of the information provided under paragraph (1) and actions that could be taken by the Secretary to refine and improve the use of electronic submission for procurement solicitation responses;

(3) an analysis of the potential benefits of and obstacles to full implementation of electronic submission for procurement solicitation responses, including with respect to cost savings, error reduction, paperwork reduction, increased bidder participation, and competition, and expanded use of electronic bid data collection for cost-effective contract management and timely reporting; and

(4) an analysis of the options and technologies available to facilitate expanded implementation of electronic submission for procurement solicitation responses and the suitability of each option and technology for contracts of various types and sizes.

SEC. 1010. DETERMINATION OF PROJECT COMPLETION.

(a) IN GENERAL.—The Secretary shall notify the applicable non-Federal interest when construction of a water resources project or a functional portion of the project is completed so the non-Federal interest may commence responsibilities, as applicable, for operating and maintaining the project.

(b) NON-FEDERAL INTEREST APPEAL OF DETERMINATION.—

(1) IN GENERAL.—Not later than 7 days after receiving a notification under subsection (a),

the non-Federal interest may appeal the completion determination of the Secretary in writing with a detailed explanation of the basis for questioning the completeness of the project or functional portion of the project.

(2) INDEPENDENT REVIEW.—

(A) IN GENERAL.—On notification that a non-Federal interest has submitted an appeal under paragraph (1), the Secretary shall contract with 1 or more independent, non-Federal experts to evaluate whether the applicable water resources project or functional portion of the project is complete.

(B) TIMELINE.—An independent review carried out under subparagraph (A) shall be completed not later than 180 days after the date on which the Secretary receives an appeal from a non-Federal interest under paragraph (1).

SEC. 1011. PRIORITIZATION.

(a) PRIORITIZATION OF HURRICANE AND STORM DAMAGE RISK REDUCTION EFFORTS.—

(1) PRIORITY.—For authorized projects and ongoing feasibility studies with a primary purpose of hurricane and storm damage risk reduction, the Secretary shall give funding priority to projects and ongoing studies that—

(A) address an imminent threat to life and property;

(B) prevent storm surge from inundating populated areas;

(C) prevent the loss of coastal wetlands that help reduce the impact of storm surge;

(D) protect emergency hurricane evacuation routes or shelters;

(E) prevent adverse impacts to publicly owned or funded infrastructure and assets;

(F) minimize disaster relief costs to the Federal Government; and

(G) address hurricane and storm damage risk reduction in an area for which the President declared a major disaster in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

(2) EXPEDITED CONSIDERATION OF CURRENTLY AUTHORIZED PROJECTS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(A) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a list of all—

(i) ongoing hurricane and storm damage reduction feasibility studies that have signed feasibility cost-share agreements and have received Federal funds since 2009; and

(ii) authorized hurricane and storm damage reduction projects that—

(I) have been authorized for more than 20 years but are less than 75 percent complete; or

(II) are undergoing a post-authorization change report, general reevaluation report, or limited reevaluation report;

(B) identify those projects on the list required under subparagraph (A) that meet the criteria described in paragraph (1); and

(C) provide a plan for expeditiously completing the projects identified under subparagraph (B), subject to available funding.

(b) PRIORITIZATION OF ECOSYSTEM RESTORATION EFFORTS.—For authorized projects with a primary purpose of ecosystem restoration, the Secretary shall give funding priority to projects—

(1) that—

(A) address an identified threat to public health, safety, or welfare;

(B) preserve or restore ecosystems of national significance; or

(C) preserve or restore habitats of importance for federally protected species, including migratory birds; and

(2) for which the restoration activities will contribute to other ongoing or planned Federal, State, or local restoration initiatives.

SEC. 1012. TRANSPARENCY IN ACCOUNTING AND ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—On the request of a non-Federal interest, the Secretary shall provide to the non-Federal interest a detailed accounting of the Federal expenses associated with a water resources project.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall contract with the National Academy of Public Administration to carry out a study on the efficiency of the Corps Engineers current staff salaries and administrative expense procedures as compared to using a separate administrative expense account.

(2) CONTENTS.—The study under paragraph (1) shall include any recommendations of the National Academy of Public Administration for improvements to the budgeting and administrative processes that will increase the efficiency of the Corps of Engineers project delivery.

SEC. 1013. EVALUATION OF PROJECT PARTNERSHIP AGREEMENTS.

(a) IN GENERAL.—The Secretary shall contract with the National Academy of Public Administration to carry out a comprehensive review of the process for preparing, negotiating, and approving Project Partnership Agreements and the Project Partnership Agreement template, which shall include—

(1) an evaluation of the process for preparing, negotiating, and approving Project Partnership Agreements, as in effect on the day before the date of enactment of this Act, including suggested modifications to the process provided by non-Federal interests; and

(2) recommendations based on the evaluation under paragraph (1) to improve the Project Partnership Agreement template and the process for preparing, negotiating, and approving Project Partnership Agreements.

(b) SUBMISSION TO CONGRESS.—

(1) IN GENERAL.—The Secretary shall submit the findings of the National Academy of Public Administration to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) REPORT.—Not later than 180 days after the date on which the findings are received under paragraph (1), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a detailed response, including any recommendations the Secretary plans to implement, on the process for preparing, negotiating, and approving Project Partnership Agreements and the Project Partnership Agreement template.

SEC. 1014. STUDY AND CONSTRUCTION OF WATER RESOURCES DEVELOPMENT PROJECTS BY NON-FEDERAL INTERESTS.

(a) STUDIES.—Section 203 of the Water Resources Development Act of 1986 (33 U.S.C. 2231) is amended to read as follows:

"SEC. 203. STUDY OF WATER RESOURCES DEVELOPMENT PROJECTS BY NON-FEDERAL INTERESTS.

''(a) SUBMISSION TO SECRETARY.—

''(1) IN GENERAL.—A non-Federal interest may undertake a feasibility study of a proposed water resources development project and submit the study to the Secretary.

''(2) GUIDELINES.—To assist non-Federal interests, the Secretary, as soon as practicable, shall issue guidelines for feasibility studies of water resources development projects to provide sufficient information for the formulation of the studies.

''(b) REVIEW BY SECRETARY.—The Secretary shall review each feasibility study received under subsection (a)(1) for the purpose of determining whether or not the study, and the process under which the study was developed, each comply with Federal laws and regulations applicable to feasibility studies of water resources development projects.

''(c) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of receipt of a feasibility study of a project under subsection (a)(1), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

''(1) the results of the Secretary's review of the study under subsection (b), including a determination of whether the project is feasible;

''(2) any recommendations the Secretary may have concerning the plan or design of the project; and

''(3) any conditions the Secretary may require for construction of the project.

''(d) CREDIT.—If a project for which a feasibility study has been submitted under subsection (a)(1) is authorized by a Federal law enacted after the date of the submission to Congress under subsection (c), the Secretary shall credit toward the non-Federal share of the cost of construction of the project an amount equal to the portion of the cost of developing the study that would have been the responsibility of the United States if the study had been developed by the Secretary.''.

(b) CONSTRUCTION.—

(1) IN GENERAL.—Section 204 of the Water Resources Development Act of 1986 (33 U.S.C. 2232) is amended to read as follows:

"SEC. 204. CONSTRUCTION OF WATER RESOURCES DEVELOPMENT PROJECTS BY NON-FEDERAL INTERESTS.

''(a) WATER RESOURCES DEVELOPMENT PROJECT DEFINED.—In this section, the term 'water resources development project' means a project recommendation that results from—

''(1) a feasibility report, as such term is defined in section 7001(f) of the Water Resources Reform and Development Act of 2014;

''(2) a completed feasibility study developed under section 203; or

''(3) a final feasibility study for water resources development and conservation and other purposes that is specifically authorized by Congress to be carried out by the Secretary.

''(b) AUTHORITY.—

''(1) IN GENERAL.—A non-Federal interest may carry out a water resources development project, or separable element thereof—

''(A) in accordance with a plan approved by the Secretary for the project or separable element; and

''(B) subject to any conditions that the Secretary may require, including any conditions specified under section 203(c)(3).

''(2) CONDITIONS.—Before carrying out a water resources development project, or separable element thereof, under this section, a non-Federal interest shall—

''(A) obtain any permit or approval required in connection with the project or separable element under Federal or State law; and

''(B) ensure that a final environmental impact statement or environmental assessment, as appropriate, for the project or separable element has been filed.

''(c) STUDIES AND ENGINEERING.—When requested by an appropriate non-Federal interest, the Secretary may undertake all necessary studies and engineering for any construction to be undertaken under subsection (b), and provide technical assistance in obtaining all necessary permits for the construction, if the non-Federal interest contracts with the Secretary to furnish the United States funds for the studies, engineering, or technical assistance in the period during which the studies and engineering are being conducted.

''(d) CREDIT OR REIMBURSEMENT.—

''(1) GENERAL RULE.—Subject to paragraph (3), a project or separable element of a project carried out by a non-Federal interest under this section shall be eligible for credit or reimbursement for the Federal share of work carried out on a project or separable element of a project if—

''(A) before initiation of construction of the project or separable element—

''(i) the Secretary approves the plans for construction of the project or separable element of the project by the non-Federal interest;

''(ii) the Secretary determines, before approval of the plans, that the project or separable element of the project is feasible; and

''(iii) the non-Federal interest enters into a written agreement with the Secretary under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), including an agreement to pay the non-Federal share, if any, of the cost of operation and maintenance of the project; and

''(B) the Secretary determines that all Federal laws and regulations applicable to the construction of a water resources development project, and any conditions identified under subsection (b)(1)(B), were complied with by the non-Federal interest during construction of the project or separable element of the project.

''(2) APPLICATION OF CREDIT.—The Secretary may apply credit toward—

''(A) the non-Federal share of authorized separable elements of the same project; or

''(B) subject to the requirements of this section and section 1020 of the Water Resources Reform and Development Act of 2014, at the request of the non-Federal interest, the non-Federal share of a different water resources development project.

''(3) REQUIREMENTS.—The Secretary may only apply credit or provide reimbursement under paragraph (1) if—

''(A) Congress has authorized construction of the project or separable element of the project; and

''(B) the Secretary certifies that the project has been constructed in accordance with—

''(i) all applicable permits or approvals; and

''(ii) this section.

''(4) MONITORING.—The Secretary shall regularly monitor and audit any water resources development project, or separable element of a water resources development project, constructed by a non-Federal interest under this section to ensure that—

''(A) the construction is carried out in compliance with the requirements of this section; and

''(B) the costs of the construction are reasonable.

''(e) NOTIFICATION OF COMMITTEES.—If a non-Federal interest notifies the Secretary that the non-Federal interest intends to carry out a project, or separable element thereof, under this section, the Secretary shall provide written notice to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives concerning the intent of the non-Federal interest.

''(f) OPERATION AND MAINTENANCE.—Whenever a non-Federal interest carries out improvements to a federally authorized harbor or inland harbor, the Secretary shall be responsible for operation and maintenance in accordance with section 101(b) if—

''(1) before construction of the improvements—

''(A) the Secretary determines that the improvements are feasible and consistent with the purposes of this title; and

''(B) the Secretary and the non-Federal interest execute a written agreement relating to operation and maintenance of the improvements;

''(2) the Secretary certifies that the project or separable element of the project is constructed in accordance with applicable permits and appropriate engineering and design standards; and

''(3) the Secretary does not find that the project or separable element is no longer feasible.''.

(c) REPEALS.—The following provisions are repealed:

(1) Section 404 of the Water Resources Development Act of 1990 (33 U.S.C. 2232 note; 104 Stat. 4646) and the item relating to that section in the table of contents contained in section 1(b) of that Act.

(2) Section 206 of the Water Resources Development Act of 1992 (33 U.S.C. 426i–1) and the item relating to that section in the table of contents contained in section 1(b) of that Act.

(3) Section 211 of the Water Resources Development Act of 1996 (33 U.S.C. 701b–13) and the item relating to that section in the table of contents contained in section 1(b) of that Act.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to affect an agreement in effect on the date of enactment of this Act, or an agreement that is finalized between the Corps of Engineers and a non-Federal interest on or before December 31, 2014, under any of the following sections (as such sections were in effect on the day before such date of enactment):

(1) Section 204 of the Water Resources Development Act of 1986 (33 U.S.C. 2232).

(2) Section 206 of the Water Resources Development Act of 1992 (33 U.S.C. 426i–1).

(3) Section 211 of the Water Resources Development Act of 1996 (33 U.S.C. 701b–13).

SEC. 1015. CONTRIBUTIONS BY NON-FEDERAL INTERESTS.

(a) IN GENERAL.—Section 5 of the Act of June 22, 1936 (33 U.S.C. 701h), is amended—

(1) by inserting ''and other non-Federal interests'' after ''States and political subdivisions thereof'' each place it appears;

(2) by inserting '', including a project for navigation on the inland waterways,'' after ''study or project'';

(3) by striking ''Provided, That when'' and inserting ''Provided, That the Secretary is authorized to receive and expend funds from a State or a political subdivision thereof, and other non-Federal interests or private entities, to operate a hurricane barrier project to support recreational activities at or in the vicinity of the project, at no cost to the Federal Government, if the Secretary determines that operation for such purpose is not inconsistent with the operation and maintenance of the project for the authorized purposes of the project: Provided further, That when''; and

(4) by striking the period at the end and inserting the following: '': Provided further, That the term 'non-Federal interest' has the meaning given that term in section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b).''.

(b) NOTIFICATION FOR CONTRIBUTED FUNDS.—Prior to accepting funds contributed under section 5 of the Act of June 22, 1936 (33 U.S.C. 701h), the Secretary shall provide written notice of the funds to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

(c) TECHNICAL AMENDMENT.—Section 111(b) of the Energy and Water Development and Related Agencies Appropriations Act, 2012 (125 Stat. 858) is repealed.

SEC. 1016. OPERATION AND MAINTENANCE OF CERTAIN PROJECTS.

The Secretary may assume responsibility for operation and maintenance in accordance with section 101(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(b)) (as amended by section 2102(b)) for improvements to a federally authorized harbor or inland harbor that are carried out by a non-Federal interest prior to December 31, 2014, if the Secretary determines that the requirements under paragraphs (2) and (3) of section 204(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2232(f)) are met.

SEC. 1017. ACCEPTANCE OF CONTRIBUTED FUNDS TO INCREASE LOCK OPERATIONS.

(a) IN GENERAL.—The Secretary, after providing public notice, shall establish a pilot program for the acceptance and expenditure of funds contributed by non-Federal interests to increase the hours of operation of locks at water resources development projects.

(b) APPLICABILITY.—The establishment of the pilot program under this section shall not affect the periodic review and adjustment of hours of operation of locks based on increases in commercial traffic carried out by the Secretary.

(c) PUBLIC COMMENT.—Not later than 180 days before a proposed modification to the operation of a lock at a water resources development project will be carried out, the Secretary shall—

(1) publish the proposed modification in the Federal Register; and

(2) accept public comment on the proposed modification.

(d) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report that evaluates the cost-savings resulting from reduced lock hours and any economic impacts of modifying lock operations.

(2) REVIEW OF PILOT PROGRAM.—Not later than September 30, 2017, and each year thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the effectiveness of the pilot program under this section.

(e) ANNUAL REVIEW.—The Secretary shall carry out an annual review of the commercial use of locks and make any necessary adjustments to lock operations based on that review.

(f) TERMINATION.—The authority to accept funds under this section shall terminate 5 years after the date of enactment of this Act.

SEC. 1018. CREDIT FOR IN-KIND CONTRIBUTIONS.

(a) IN GENERAL.—Section 221(a)(4) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)(4)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by inserting ''or a project under an environmental infrastructure assistance program'' after ''law'';

(2) in subparagraph (C) by striking ''In any case'' and all that follows through the period at the end and inserting the following:

''(i) CONSTRUCTION.—

''(I) IN GENERAL.—In any case in which the non-Federal interest is to receive credit under subparagraph (A) for the cost of construction carried out by the non-Federal interest before execution of a partnership agreement and that construction has not been carried out as of November 8, 2007, the Secretary and the non-Federal interest shall enter into an agreement under which the non-Federal interest shall carry out such work and shall do so prior to the non-Federal interest initiating construction or issuing a written notice to proceed for the construction.

''(II) ELIGIBILITY.—Construction that is carried out after the execution of an agreement to carry out work described in subclause (I) and any design activities that are required for that construction, even if the design activity is carried out prior to the execution of the agreement to carry out work, shall be eligible for credit.

''(ii) PLANNING.—

''(I) IN GENERAL.—In any case in which the non-Federal interest is to receive credit under subparagraph (A) for the cost of planning carried out by the non-Federal interest before execution of a feasibility cost-sharing agreement, the Secretary and the non-Federal interest shall enter into an agreement under which the non-Federal interest shall carry out such work and shall do so prior to the non-Federal interest initiating that planning.

''(II) ELIGIBILITY.—Planning that is carried out by the non-Federal interest after the execution of an agreement to carry out work described in subclause (I) shall be eligible for credit.'';

(3) in subparagraph (D)(iii) by striking ''sections 101 and 103'' and inserting ''sections 101(a)(2) and 103(a)(1)(A) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)(2); 33 U.S.C. 2213(a)(1)(A))'';

(4) by redesignating subparagraph (E) as subparagraph (H);

(5) by inserting after subparagraph (D) the following:

''(E) ANALYSIS OF COSTS AND BENEFITS.—In the evaluation of the costs and benefits of a project, the Secretary shall not consider construction carried out by a non-Federal interest under this subsection as part of the future without project condition.

''(F) TRANSFER OF CREDIT BETWEEN SEPARABLE ELEMENTS OF A PROJECT.—Credit for in-kind contributions provided by a non-Federal interest that are in excess of the non-Federal cost share for an authorized separable element of a project may be applied toward the non-Federal cost share for a different authorized separable element of the same project.

''(G) APPLICATION OF CREDIT.—

''(i) IN GENERAL.—To the extent that credit for in-kind contributions, as limited by subparagraph (D), and credit for required land, easements, rights-of-way, dredged material disposal areas, and relocations provided by the non-Federal interest exceed the non-Federal share of the cost of construction of a project other than a navigation project, the Secretary, subject to the availability of funds, shall enter into a reimbursement agreement with the non-Federal interest, which shall be in addition to a partnership agreement under subparagraph (A), to reimburse the difference to the non-Federal interest.

''(ii) PRIORITY.—If appropriated funds are insufficient to cover the full cost of all requested reimbursement agreements under clause (i), the Secretary shall enter into reimbursement agreements in the order in which requests for such agreements are received.''; and

(6) in subparagraph (H) (as redesignated by paragraph (4))—

(A) in clause (i) by inserting '', and to water resources projects authorized prior to the date of enactment of the Water Resources Development Act of 1986 (Public Law 99–662), if correction of design deficiencies is necessary'' before the period at the end; and

(B) by striking clause (ii) and inserting the following:

''(ii) AUTHORIZATION AS ADDITION TO OTHER AUTHORIZATIONS.—The authority of the Secretary to provide credit for in-kind contributions pursuant to this paragraph shall be in addition to any other authorization to provide credit for in-kind contributions and shall not be construed as a limitation on such other authorization. The Secretary shall apply the provisions of this paragraph, in lieu of provisions under other crediting authority, only if so requested by the non-Federal interest.''.

(b) APPLICABILITY.—Section 2003(e) of the Water Resources Development Act of 2007 (42 U.S.C. 1962d–5b note) is amended—

(1) by inserting '', or construction of design deficiency corrections on the project,'' after ''construction on the project''; and

(2) by inserting '', or under which construction of the project has not been completed and the work to be performed by the non-Federal interests has not been carried out and is creditable only toward any remaining non-Federal cost share,'' after ''has not been initiated''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect on November 8, 2007.

(d) GUIDELINES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall update any guidance or regulations for carrying out section 221(a)(4) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)(4)) (as amended by subsection (a)) that are in existence on the date of enactment of this Act or issue new guidelines, as determined to be appropriate by the Secretary.

(2) INCLUSIONS.—Any guidance, regulations, or guidelines updated or issued under paragraph (1) shall include, at a minimum—

(A) the milestone for executing an in-kind memorandum of understanding for construction by a non-Federal interest;

(B) criteria and procedures for evaluating a request to execute an in-kind memorandum of understanding for construction by a non-Federal interest that is earlier than the milestone under subparagraph (A) for that execution; and

(C) criteria and procedures for determining whether work carried out by a non-Federal interest is integral to a project.

(3) PUBLIC AND STAKEHOLDER PARTICIPATION.—Before issuing any new or revised guidance, regulations, or guidelines or any subsequent updates to those documents, the Secretary shall—

(A) consult with affected non-Federal interests;

(B) publish the proposed guidelines developed under this subsection in the Federal Register; and

(C) provide the public with an opportunity to comment on the proposed guidelines.

(e) OTHER CREDIT.—Nothing in section 221(a)(4) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)(4)) (as amended by subsection (a)) affects any eligibility for credit under section 104 of the Water Resources Development of 1986 (33 U.S.C. 2214) that was approved by the Secretary prior to the date of enactment of this Act.

SEC. 1019. CLARIFICATION OF IN-KIND CREDIT AUTHORITY.

(a) NON-FEDERAL COST SHARE.—Section 7007 of the Water Resources Development Act of 2007 (121 Stat. 1277) is amended—

(1) in subsection (a), by inserting '', on, or after'' after ''before'';

(2) by striking subsection (d) and inserting the following:

''(d) TREATMENT OF CREDIT BETWEEN PROJECTS.—The value of any land, easements, rights-of-way, relocations, and dredged material disposal areas and the costs of planning, design, and construction work provided by the non-Federal interest that exceed the non-Federal cost share for a study or project under this title may be applied toward the non-Federal cost share for any other study or project carried out under this title.''; and

(3) by adding at the end the following:

''(g) DEFINITION OF STUDY OR PROJECT.—In this section, the term 'study or project' includes any eligible activity that is—

''(1) carried out pursuant to the coastal Louisiana ecosystem science and technology program authorized under section 7006(a); and

''(2) in accordance with the restoration plan.''.

(b) IMPLEMENTATION.—Not later than 90 days after the date of enactment of this Act, the Secretary, in coordination with any relevant agencies of the State of Louisiana, shall establish a process by which to carry out the amendment made by subsection (a)(2).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on November 8, 2007.

SEC. 1020. TRANSFER OF EXCESS CREDIT.

(a) IN GENERAL.—Subject to subsection (b), the Secretary may apply credit for in-kind contributions provided by a non-Federal interest that are in excess of the required non-Federal cost share for a water resources development study or project toward the required non-Federal cost share for a different water resources development study or project.

(b) RESTRICTIONS.—

(1) IN GENERAL.—Except for subsection (a)(4)(D)(i) of that section, the requirements of section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) (as amended by section 1018(a)) shall apply to any credit under this section.

(2) CONDITIONS.—Credit in excess of the non-Federal share for a study or project may be approved under this section only if—

(A) the non-Federal interest submits a comprehensive plan to the Secretary that identifies—

(i) the studies and projects for which the non-Federal interest intends to provide in-kind contributions for credit that are in excess of the non-Federal cost share for the study or project; and

(ii) the authorized studies and projects to which that excess credit would be applied;

(B) the Secretary approves the comprehensive plan; and

(C) the total amount of credit does not exceed the total non-Federal share for the studies and projects in the approved comprehensive plan.

(c) ADDITIONAL CRITERIA.—In evaluating a request to apply credit in excess of the non-Federal share for a study or project toward a different study or project, the Secretary shall consider whether applying that credit will—

(1) help to expedite the completion of a project or group of projects;

(2) reduce costs to the Federal Government; and

(3) aid the completion of a project that provides significant flood risk reduction or environmental benefits.

(d) TERMINATION OF AUTHORITY.—The authority provided in this section shall terminate 10 years after the date of enactment of this Act.

(e) REPORT.—

(1) DEADLINES.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and once every 2 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available an interim report on the use of the authority under this section.

(B) FINAL REPORT.—Not later than 10 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a final report on the use of the authority under this section.

(2) INCLUSIONS.—The reports described in paragraph (1) shall include—

(A) a description of the use of the authority under this section during the reporting period;

(B) an assessment of the impact of the authority under this section on the time required to complete projects; and

(C) an assessment of the impact of the authority under this section on other water resources projects.

SEC. 1021. CREDITING AUTHORITY FOR FEDERALLY AUTHORIZED NAVIGATION PROJECTS.

A non-Federal interest may carry out operation and maintenance activities for an authorized navigation project, subject to the condition that the non-Federal interest complies with all Federal laws and regulations applicable to such operation and maintenance activities, and may receive credit for the costs incurred by the non-Federal interest in carrying out such activities towards the share of construction costs of that non-Federal interest for another element of the same project or another authorized navigation project, except that in no instance may such credit exceed 20 percent of the total costs associated with construction of the general navigation features of the project for which such credit may be applied pursuant to this section.

SEC. 1022. CREDIT IN LIEU OF REIMBURSEMENT.

(a) REQUESTS FOR CREDITS.—With respect to an authorized flood damage reduction project, or separable element thereof, that has been constructed by a non-Federal interest under section 211 of the Water Resources Development Act of 1996 (33 U.S.C. 701b–13) before the date of enactment of this Act, the Secretary may provide to the non-Federal interest, at the request of the non-Federal interest, a credit in an amount equal to the estimated Federal share of the cost of the project or separable element, in lieu of providing to the non-Federal interest a reimbursement in that amount.

(b) APPLICATION OF CREDITS.—At the request of the non-Federal interest, the Secretary may apply such credit to the share of the cost of the non-Federal interest of carrying out other flood damage reduction projects or studies.

SEC. 1023. ADDITIONAL CONTRIBUTIONS BY NON-FEDERAL INTERESTS.

Section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280) is amended—

(1) by striking ''In order to insure'' and inserting ''(a) IN GENERAL.—In order to insure''; and

(2) by adding at the end the following:

''(b) CONTRIBUTIONS BY NON-FEDERAL INTERESTS.—Notwithstanding subsection (a), in accordance with section 5 of the Act of June 22, 1936 (33 U.S.C. 701h), the Secretary may accept funds from a non-Federal interest for any authorized water resources development project that has exceeded its maximum cost under subsection (a), and use such funds to carry out such project, if the use of such funds does not increase the Federal share of the cost of such project.''.

SEC. 1024. AUTHORITY TO ACCEPT AND USE MATERIALS AND SERVICES.

(a) IN GENERAL.—Subject to subsection (b), the Secretary is authorized to accept and use materials and services contributed by a non-Federal public entity, a nonprofit entity, or a private entity for the purpose of repairing, restoring, or replacing a water resources development project that has been damaged or destroyed as a result of an emergency if the Secretary determines that the acceptance and use of such materials and services is in the public interest.

(b) LIMITATION.—Any entity that contributes materials or services under subsection (a) shall not be eligible for credit or reimbursement for the value of such materials or services.

(c) REPORT.—Not later than 60 days after initiating an activity under this section, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

(1) a description of the activities undertaken, including the costs associated with the activities; and

(2) a comprehensive description of how the activities are necessary for maintaining a safe and reliable water resources project.

SEC. 1025. WATER RESOURCES PROJECTS ON FEDERAL LAND.

(a) IN GENERAL.—Subject to subsection (b), the Secretary may carry out an authorized water resources development project on Federal land that is under the administrative jurisdiction of another Federal agency where the cost of the acquisition of such Federal land has been paid for by the non-Federal interest for the project.

(b) MOU REQUIRED.—The Secretary may carry out a project pursuant to subsection (a) only after the non-Federal interest has entered into a memorandum of understanding with the Federal agency that includes such terms and conditions as the Secretary determines to be necessary.

(c) APPLICABILITY.—Nothing in this section alters any non-Federal cost-sharing requirements for the project.

SEC. 1026. CLARIFICATION OF IMPACTS TO OTHER FEDERAL FACILITIES.

In any case where the modification or construction of a water resources development project carried out by the Secretary adversely impacts other Federal facilities, the Secretary may accept from other Federal agencies such funds as may be necessary to address the adverse impact, including by removing, relocating, or reconstructing those facilities.

SEC. 1027. CLARIFICATION OF MUNITION DISPOSAL AUTHORITIES.

(a) IN GENERAL.—The Secretary may implement any response action the Secretary determines to be necessary at a site where—

(1) the Secretary has carried out a project under civil works authority of the Secretary that includes placing sand on a beach; and

(2) as a result of the project described in paragraph (1), military munitions that were originally released as a result of Department of Defense activities are deposited on the beach, posing a threat to human health or the environment.

(b) RESPONSE ACTION FUNDING.—A response action described in subsection (a) shall be funded from amounts made available to the agency within the Department of Defense responsible for the original release of the munitions.

SEC. 1028. CLARIFICATION OF MITIGATION AUTHORITY.

(a) IN GENERAL.—The Secretary may carry out measures to improve fish species habitat within the boundaries and downstream of a water resources project constructed by the Secretary that includes a fish hatchery if the Secretary—

(1) has been explicitly authorized to compensate for fish losses associated with the project; and

(2) determines that the measures are—

(A) feasible;

(B) consistent with authorized project purposes and the fish hatchery; and

(C) in the public interest.

(b) COST SHARING.—

(1) IN GENERAL.—Subject to paragraph (2), the non-Federal interest shall contribute 35 percent of the total cost of carrying out activities under this section, including the costs relating to the provision or acquisition of required land, easements, rights-of-way, dredged material disposal areas, and relocations.

(2) OPERATION AND MAINTENANCE.—The non-Federal interest shall contribute 100 percent of the costs of operation, maintenance, replacement, repair, and rehabilitation of the measures carried out under this section.

SEC. 1029. CLARIFICATION OF INTERAGENCY SUPPORT AUTHORITIES.

Section 234 of the Water Resources Development Act of 1996 (33 U.S.C. 2323a) is amended—

(1) in subsection (a), by striking ''other Federal agencies,'' and inserting ''Federal departments or agencies, nongovernmental organizations,'';

(2) in subsection (b), by inserting ''or foreign governments'' after ''organizations'';

(3) in subsection (c), by inserting ''and restoration'' after ''protection''; and

(4) in subsection (d)—

(A) in the first sentence, by striking ''There is'' and inserting ''(1) IN GENERAL.—There is''; and

(B) in the second sentence—

(i) by striking ''The Secretary'' and inserting ''(2) ACCEPTANCE OF FUNDS.—The Secretary''; and

(ii) by striking ''other Federal agencies,'' and inserting ''Federal departments or agencies, nongovernmental organizations,''.

SEC. 1030. CONTINUING AUTHORITY.

(a) CONTINUING AUTHORITY PROGRAMS.—

(1) DEFINITION OF CONTINUING AUTHORITY PROGRAM PROJECT.—In this subsection, the term ''continuing authority program'' means 1 of the following authorities:

(A) Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(B) Section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i).

(C) Section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).

(D) Section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a).

(E) Section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577).

(F) Section 3 of the Act of August 13, 1946 (33 U.S.C. 426g).

(G) Section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r).

(H) Section 103 of the River and Harbor Act of 1962 (Public Law 87–874; 76 Stat. 1178).

(I) Section 204(e) of the Water Resources Development Act of 1992 (33 U.S.C. 2326(e)).

(J) Section 208 of the Flood Control Act of 1958 (33 U.S.C. 701b–8a).

(K) Section 104(a) of the River and Harbor Act of 1958 (33 U.S.C. 610(a)).

(2) PRIORITIZATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish in the Federal Register and on a publicly available website, the criteria the Secretary uses for prioritizing annual funding for continuing authority program projects.

(3) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act and each year thereafter, the Secretary shall publish in the Federal Register and on a publicly available website, a report on the status of each continuing authority program, which, at a minimum, shall include—

(A) the name and a short description of each active continuing authority program project;

(B) the cost estimate to complete each active project; and

(C) the funding available in that fiscal year for each continuing authority program.

(4) CONGRESSIONAL NOTIFICATION.—On publication in the Federal Register under paragraphs (2) and (3), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of all information published under those paragraphs.

(b) SMALL RIVER AND HARBOR IMPROVEMENT PROJECTS.—Section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) is amended—

(1) in subsection (a), by striking ''$35,000,000'' and inserting ''$50,000,000''; and

(2) in subsection (b), by striking ''$7,000,000'' and inserting ''$10,000,000''.

(c) SHORE DAMAGE PREVENTION OR MITIGATION.—Section 111(c) of the River and Harbor Act of 1968 (33 U.S.C. 426i(c)) is amended by striking ''$5,000,000'' and inserting ''$10,000,000''.

(d) REGIONAL SEDIMENT MANAGEMENT.—

(1) IN GENERAL.—Section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326) is amended—

(A) in subsection (c)(1)(C), by striking ''$5,000,000'' and inserting ''$10,000,000''; and

(B) in subsection (g), by striking ''$30,000,000'' and inserting ''$50,000,000''.

(2) APPLICABILITY.—Section 2037 of the Water Resources Development Act of 2007 (121 Stat. 1094) is amended by adding at the end the following:

''(c) APPLICABILITY.—The amendment made by subsection (a) shall not apply to any project authorized under this Act if a report of the Chief of Engineers for the project was completed prior to the date of enactment of this Act.''.

(e) SMALL FLOOD CONTROL PROJECTS.—Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) is amended in the third sentence by striking ''$7,000,000'' and inserting ''$10,000,000''.

(f) PROJECT MODIFICATIONS FOR IMPROVEMENT OF ENVIRONMENT.—Section 1135(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(d)) is amended—

(1) in the second sentence, by striking ''Not more than 80 percent of the non-Federal share may be'' and inserting ''The non-Federal share may be provided''; and

(2) in the third sentence, by striking ''$5,000,000'' and inserting ''$10,000,000''.

(g) AQUATIC ECOSYSTEM RESTORATION.—Section 206(d) of the Water Resources Development Act of 1996 (33 U.S.C. 2330(d)) is amended by striking ''$5,000,000'' and inserting ''$10,000,000''.

(h) FLOODPLAIN MANAGEMENT SERVICES.—Section 206(d) of the Flood Control Act of 1960 (33 U.S.C. 709a(d)) is amended by striking ''$15,000,000'' and inserting ''$50,000,000''.

(i) EMERGENCY STREAMBANK AND SHORELINE PROTECTION.—Section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r) is amended—

(1) by striking ''$15,000,000'' and inserting ''$20,000,000''; and

(2) by striking ''$1,500,000'' and inserting ''$5,000,000''.

SEC. 1031. TRIBAL PARTNERSHIP PROGRAM.

(a) IN GENERAL.—Section 203 of the Water Resources Development Act of 2000 (33 U.S.C. 2269) is amended—

(1) in subsection (d)(1)(B)—

(A) by striking ''The ability'' and inserting the following:

''(i) IN GENERAL.—The ability''; and

(B) by adding at the end the following:

''(ii) DETERMINATION.—Not later than 180 days after the date of enactment of this clause, the Secretary shall issue guidance on the procedures described in clause (i).''; and

(2) by striking subsection (e) and inserting the following:

''(e) RESTRICTIONS.—The Secretary is authorized to carry out activities under this section for fiscal years 2015 through 2024.''.

(b) COOPERATIVE AGREEMENTS WITH INDIAN TRIBES.—The Secretary may enter into a cooperative agreement with an Indian tribe (or a designated representative of an Indian tribe) to carry out authorized activities of the Corps of Engineers to protect fish, wildlife, water quality, and cultural resources.

SEC. 1032. TERRITORIES OF THE UNITED STATES.

Section 1156 of the Water Resources Development Act of 1986 (33 U.S.C. 2310) is amended—

(1) by striking ''The Secretary shall waive'' and inserting ''(a) IN GENERAL.—The Secretary shall waive'';

(2) in subsection (a) (as so designated), by inserting ''Puerto Rico,'' before ''and the Trust Territory of the Pacific Islands''; and

(3) by adding at the end the following:

''(b) INFLATION ADJUSTMENT.—The Secretary shall adjust the dollar amount specified in subsection (a) for inflation for the period beginning on November 17, 1986, and ending on the date of enactment of this subsection.''.

SEC. 1033. CORROSION PREVENTION.

(a) IN GENERAL.—To the greatest extent practicable, the Secretary shall encourage and incorporate corrosion prevention activities at water resources development projects.

(b) ACTIVITIES.—In carrying out subsection (a), the Secretary, to the greatest extent practicable, shall ensure that contractors performing work for water resources development projects—

(1) use best practices to carry out corrosion prevention activities in the field;

(2) use industry-recognized standards and corrosion mitigation and prevention methods when—

(A) determining protective coatings;

(B) selecting materials; and

(C) determining methods of cathodic protection, design, and engineering for corrosion prevention;

(3) use certified coating application specialists and cathodic protection technicians and engineers;

(4) use best practices in environmental protection to prevent environmental degradation and to ensure careful handling of all hazardous materials;

(5) demonstrate a history of employing industry-certified inspectors to ensure adherence to best practices and standards; and

(6) demonstrate a history of compliance with applicable requirements of the Occupational Safety and Health Administration.

(c) CORROSION PREVENTION ACTIVITIES DEFINED.—In this section, the term ''corrosion prevention activities'' means—

(1) the application and inspection of protective coatings for complex work involving steel and cementitious structures, including structures that will be exposed in immersion;

(2) the installation, testing, and inspection of cathodic protection systems; and

(3) any other activities related to corrosion prevention the Secretary determines appropriate.

SEC. 1034. ADVANCED MODELING TECHNOLOGIES.

(a) IN GENERAL.—To the greatest extent practicable, the Secretary shall encourage and incorporate advanced modeling technologies, including 3-dimensional digital modeling, that can expedite project delivery or improve the evaluation of water resources development projects that receive Federal funding by—

(1) accelerating and improving the environmental review process;

(2) increasing effective public participation;

(3) enhancing the detail and accuracy of project designs;

(4) increasing safety;

(5) accelerating construction and reducing construction costs; or

(6) otherwise achieving the purposes described in paragraphs (1) through (5).

(b) ACTIVITIES.—In carrying out subsection (a), the Secretary, to the greatest extent practicable, shall—

(1) compile information related to advanced modeling technologies, including industry best practices with respect to the use of the technologies;

(2) disseminate to non-Federal interests the information described in paragraph (1); and

(3) promote the use of advanced modeling technologies.

SEC. 1035. RECREATIONAL ACCESS.

(a) DEFINITION OF FLOATING CABIN.—In this section, the term ''floating cabin'' means a vessel (as defined in section 3 of title 1, United States Code) that has overnight accommodations.

(b) RECREATIONAL ACCESS.—The Secretary shall allow the use of a floating cabin on waters under the jurisdiction of the Secretary in the Cumberland River basin if—

(1) the floating cabin—

(A) is in compliance with regulations for recreational vessels issued under chapter 43 of title 46, United States Code, and section 312 of the Federal Water Pollution Control Act (33 U.S.C. 1322);

(B) is located at a marina leased by the Corps of Engineers; and

(C) is maintained by the owner to required health and safety standards; and

(2) the Secretary has authorized the use of recreational vessels on such waters.

SEC. 1036. NON-FEDERAL PLANS TO PROVIDE ADDITIONAL FLOOD RISK REDUCTION.

(a) IN GENERAL.—If requested by a non-Federal interest, the Secretary shall carry out a locally preferred plan that provides a higher level of protection than a flood risk management project authorized under this Act if the Secretary determines that—

(1) the plan is technically feasible and environmentally acceptable; and

(2) the benefits of the plan exceed the costs of the plan.

(b) NON-FEDERAL COST SHARE.—If the Secretary carries out a locally preferred plan under subsection (a), the Federal share of the cost of the project shall be not greater than the share as provided by law for elements of the national economic development plan.

SEC. 1037. HURRICANE AND STORM DAMAGE REDUCTION.

(a) IN GENERAL.—Section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d–5f) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(a) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(b) REVIEW.—Notwithstanding subsection (a), the Secretary shall, at the request of the non-Federal interest, carry out a study to determine the feasibility of extending the period of nourishment described in subsection (a) for a period not to exceed 15 additional years beyond the maximum period described in subsection (a).

''(c) PLAN FOR REDUCING RISK TO PEOPLE AND PROPERTY.—

''(1) IN GENERAL.—As part of the review described in subsection (b), the non-Federal interest shall submit to the Secretary a plan for reducing risk to people and property during the life of the project.

''(2) INCLUSION OF PLAN IN RECOMMENDATION TO CONGRESS.—The Secretary shall include the plan described in subsection (a) in the recommendations to Congress described in subsection (d).

''(d) REPORT TO CONGRESS.—Upon completion of the review described in subsection (b), the Secretary shall—

''(1) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives any recommendations of the Secretary related to the review; and

''(2) include in the subsequent annual report to Congress required under section 7001 of the Water Resources Reform and Development Act of 2014, any recommendations that require specific congressional authorization.

''(e) SPECIAL RULE.—Notwithstanding any other provision of this section, for any existing authorized water resources development project for which the maximum period for nourishment described in subsection (a) will expire within the 5 year-period beginning on the date of enactment of the Water Resources Reform and Development Act of 2014, that project shall remain eligible for nourishment for an additional 3 years after the expiration of such period.''.

(b) REVIEW OF AUTHORIZED PERIODIC NOURISHMENT AUTHORITY.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate a review of all authorized water resources development projects for which the Secretary is authorized to provide periodic nourishment under section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d–5f).

(2) SCOPE OF REVIEW.—In carrying out the review under paragraph (1), the Secretary shall assess the Federal costs associated with that nourishment authority and the projected benefits of each project.

(3) REPORT TO CONGRESS.—Upon completion of the review under paragraph (1), the Secretary shall issue to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report on the results of that review, including any proposed changes the Secretary may recommend to the nourishment authority.

SEC. 1038. REDUCTION OF FEDERAL COSTS FOR HURRICANE AND STORM DAMAGE REDUCTION PROJECTS.

Section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326) (as amended by section 1030(d)(1)) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''or used in'' after ''obtained through'';

(B) in paragraph (3)(C), by inserting ''for the purposes of improving environmental conditions in marsh and littoral systems, stabilizing stream channels, enhancing shorelines, and supporting State and local risk management adaptation strategies'' before the period at the end; and

(C) by adding at the end the following:

''(4) REDUCING COSTS.—To reduce or avoid Federal costs, the Secretary shall consider the beneficial use of dredged material in a manner that contributes to the maintenance of sediment resources in the nearby coastal system.'';

(2) in subsection (d)—

(A) by striking the subsection designation and heading and inserting the following:

''(d) SELECTION OF DREDGED MATERIAL DISPOSAL METHOD FOR PURPOSES RELATED TO ENVIRONMENTAL RESTORATION OR STORM DAMAGE AND FLOOD REDUCTION.—''; and

(B) in paragraph (1), by striking ''in relation to'' and all that follows through the period at the end and inserting ''in relation to—

''(A) the environmental benefits, including the benefits to the aquatic environment to be derived from the creation of wetlands and control of shoreline erosion; or

''(B) the flood and storm damage and flood reduction benefits, including shoreline protection, protection against loss of life, and damage to improved property.''; and

(3) in subsection (e), by striking paragraph (1) and inserting the following:

''(1) cooperate with any State or group of States in the preparation of a comprehensive State or regional sediment management plan within the boundaries of the State or among States;''.

SEC. 1039. INVASIVE SPECIES.

(a) AQUATIC SPECIES REVIEW.—

(1) REVIEW OF AUTHORITIES.—The Secretary, in consultation with the Director of the United States Fish and Wildlife Service, the Chairman of the Tennessee Valley Authority, and other applicable heads of Federal agencies, shall—

(A) carry out a review of existing Federal authorities relating to responding to invasive species, including aquatic weeds, aquatic snails, and other aquatic invasive species, that have an impact on water resources; and

(B) based on the review under subparagraph (A), make any recommendations to Congress and applicable State agencies for improving Federal and State laws to more effectively respond to the threats posed by those invasive species.

(2) FEDERAL INVESTMENT.—

(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the Federal costs of, and spending on, aquatic invasive species.

(B) CONTENTS.—The assessment conducted under subparagraph (A) shall include—

(i) identification of current Federal spending on, and projected future Federal costs of, operation and maintenance related to mitigating the impacts of aquatic invasive species on federally owned or operated facilities;

(ii) identification of current Federal spending on aquatic invasive species prevention;

(iii) analysis of whether spending identified in clause (ii) is adequate for the maintenance and protection of services provided by federally owned or operated facilities, based on the current spending and projected future costs identified in clause (i); and

(iv) review of any other aspect of aquatic invasive species prevention or mitigation determined appropriate by the Comptroller General.

(C) FINDINGS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate and the Committee on Transportation and Infrastructure and the Committee on Natural Resources of the House of Representatives a report containing the findings of the assessment conducted under subparagraph (A).

(b) AQUATIC INVASIVE SPECIES PREVENTION.—

(1) MULTIAGENCY EFFORT TO SLOW THE SPREAD OF ASIAN CARP IN THE UPPER MISSISSIPPI AND OHIO RIVER BASINS AND TRIBUTARIES.—

(A) IN GENERAL.—The Director of the United States Fish and Wildlife Service, in coordination with the Secretary, the Director of the National Park Service, and the Director of the United States Geological Survey, shall lead a multiagency effort to slow the spread of Asian carp in the Upper Mississippi and Ohio River basins and tributaries by providing technical assistance, coordination, best practices, and support to State and local governments in carrying out activities designed to slow, and eventually eliminate, the threat posed by Asian carp.

(B) BEST PRACTICES.—To the maximum extent practicable, the multiagency effort shall apply lessons learned and best practices such as those described in the document prepared by the Asian Carp Working Group entitled ''Management and Control Plan for Bighead, Black, Grass, and Silver Carps in the United States'' and dated November 2007, and the document prepared by the Asian Carp Regional Coordinating Committee entitled ''FY 2012 Asian Carp Control Strategy Framework'' and dated February 2012.

(2) REPORT TO CONGRESS.—

(A) IN GENERAL.—Not later than December 31 of each year, the Director of the United States Fish and Wildlife Service, in coordination with the Secretary, shall submit to the Committee on Appropriations and the Committee on Environment and Public Works of the Senate and the Committee on Appropriations, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report describing the coordinated strategies established and progress made toward the goals of controlling and eliminating Asian carp in the Upper Mississippi and Ohio River basins and tributaries.

(B) CONTENTS.—Each report submitted under subparagraph (A) shall include—

(i) any observed changes in the range of Asian carp in the Upper Mississippi and Ohio River basins and tributaries during the 2-year period preceding submission of the report;

(ii) a summary of Federal agency efforts, including cooperative efforts with non-Federal partners, to control the spread of Asian carp in the Upper Mississippi and Ohio River basins and tributaries;

(iii) any research that the Director determines could improve the ability to control the spread of Asian carp;

(iv) any quantitative measures that the Director intends to use to document progress in controlling the spread of Asian carp; and

(v) a cross-cut accounting of Federal and non-Federal expenditures to control the spread of Asian carp.

(c) PREVENTION, GREAT LAKES AND MISSISSIPPI RIVER BASIN.—

(1) IN GENERAL.—The Secretary is authorized to implement measures recommended in the efficacy study authorized under section 3061 of the Water Resources Development Act of 2007 (121 Stat. 1121) or in interim reports, with any modifications or any emergency measures that the Secretary determines to be appropriate to prevent aquatic nuisance species from dispersing into the Great Lakes by way of any hydrologic connection between the Great Lakes and the Mississippi River Basin.

(2) NOTIFICATIONS.—The Secretary shall notify the Committees on Environment and Public Works and Appropriations of the Senate and the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives any emergency actions taken pursuant to this subsection.

(d) PREVENTION AND MANAGEMENT.—Section 104 of the River and Harbor Act of 1958 (33 U.S.C. 610) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking ''There is'' and inserting the following:

''(1) IN GENERAL.—There is'';

(B) in the second sentence, by striking ''Local'' and inserting the following:

''(2) LOCAL INTERESTS.—Local'';

(C) in the third sentence, by striking ''Costs'' and inserting the following:

''(3) FEDERAL COSTS.—Costs''; and

(D) in paragraph (1) (as designated by subparagraph (A))—

(i) by striking ''control and progressive,'' and inserting ''prevention, control, and progressive''; and

(ii) by inserting ''and aquatic invasive species'' after ''noxious aquatic plant growths'';

(2) in subsection (b), in the first sentence, by striking ''$15,000,000 annually'' and inserting ''$40,000,000, of which $20,000,000 shall be made available to implement subsection (d), annually''; and

(3) by inserting after subsection (c) the following:

''(d) WATERCRAFT INSPECTION STATIONS.—

''(1) IN GENERAL.—In carrying out this section, the Secretary may establish watercraft inspection stations in the Columbia River Basin to be located in the States of Idaho, Montana, Oregon, and Washington at locations, as determined by the Secretary, with the highest likelihood of preventing the spread of aquatic invasive species at reservoirs operated and maintained by the Secretary.

''(2) COST SHARE.—The non-Federal share of the cost of constructing, operating, and maintaining watercraft inspection stations described in paragraph (1) (including personnel costs) shall be—

''(A) 50 percent; and

''(B) provided by the State or local governmental entity in which such inspection station is located.

''(3) COORDINATION.—In carrying out this subsection, the Secretary shall consult and coordinate with—

''(A) the States described in paragraph (1);

''(B) Indian tribes; and

''(C) other Federal agencies, including—

''(i) the Department of Agriculture;

''(ii) the Department of Energy;

''(iii) the Department of Homeland Security;

''(iv) the Department of Commerce; and

''(v) the Department of the Interior.

''(e) MONITORING AND CONTINGENCY PLANNING.—In carrying out this section, the Secretary may—

''(1) carry out risk assessments of water resources facilities;

''(2) monitor for aquatic invasive species;

''(3) establish watershed-wide plans for expedited response to an infestation of aquatic invasive species; and

''(4) monitor water quality, including sediment cores and fish tissue samples.''.

SEC. 1040. FISH AND WILDLIFE MITIGATION.

(a) IN GENERAL.—Section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by inserting ''for damages to ecological resources, including terrestrial and aquatic resources, and'' after ''mitigate'';

(II) by inserting ''ecological resources and'' after ''impact on''; and

(III) by inserting ''without the implementation of mitigation measures'' before the period; and

(ii) by inserting before the last sentence the following: ''If the Secretary determines that mitigation to in-kind conditions is not possible, the Secretary shall identify in the report the basis for that determination and the mitigation measures that will be implemented to meet the requirements of this section and the goals of section 307(a)(1) of the Water Resources Development Act of 1990 (33 U.S.C. 2317(a)(1)).'';

(B) in paragraph (2)—

(i) in the heading, by striking ''DESIGN'' and inserting ''SELECTION AND DESIGN'';

(ii) by inserting ''select and'' after ''shall''; and

(iii) by inserting ''using a watershed approach'' after ''projects''; and

(C) in paragraph (3)—

(i) in subparagraph (A), by inserting '', at a minimum,'' after ''complies with''; and

(ii) in subparagraph (B)—

(I) by striking clause (iii);

(II) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(III) by inserting after clause (ii) the following:

''(iii) for projects where mitigation will be carried out by the Secretary—

''(I) a description of the land and interest in land to be acquired for the mitigation plan;

''(II) the basis for a determination that the land and interests are available for acquisition; and

''(III) a determination that the proposed interest sought does not exceed the minimum interest in land necessary to meet the mitigation requirements for the project;

''(iv) for projects where mitigation will be carried out through a third party mitigation arrangement in accordance with subsection (i)—

''(I) a description of the third party mitigation instrument to be used; and

''(II) the basis for a determination that the mitigation instrument can meet the mitigation requirements for the project;''; and

(2) by adding at the end the following:

''(h) PROGRAMMATIC MITIGATION PLANS.—

''(1) IN GENERAL.—The Secretary may develop programmatic mitigation plans to address the potential impacts to ecological resources, fish, and wildlife associated with existing or future Federal water resources development projects.

''(2) USE OF MITIGATION PLANS.—The Secretary shall, to the maximum extent practicable, use programmatic mitigation plans developed in accordance with this subsection to guide the development of a mitigation plan under subsection (d).

''(3) NON-FEDERAL PLANS.—The Secretary shall, to the maximum extent practicable and subject to all conditions of this subsection, use programmatic environmental plans developed by a State, a body politic of the State, which derives its powers from a State constitution, a government entity created by State legislation, or a local government, that meet the requirements of this subsection to address the potential environmental impacts of existing or future water resources development projects.

''(4) SCOPE.—A programmatic mitigation plan developed by the Secretary or an entity described in paragraph (3) to address potential impacts of existing or future water resources development projects shall, to the maximum extent practicable—

''(A) be developed on a regional, ecosystem, watershed, or statewide scale;

''(B) include specific goals for aquatic resource and fish and wildlife habitat restoration, establishment, enhancement, or preservation;

''(C) identify priority areas for aquatic resource and fish and wildlife habitat protection or restoration;

''(D) encompass multiple environmental resources within a defined geographical area or focus on a specific resource, such as aquatic resources or wildlife habitat; and

''(E) address impacts from all projects in a defined geographical area or focus on a specific type of project.

''(5) CONSULTATION.—The scope of the plan shall be determined by the Secretary or an entity described in paragraph (3), as appropriate, in consultation with the agency with jurisdiction over the resources being addressed in the environmental mitigation plan.

''(6) CONTENTS.—A programmatic environmental mitigation plan may include—

''(A) an assessment of the condition of environmental resources in the geographical area covered by the plan, including an assessment of recent trends and any potential threats to those resources;

''(B) an assessment of potential opportunities to improve the overall quality of environmental resources in the geographical area covered by the plan through strategic mitigation for impacts of water resources development projects;

''(C) standard measures for mitigating certain types of impacts;

''(D) parameters for determining appropriate mitigation for certain types of impacts, such as mitigation ratios or criteria for determining appropriate mitigation sites;

''(E) adaptive management procedures, such as protocols that involve monitoring predicted impacts over time and adjusting mitigation measures in response to information gathered through the monitoring;

''(F) acknowledgment of specific statutory or regulatory requirements that must be satisfied when determining appropriate mitigation for certain types of resources; and

''(G) any offsetting benefits of self-mitigating projects, such as ecosystem or resource restoration and protection.

''(7) PROCESS.—Before adopting a programmatic environmental mitigation plan for use under this subsection, the Secretary shall—

''(A) for a plan developed by the Secretary—

''(i) make a draft of the plan available for review and comment by applicable environmental resource agencies and the public; and

''(ii) consider any comments received from those agencies and the public on the draft plan; and

''(B) for a plan developed under paragraph (3), determine, not later than 180 days after receiving the plan, whether the plan meets the requirements of paragraphs (4) through (6) and was made available for public comment.

''(8) INTEGRATION WITH OTHER PLANS.—A programmatic environmental mitigation plan may be integrated with other plans, including watershed plans, ecosystem plans, species recovery plans, growth management plans, and land use plans.

''(9) CONSIDERATION IN PROJECT DEVELOPMENT AND PERMITTING.—If a programmatic environmental mitigation plan has been developed under this subsection, any Federal agency responsible for environmental reviews, permits, or approvals for a water resources development project may use the recommendations in that programmatic environmental mitigation plan when carrying out the responsibilities of the agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(10) PRESERVATION OF EXISTING AUTHORITIES.—Nothing in this subsection limits the use of programmatic approaches to reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(11) MITIGATION FOR EXISTING PROJECTS.—Nothing in this subsection requires the Secretary to undertake additional mitigation for existing projects for which mitigation has already been initiated.

''(i) THIRD-PARTY MITIGATION ARRANGEMENTS.—

''(1) ELIGIBLE ACTIVITIES.—In accordance with all applicable Federal laws (including regulations), mitigation efforts carried out under this section may include—

''(A) participation in mitigation banking or other third-party mitigation arrangements, such as—

''(i) the purchase of credits from commercial or State, regional, or local agency-sponsored mitigation banks; and

''(ii) the purchase of credits from in-lieu fee mitigation programs; and

''(B) contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands if the Secretary determines that the contributions will ensure that the mitigation requirements of this section and the goals of section 307(a)(1) of the Water Resources Development Act of 1990 (33 U.S.C. 2317(a)(1)) will be met.

''(2) INCLUSION OF OTHER ACTIVITIES.—The banks, programs, and efforts described in paragraph (1) include any banks, programs, and efforts developed in accordance with applicable law (including regulations).

''(3) TERMS AND CONDITIONS.—In carrying out natural habitat and wetlands mitigation efforts under this section, contributions to the mitigation effort may—

''(A) take place concurrent with, or in advance of, the commitment of funding to a project; and

''(B) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and water resources development planning processes.

''(4) PREFERENCE.—At the request of the non-Federal project sponsor, preference may be given, to the maximum extent practicable, to mitigating an environmental impact through the use of a mitigation bank, in-lieu fee, or other third-party mitigation arrangement, if the use of credits from the mitigation bank or in-lieu fee, or the other third-party mitigation arrangement for the project has been approved by the applicable Federal agency.''.

(b) APPLICATION.—The amendments made by subsection (a) shall not apply to a project for which a mitigation plan has been completed as of the date of enactment of this Act.

(c) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide technical assistance to States and local governments to establish third-party mitigation instruments, including mitigation banks and in-lieu fee programs, that will help to target mitigation payments to high-priority ecosystem restoration actions.

(2) REQUIREMENTS.—In providing technical assistance under this subsection, the Secretary shall give priority to States and local governments that have developed State, regional, or watershed-based plans identifying priority restoration actions.

(3) MITIGATION INSTRUMENTS.—The Secretary shall seek to ensure any technical assistance provided under this subsection will support the establishment of mitigation instruments that will result in restoration of high-priority areas identified in the plans under paragraph (2).

SEC. 1041. MITIGATION STATUS REPORT.

Section 2036(b) of the Water Resources Development Act of 2007 (33 U.S.C. 2283a) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

''(3) INFORMATION INCLUDED.—In reporting the status of all projects included in the report, the Secretary shall—

''(A) use a uniform methodology for determining the status of all projects included in the report;

''(B) use a methodology that describes both a qualitative and quantitative status for all projects in the report; and

''(C) provide specific dates for participation in the consultations required under section 906(d)(4)(B) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)(4)(B)).''.

SEC. 1042. REPORTS TO CONGRESS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall complete and submit to Congress by the applicable date required the reports that address public safety and enhanced local participation in project delivery described in subsection (b).

(b) REPORTS.—The reports referred to in subsection (a) are the reports required under—

(1) subparagraphs (A) and (B) of section 1043(a)(5);

(2) section 1046(a)(2)(B);

(3) section 210(e)(3) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(e)(3)) (as amended by section 2102(a)); and

(4) section 7001.

(c) FAILURE TO PROVIDE A COMPLETED REPORT.—

(1) IN GENERAL.—Subject to subsection (d), if the Secretary fails to provide a report listed under subsection (b) by the date that is 180 days after the applicable date required for that report, $5,000 shall be reprogrammed from the General Expenses account of the civil works program of the Army Corps of Engineers into the account of the division of the Army Corps of Engineers with responsibility for completing that report.

(2) SUBSEQUENT REPROGRAMMING.—Subject to subsection (d), for each additional week after the date described in paragraph (1) in which a report described in that paragraph remains uncompleted and unsubmitted to Congress, $5,000 shall be reprogrammed from the General

Expenses account of the civil works program of the Army Corps of Engineers into the account of the division of the Secretary of the Army with responsibility for completing that report.

(d) LIMITATIONS.—

(1) IN GENERAL.—For each report, the total amounts reprogrammed under subsection (c) shall not exceed, in any fiscal year, $50,000.

(2) AGGREGATE LIMITATION.—The total amount reprogrammed under subsection (c) in a fiscal year shall not exceed $200,000.

(e) NO FAULT OF THE SECRETARY.—Amounts shall not be reprogrammed under subsection (c) if the Secretary certifies in a letter to the applicable committees of Congress that—

(1) a major modification has been made to the content of the report that requires additional analysis for the Secretary to make a final decision on the report;

(2) amounts have not been appropriated to the agency under this Act or any other Act to carry out the report; or

(3) additional information is required from an entity other than the Corps of Engineers and is not available in a timely manner to complete the report by the deadline.

(f) LIMITATION.—The Secretary shall not reprogram funds to the General Expenses account of the civil works program of the Corps of Engineers for the loss of the funds.

SEC. 1043. NON-FEDERAL IMPLEMENTATION PILOT PROGRAM.

(a) NON-FEDERAL IMPLEMENTATION OF FEASIBILITY STUDIES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish and implement a pilot program to evaluate the cost-effectiveness and project delivery efficiency of allowing non-Federal interests to carry out feasibility studies for flood risk management, hurricane and storm damage reduction, aquatic ecosystem restoration, and coastal harbor and channel and inland navigation.

(2) PURPOSES.—The purposes of the pilot program are—

(A) to identify project delivery and cost-saving alternatives to the existing feasibility study process;

(B) to evaluate the technical, financial, and organizational efficiencies of a non-Federal interest carrying out a feasibility study of 1 or more projects; and

(C) to evaluate alternatives for the decentralization of the project planning, management, and operational decisionmaking process of the Corps of Engineers.

(3) ADMINISTRATION.—

(A) IN GENERAL.—On the request of a non-Federal interest, the Secretary may enter into an agreement with the non-Federal interest for the non-Federal interest to provide full project management control of a feasibility study for a project for—

(i) flood risk management;

(ii) hurricane and storm damage reduction, including levees, floodwalls, flood control channels, and water control structures;

(iii) coastal harbor and channel and inland navigation; and

(iv) aquatic ecosystem restoration.

(B) USE OF NON-FEDERAL FUNDS.—

(i) IN GENERAL.—A non-Federal interest that has entered into an agreement with the Secretary pursuant to subparagraph (A) may use non-Federal funds to carry out the feasibility study.

(ii) CREDIT.—The Secretary shall credit towards the non-Federal share of the cost of construction of a project for which a feasibility study is carried out under this subsection an amount equal to the portion of the cost of developing the study that would have been the responsibility of the Secretary, if the study were carried out by the Secretary, subject to the conditions that—

(I) non-Federal funds were used to carry out the activities that would have been the responsibility of the Secretary;

(II) the Secretary determines that the feasibility study complies with all applicable Federal laws and regulations; and

(III) the project is authorized by any provision of Federal law enacted after the date on which an agreement is entered into under subparagraph (A).

(C) TRANSFER OF FUNDS.—

(i) IN GENERAL.—After the date on which an agreement is executed pursuant to subparagraph (A), the Secretary may transfer to the non-Federal interest to carry out the feasibility study—

(I) if applicable, the balance of any unobligated amounts appropriated for the study, except that the Secretary shall retain sufficient amounts for the Corps of Engineers to carry out any responsibilities of the Corps of Engineers relating to the project and pilot program; and

(II) additional amounts, as determined by the Secretary, from amounts made available under paragraph (8), except that the total amount transferred to the non-Federal interest shall not exceed the updated estimate of the Federal share of the cost of the feasibility study.

(ii) ADMINISTRATION.—The Secretary shall include such provisions as the Secretary determines to be necessary in an agreement under subparagraph (A) to ensure that a non-Federal interest receiving Federal funds under this paragraph—

(I) has the necessary qualifications to administer those funds; and

(II) will comply with all applicable Federal laws (including regulations) relating to the use of those funds.

(D) NOTIFICATION.—The Secretary shall notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the initiation of each feasibility study under the pilot program.

(E) AUDITING.—The Secretary shall regularly monitor and audit each feasibility study carried out by a non-Federal interest under this section to ensure that the use of any funds transferred under subparagraph (C) are used in compliance with the agreement signed under subparagraph (A).

(F) TECHNICAL ASSISTANCE.—On the request of a non-Federal interest, the Secretary may provide technical assistance to the non-Federal interest relating to any aspect of the feasibility study, if the non-Federal interest contracts with the Secretary for the technical assistance and compensates the Secretary for the technical assistance.

(G) DETAILED PROJECT SCHEDULE.—Not later than 180 days after entering into an agreement under subparagraph (A), each non-Federal interest, to the maximum extent practicable, shall submit to the Secretary a detailed project schedule, based on full funding capability, that lists all deadlines for milestones relating to the feasibility study.

(4) COST SHARE.—Nothing in this subsection affects the cost-sharing requirement applicable on the day before the date of enactment of this Act to a feasibility study carried out under this subsection.

(5) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report detailing the results of the pilot program carried out under this section, including—

(i) a description of the progress of the non-Federal interests in meeting milestones in detailed project schedules developed pursuant to paragraph (3)(G); and

(ii) any recommendations of the Secretary concerning whether the program or any component of the program should be implemented on a national basis.

(B) UPDATE.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an update of the report described in subparagraph (A).

(C) FAILURE TO MEET DEADLINE.—If the Secretary fails to submit a report by the required deadline under this paragraph, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a detailed explanation of why the deadline was missed and a projected date for submission of the report.

(6) ADMINISTRATION.—All laws and regulations that would apply to the Secretary if the Secretary were carrying out the feasibility study shall apply to a non-Federal interest carrying out a feasibility study under this subsection.

(7) TERMINATION OF AUTHORITY.—The authority to commence a feasibility study under this subsection terminates on the date that is 5 years after the date of enactment of this Act.

(8) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts appropriated for a specific project, there is authorized to be appropriated to the Secretary to carry out the pilot program under this subsection, including the costs of administration of the Secretary, $25,000,000 for each of fiscal years 2015 through 2019.

(b) NON-FEDERAL PROJECT IMPLEMENTATION PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish and implement a pilot program to evaluate the cost-effectiveness and project delivery efficiency of allowing non-Federal interests to carry out flood risk management, hurricane and storm damage reduction, coastal harbor and channel inland navigation, and aquatic ecosystem restoration projects.

(2) PURPOSES.—The purposes of the pilot program are—

(A) to identify project delivery and cost-saving alternatives that reduce the backlog of authorized Corps of Engineers projects;

(B) to evaluate the technical, financial, and organizational efficiencies of a non-Federal interest carrying out the design, execution, management, and construction of 1 or more projects; and

(C) to evaluate alternatives for the decentralization of the project management, design, and construction for authorized Corps of Engineers water resources projects.

(3) ADMINISTRATION.—

(A) IN GENERAL.—In carrying out the pilot program, the Secretary shall—

(i) identify a total of not more than 15 projects for flood risk management, hurricane and storm damage reduction (including levees, floodwalls, flood control channels, and water control structures), coastal harbor and channels, inland navigation, and aquatic ecosystem restoration that have been authorized for construction prior to the date of enactment of this Act, including—

(I) not more than 12 projects that—

(aa)(AA) have received Federal funds prior to the date of enactment of this Act; or

(BB) for more than 2 consecutive fiscal years, have an unobligated funding balance for that project in the Corps of Engineers construction account; and

(bb) to the maximum extent practicable, are located in each of the divisions of the Corps of Engineers; and

(II) not more than 3 projects that have not received Federal funds in the period beginning on the date on which the project was authorized and ending on the date of enactment of this Act;

(ii) notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the identification of each project under the pilot program;

(iii) in collaboration with the non-Federal interest, develop a detailed project management plan for each identified project that outlines the scope, budget, design, and construction resource requirements necessary for the non-Federal interest to execute the project, or a separable element of the project;

(iv) on the request of the non-Federal interest, enter into a project partnership agreement with the non-Federal interest for the non-Federal interest to provide full project management control for construction of the project, or a separable element of the project, in accordance with plans approved by the Secretary;

(v) following execution of the project partnership agreement, transfer to the non-Federal interest to carry out construction of the project, or a separable element of the project—

(I) if applicable, the balance of the unobligated amounts appropriated for the project, except that the Secretary shall retain sufficient amounts for the Corps of Engineers to carry out any responsibilities of the Corps of Engineers relating to the project and pilot program; and

(II) additional amounts, as determined by the Secretary, from amounts made available under paragraph (8), except that the total amount transferred to the non-Federal interest shall not exceed the updated estimate of the Federal share of the cost of construction, including any required design; and

(vi) regularly monitor and audit each project being constructed by a non-Federal interest under this section to ensure that the construction activities are carried out in compliance with the plans approved by the Secretary and that the construction costs are reasonable.

(B) DETAILED PROJECT SCHEDULE.—Not later than 180 days after entering into an agreement under subparagraph (A)(iv), each non-Federal interest, to the maximum extent practicable, shall submit to the Secretary a detailed project schedule, based on estimated funding levels, that lists all deadlines for each milestone in the construction of the project.

(C) TECHNICAL ASSISTANCE.—On the request of a non-Federal interest, the Secretary may provide technical assistance to the non-Federal interest, if the non-Federal interest contracts with and compensates the Secretary for the technical assistance relating to—

(i) any study, engineering activity, and design activity for construction carried out by the non-Federal interest under this subsection; and

(ii) expeditiously obtaining any permits necessary for the project.

(4) COST SHARE.—Nothing in this subsection affects the cost-sharing requirement applicable on the day before the date of enactment of this Act to a project carried out under this subsection.

(5) REPORT.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report detailing the results of the pilot program carried out under this subsection, including—

(i) a description of the progress of non-Federal interests in meeting milestones in detailed project schedules developed pursuant to paragraph (2)(B); and

(ii) any recommendations of the Secretary concerning whether the program or any component of the program should be implemented on a national basis.

(B) UPDATE.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an update of the report described in subparagraph (A).

(C) FAILURE TO MEET DEADLINE.—If the Secretary fails to submit a report by the required deadline under this paragraph, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a detailed explanation of why the deadline was missed and a projected date for submission of the report.

(6) ADMINISTRATION.—All laws and regulations that would apply to the Secretary if the Secretary were carrying out the project shall apply to a non-Federal interest carrying out a project under this subsection.

(7) TERMINATION OF AUTHORITY.—The authority to commence a project under this subsection terminates on the date that is 5 years after the date of enactment of this Act.

(8) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts appropriated for a specific project, there is authorized to be appropriated to the Secretary to carry out the pilot program under this subsection, including the costs of administration of the Secretary, $25,000,000 for each of fiscal years 2015 through 2019.

SEC. 1044. INDEPENDENT PEER REVIEW.

(a) MANDATORY PROJECT STUDIES SUBJECT TO PEER REVIEW.—Section 2034(a)(3)(A)(i) of the Water Resources Development Act of 2007 (33 U.S.C. 2343(a)(3)(A)(i)) is amended by striking ''$45,000,000'' and inserting ''$200,000,000''.

(b) TIMING OF PEER REVIEW.—Section 2034(b) of the Water Resources Development Act of 2007 (33 U.S.C. 2343(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

''(3) REASONS FOR TIMING.—If the Chief of Engineers does not initiate a peer review for a project study at a time described in paragraph (2), the Chief shall—

''(A) not later than 7 days after the date on which the Chief of Engineers determines not to initiate a peer review—

''(i) notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of that decision; and

''(ii) make publicly available, including on the Internet, the reasons for not conducting the review; and

''(B) include the reasons for not conducting the review in the decision document for the project study.''.

(c) ESTABLISHMENT OF PANELS.—Section 2034(c) of the Water Resources Development Act of 2007 (33 U.S.C. 2343(c)) is amended by striking paragraph (4) and inserting the following:

''(4) CONGRESSIONAL AND PUBLIC NOTIFICATION.—Following the identification of a project study for peer review under this section, but prior to initiation of the review by the panel of experts, the Chief of Engineers shall, not later than 7 days after the date on which the Chief of Engineers determines to conduct a review—

''(A) notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the review conducted under this section; and

''(B) make publicly available, including on the Internet, information on—

''(i) the dates scheduled for beginning and ending the review;

''(ii) the entity that has the contract for the review; and

''(iii) the names and qualifications of the panel of experts.''.

(d) RECOMMENDATIONS OF PANEL.—Section 2034(f) of the Water Resources Development Act of 2007 (33 U.S.C. 2343(f)) is amended by striking paragraph (2) and inserting the following:

''(2) PUBLIC AVAILABILITY AND SUBMISSION TO CONGRESS.—After receiving a report on a project study from a panel of experts under this section, the Chief of Engineers shall make available to the public, including on the Internet, and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

''(A) a copy of the report not later than 7 days after the date on which the report is delivered to the Chief of Engineers; and

''(B) a copy of any written response of the Chief of Engineers on recommendations contained in the report not later than 3 days after the date on which the response is delivered to the Chief of Engineers.

''(3) INCLUSION IN PROJECT STUDY.—A report on a project study from a panel of experts under this section and the written response of the Chief of Engineers shall be included in the final decision document for the project study.''.

(e) APPLICABILITY.—Section 2034(h)(2) of the Water Resources Development Act of 2007 (33 U.S.C. 2343(h)(2)) is amended by striking ''7 years'' and inserting ''12 years''.

SEC. 1045. REPORT ON SURFACE ELEVATIONS AT DROUGHT AFFECTED LAKES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary, in coordination with the Federal Energy Regulatory Commission (referred to in this section as ''FERC''), shall initiate an assessment of the effects of drought conditions on lakes managed by the Secretary that are affected by FERC-licensed reservoirs, which shall include an assessment of—

(1) lake levels and rule curves in areas of previous, current, and prolonged drought; and

(2) the effect the long-term FERC licenses have on the ability of the Secretary to manage lakes for hydropower generation, navigation, flood protection, water supply, fish and wildlife, and recreation.

(b) REPORT.—The Secretary, in coordination with the FERC, shall submit to Congress and make publicly available a report on the assessment carried out under subsection (a).

SEC. 1046. RESERVOIR OPERATIONS AND WATER SUPPLY.

(a) DAM OPTIMIZATION.—

(1) DEFINITION OF PROJECT.—In this subsection, the term ''project'' means a water resources development project that is operated and maintained by the Secretary.

(2) REPORTS.—

(A) ASSESSMENT OF WATER SUPPLY IN ARID REGIONS.—

(i) IN GENERAL.—The Secretary shall conduct an assessment of the management practices, priorities, and authorized purposes at Corps of Engineers reservoirs in arid regions to determine the effects of such practices, priorities, and purposes on water supply during periods of drought.

(ii) INCLUSIONS.—The assessment under clause (i) shall identify actions that can be carried out within the scope of existing authorities of the Secretary to increase project flexibility for the purpose of mitigating drought impacts.

(iii) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report on the results of the assessment.

(B) UPDATED REPORT.—

(i) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall update and make publicly available the report entitled ''Authorized and Operating Purposes of Corps of Engineers Reservoirs'' and dated July 1992, which was produced pursuant to section 311 of the Water Resources Development Act of 1990 (104 Stat. 4639).

(ii) INCLUSIONS.—The updated report described in clause (i) shall—

(I) include—

(aa) the date on which the most recent review of project operations was conducted and any

recommendations of the Secretary relating to that review the Secretary determines to be significant;

(bb) the activities carried out pursuant to each such review to improve the efficiency of operations and maintenance and to improve project benefits consistent with authorized purposes;

(cc) the degree to which reviews of project operations and subsequent activities pursuant to completed reviews complied with the policies and requirements of applicable law and regulations; and

(dd) a plan for reviewing the operations of individual projects, including a detailed schedule for future reviews of project operations, that—

(AA) complies with the polices and requirements of applicable law and regulations;

(BB) gives priority to reviews and activities carried out pursuant to such plan where the Secretary determines that there is support for carrying out those reviews and activities; and

(CC) ensures that reviews and activities are carried out pursuant to such plan;

(II) be coordinated with appropriate Federal, State, and local agencies and those public and private entities that the Secretary determines may be affected by those reviews or activities;

(III) not supersede or modify any written agreement between the Federal Government and a non-Federal interest that is in effect on the date of enactment of this Act;

(IV) not supersede or authorize any amendment to a multistate water control plan, including the Missouri River Master Water Control Manual (as in effect on the date of enactment of this Act);

(V) not affect any water right in existence on the date of enactment of this Act;

(VI) not preempt or affect any State water law or interstate compact governing water;

(VII) not affect any authority of a State, as in effect on the date of enactment of this Act, to manage water resources within that State; and

(VIII) comply with section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b).

(3) GENERAL ACCOUNTABILITY OFFICE REPORT TO CONGRESS.—The Comptroller General shall—

(A) conduct an audit to determine—

(i) whether reviews of project operations carried out by the Secretary prior to the date of enactment of this Act complied with the policies and requirements of applicable law and regulations; and

(ii) whether the plan developed by the Secretary pursuant to paragraph (2)(B)(ii)(I)(dd) complies with this subsection and with the policies and requirements of applicable law and regulation; and

(B) not later than 2 years after the date of enactment of this Act, submit to Congress a report that—

(i) summarizes the results of the audit required by subparagraph (A);

(ii) includes an assessment of whether existing practices for managing and reviewing project operations could result in greater efficiencies that would enable the Corps of Engineers to better prepare for, contain, and respond to flood, storm, and drought conditions; and

(iii) includes recommendations for improving the review of project operations to improve the efficiency and effectiveness of such operations and to better achieve authorized purposes while enhancing overall project benefits.

(4) INTERAGENCY AND COOPERATIVE AGREEMENTS.—The Secretary may enter into interagency agreements with other Federal agencies and cooperative agreements with non-Federal entities to carry out this subsection and reviews of project operations or activities resulting from those reviews.

(5) FUNDING.—

(A) IN GENERAL.—The Secretary may use to carry out this subsection, including any reviews of project operations identified in the plan developed under paragraph (2)(B)(ii)(I)(dd), amounts made available to the Secretary.

(B) FUNDING FROM OTHER SOURCES.—The Secretary may accept and expend amounts from non-Federal entities and other Federal agencies to carry out this subsection and reviews of project operations or activities resulting from those reviews.

(6) EFFECT OF SUBSECTION.—

(A) IN GENERAL.—Nothing in this subsection changes the authorized purpose of any Corps of Engineers dam or reservoir.

(B) ADMINISTRATION.—The Secretary may carry out any recommendations and activities under this subsection pursuant to existing law.

(b) IMPROVING PLANNING AND ADMINISTRATION OF WATER SUPPLY STORAGE.—

(1) IN GENERAL.—For each water supply feature of a reservoir managed by the Secretary, the Secretary shall notify the applicable non-Federal interests before each fiscal year of the anticipated operation and maintenance activities for that fiscal year and each of the subsequent 4 fiscal years (including the cost of those activities) for which the non-Federal interests are required to contribute amounts.

(2) CLARIFICATION.—The information provided to a non-Federal interest under paragraph (1) shall—

(A) be an estimate which the non-Federal interest may use for planning purposes; and

(B) not be construed as or relied upon by the non-Federal interest as the actual amounts that the non-Federal interest will be required to contribute.

(c) SURPLUS WATER STORAGE.—

(1) IN GENERAL.—The Secretary shall not charge a fee for surplus water under a contract entered into pursuant to section 6 of the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (33 U.S.C. 708) if the contract is for surplus water stored in the Upper Missouri Mainstem Reservoirs.

(2) OFFSET.—

(A) IN GENERAL.—Subject to subparagraph (B), of any amounts made available to the Secretary to carry out activities under the heading ''OPERATION AND MAINTENANCE'' under the heading ''CORPS OF ENGINEERS–CIVIL'' that remain unobligated as of the date of enactment of this Act, $5,000,000 is rescinded.

(B) RESTRICTION.—No amounts that have been designated by Congress as being for emergency requirements pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Contro1 Act of 1985 (2 U.S.C. 901(b)(2)(A)(i)) shall be rescinded under subparagraph (A).

(3) LIMITATION.—The limitation provided under paragraph (1) shall expire on the date that is 10 years after the date of enactment of this Act.

(4) APPLICABILITY.—Nothing in this subsection—

(A) affects the authority of the Secretary under section 2695 of title 10, United States Code, to accept funds or to cover the administrative expenses relating to certain real property transactions; or

(B) affects the application of section 6 of the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (33 U.S.C. 708) to surplus water stored outside of the Upper Missouri Mainstem Reservoirs.

(d) FUTURE WATER SUPPLY.—Section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) RELEASE OF FUTURE WATER STORAGE.—

''(1) ESTABLISHMENT OF 10-YEAR PLANS FOR THE UTILIZATION OF FUTURE STORAGE.—

''(A) IN GENERAL.—For the period beginning 180 days after the date of enactment of this paragraph and ending on January 1, 2016, the Secretary may accept from a State or local interest a plan for the utilization of allocated water storage for future use under this Act.

''(B) CONTENTS.—A plan submitted under subparagraph (A) shall include—

''(i) a 10-year timetable for the conversion of future use storage to present use; and

''(ii) a schedule of actions that the State or local interest agrees to carry out over a 10-year period, in cooperation with the Secretary, to seek new and alternative users of future water storage that is contracted to the State or local interest on the date of enactment of this paragraph.

''(2) FUTURE WATER STORAGE.—For water resource development projects managed by the Secretary, a State or local interest that the Secretary determines has complied with paragraph (1) may request from the Secretary a release to the United States of any right of the State or local interest to future water storage under this Act that was allocated for future use water supply prior to November 17, 1986.

''(3) ADMINISTRATION.—

''(A) IN GENERAL.—Not later than 180 days after receiving a request under paragraph (2), the Secretary shall provide to the applicable State or local interest a written decision on whether the Secretary recommends releasing future water storage rights.

''(B) RECOMMENDATION.—If the Secretary recommends releasing future water storage rights, the Secretary shall include that recommendation in the annual plan submitted under section 7001 of the Water Resources Reform and Development Act of 2014.

''(4) SAVINGS CLAUSE.—Nothing in this subsection authorizes the Secretary to release a State or local interest from a contractual obligation unless specifically authorized by Congress.''.

SEC. 1047. SPECIAL USE PERMITS.

(a) SPECIAL USE PERMITS.—

(1) IN GENERAL.—The Secretary may issue special permits for uses such as group activities, recreation events, motorized recreation vehicles, and such other specialized recreation uses as the Secretary determines to be appropriate, subject to such terms and conditions as the Secretary determines to be in the best interest of the Federal Government.

(2) FEES.—

(A) IN GENERAL.—In carrying out this subsection, the Secretary may—

(i) establish and collect fees associated with the issuance of the permits described in paragraph (1); or

(ii) accept in-kind services in lieu of those fees.

(B) OUTDOOR RECREATION EQUIPMENT.—The Secretary may establish and collect fees for the provision of outdoor recreation equipment and services for activities described in paragraph (1) at public recreation areas located at lakes and reservoirs operated by the Corps of Engineers.

(C) USE OF FEES.—Any fees generated pursuant to this subsection shall be—

(i) retained at the site collected; and

(ii) available for use, without further appropriation, solely for administering the special permits under this subsection and carrying out related operation and maintenance activities at the site at which the fees are collected.

(b) COOPERATIVE MANAGEMENT.—

(1) PROGRAM.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may enter into an agreement with a State or local government to provide for the cooperative management of a public recreation area if—

(i) the public recreation area is located—

(I) at a lake or reservoir operated by the Corps of Engineers; and

(II) adjacent to or near a State or local park or recreation area; and

(ii) the Secretary determines that cooperative management between the Corps of Engineers and a State or local government agency of a portion of the Corps of Engineers recreation area or State or local park or recreation area will allow for more effective and efficient management of those areas.

(B) RESTRICTION.—The Secretary may not transfer administration responsibilities for any public recreation area operated by the Corps of Engineers.

(2) ACQUISITION OF GOODS AND SERVICES.—The Secretary may acquire from or provide to a State or local government with which the Secretary has entered into a cooperative agreement under paragraph (1) goods and services to be used by the Secretary and the State or local government in the cooperative management of the areas covered by the agreement.

(3) ADMINISTRATION.—The Secretary may enter into 1 or more cooperative management agreements or such other arrangements as the Secretary determines to be appropriate, including leases or licenses, with non-Federal interests to share the costs of operation, maintenance, and management of recreation facilities and natural resources at recreation areas that are jointly managed and funded under this subsection.

(c) USE OF FUNDS.—

(1) IN GENERAL.—If the Secretary determines that it is in the public interest for purposes of enhancing recreation opportunities at Corps of Engineers water resources development projects, the Secretary may use funds made available to the Secretary to support activities carried out by State, local, and tribal governments and such other public or private nonprofit entities as the Secretary determines to be appropriate.

(2) COOPERATIVE AGREEMENTS.—Any use of funds pursuant to this subsection shall be carried out through the execution of a cooperative agreement, which shall contain such terms and conditions as the Secretary determines to be necessary in the public interest.

(d) SERVICES OF VOLUNTEERS.—Chapter IV of title I of Public Law 98–63 (33 U.S.C. 569c) is amended in the first sentence by inserting '', including expenses relating to uniforms, transportation, lodging, and the subsistence of those volunteers,'' after ''incidental expenses''.

(e) TRAINING AND EDUCATIONAL ACTIVITIES.—Section 213(a) of the Water Resources Development Act of 2000 (33 U.S.C. 2339) is amended by striking ''at'' and inserting ''about''.

SEC. 1048. AMERICA THE BEAUTIFUL NATIONAL PARKS AND FEDERAL RECREATIONAL LANDS PASS PROGRAM.

The Secretary may participate in the America the Beautiful National Parks and Federal Recreational Lands Pass program in the same manner as the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, the Forest Service, and the Bureau of Reclamation, including the provision of free annual passes to active duty military personnel and dependents.

SEC. 1049. APPLICABILITY OF SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) FARM.—The term ''farm'' has the meaning given the term in section 112.2 of title 40, Code of Federal Regulations (or successor regulations).

(3) GALLON.—The term ''gallon'' means a United States gallon.

(4) OIL.—The term ''oil'' has the meaning given the term in section 112.2 of title 40, Code of Federal Regulations (or successor regulations).

(5) OIL DISCHARGE.—The term ''oil discharge'' has the meaning given the term ''discharge'' in section 112.2 of title 40, Code of Federal Regulations (or successor regulations).

(6) REPORTABLE OIL DISCHARGE HISTORY.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''reportable oil discharge history'' means a single oil discharge, as described in section 112.1(b) of title 40, Code of Federal Regulations (including successor regulations), that exceeds 1,000 gallons or 2 oil discharges, as described in section 112.1(b) of title 40, Code of Federal Regulations (including successor regulations), that each exceed 42 gallons within any 12-month period—

(i) in the 3 years prior to the certification date of the Spill Prevention, Control, and Countermeasure plan (as described in section 112.3 of title 40, Code of Federal Regulations (including successor regulations); or

(ii) since becoming subject to part 112 of title 40, Code of Federal Regulations, if the facility has been in operation for less than 3 years.

(B) EXCLUSIONS.—The term ''reportable oil discharge history'' does not include an oil discharge, as described in section 112.1(b) of title 40, Code of Federal Regulations (including successor regulations), that is the result of a natural disaster, an act of war, or terrorism.

(7) SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE.—The term ''Spill Prevention, Control, and Countermeasure rule'' means the regulation, including amendments, promulgated by the Administrator under part 112 of title 40, Code of Federal Regulations (or successor regulations).

(b) CERTIFICATION.—In implementing the Spill Prevention, Control, and Countermeasure rule with respect to any farm, the Administrator shall—

(1) require certification by a professional engineer for a farm with—

(A) an individual tank with an aboveground storage capacity greater than 10,000 gallons;

(B) an aggregate aboveground storage capacity greater than or equal to 20,000 gallons; or

(C) a reportable oil discharge history; or

(2) allow certification by the owner or operator of the farm (via self-certification) for a farm with—

(A) an aggregate aboveground storage capacity less than 20,000 gallons and greater than the lesser of—

(i) 6,000 gallons; and

(ii) the adjustment quantity established under subsection (d)(2); and

(B) no reportable oil discharge history; and

(3) not require compliance with the rule by any farm—

(A) with an aggregate aboveground storage capacity greater than 2,500 gallons and less than the lesser of—

(i) 6,000 gallons; and

(ii) the adjustment quantity established under subsection (d)(2); and

(B) no reportable oil discharge history; and

(4) not require compliance with the rule by any farm with an aggregate aboveground storage capacity of less than 2,500 gallons.

(c) CALCULATION OF AGGREGATE ABOVEGROUND STORAGE CAPACITY.—For purposes of subsection (b), the aggregate aboveground storage capacity of a farm excludes—

(1) all containers on separate parcels that have a capacity that is 1,000 gallons or less; and

(2) all containers holding animal feed ingredients approved for use in livestock feed by the Commissioner of Food and Drugs.

(d) STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Agriculture, shall conduct a study to determine the appropriate exemption under paragraphs (2) and (3) of subsection (b), which shall be not more than 6,000 gallons and not less than 2,500 gallons, based on a significant risk of discharge to water.

(2) ADJUSTMENT.—Not later than 18 months after the date on which the study described in paragraph (1) is complete, the Administrator, in consultation with the Secretary of Agriculture, shall promulgate a rule to adjust the exemption levels described in paragraphs (2) and (3) of subsection (b) in accordance with the study.

SEC. 1050. NAMINGS.

(a) DONALD G. WALDON LOCK AND DAM.—It is the sense of Congress that, at an appropriate time and in accordance with the rules of the Senate and the House of Representatives, to recognize the contributions of Donald G. Waldon, whose selfless determination and tireless work, while serving as administrator of the Tennessee-Tombigbee Waterway for 21 years, contributed greatly to the realization and success of the Tennessee-Tombigbee Waterway Development Compact, that the lock and dam located at mile 357.5 on the Tennessee-Tombigbee Waterway should be known and designated as the ''Donald G. Waldon Lock and Dam''.

(b) REDESIGNATION OF LOWER MISSISSIPPI RIVER MUSEUM AND RIVERFRONT INTERPRETIVE SITE.—

(1) IN GENERAL.—Section 103(c)(1) of the Water Resources Development Act of 1992 (106 Stat. 4811) is amended by striking ''Lower Mississippi River Museum and Riverfront Interpretive Site'' and inserting ''Jesse Brent Lower Mississippi River Museum and Riverfront Interpretive Site''.

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the museum and interpretive site referred to in paragraph (1) shall be deemed to be a reference to the ''Jesse Brent Lower Mississippi River Museum and Riverfront Interpretive Site''.

(c) JERRY F. COSTELLO LOCK AND DAM.—

(1) REDESIGNATION.—The lock and dam located in Modoc, Illinois, authorized by the Act of July 3, 1930 (46 Stat. 927), and commonly known as the Kaskaskia Lock and Dam, is redesignated as the ''Jerry F. Costello Lock and Dam''.

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in section 1 shall be deemed to be a reference to the ''Jerry F. Costello Lock and Dam''.

SEC. 1051. INTERSTATE WATER AGREEMENTS AND COMPACTS.

(a) WATER SUPPLY.—Section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b) (as amended by section 1046(d)) is amended by adding at the end the following:

''(f) The Committees of jurisdiction are very concerned about the operation of projects in the Apalachicola-Chattahoochee-Flint River System and the Alabama-Coosa-Tallapoosa River System, and further, the Committees of jurisdiction recognize that this ongoing water resources dispute raises serious concerns related to the authority of the Secretary of the Army to allocate substantial storage at projects to provide local water supply pursuant to the Water Supply Act of 1958 absent congressional approval. Interstate water disputes of this nature are more properly addressed through interstate water agreements that take into consideration the concerns of all affected States including impacts to other authorized uses of the projects, water supply for communities and major cities in the region, water quality, freshwater flows to communities, rivers, lakes, estuaries, and bays located downstream of projects, agricultural uses, economic development, and other appropriate concerns. To that end, the Committees of jurisdiction strongly urge the Governors of the affected States to reach agreement on an interstate water compact as soon as possible, and we pledge our commitment to work with the affected States to ensure prompt consideration and approval of any such agreement. Absent such action, the Committees of jurisdiction should consider appropriate legislation to address these matters including any necessary clarifications to the Water Supply Act of 1958 or other law. This subsection does not alter existing rights or obligations under law.''.

(b) SENSE OF CONGRESS REGARDING INTERSTATE WATER AGREEMENTS AND COMPACTS.—

(1) FINDINGS.—Congress finds the following:

(A) States and local interests have primary responsibility for developing water supplies for domestic, municipal, industrial, and other purposes.

(B) The Federal Government cooperates with States and local interests in developing water supplies through the construction, maintenance, and operation of Federal water resources development projects.

(C) Interstate water disputes are most properly addressed through interstate water agreements or compacts that take into consideration the concerns of all affected States.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) Congress and the Secretary should urge States to reach agreement on interstate water agreements and compacts;

(B) at the request of the Governor of a State, the Secretary should facilitate and assist in the development of an interstate water agreement or compact;

(C) Congress should provide prompt consideration of interstate water agreements and compacts; and

(D) the Secretary should adopt policies and implement procedures for the operation of reservoirs of the Corps of Engineers that are consistent with interstate water agreements and compacts.

SEC. 1052. SENSE OF CONGRESS REGARDING WATER RESOURCES DEVELOPMENT BILLS.

It is the sense of Congress that, because the missions of the Corps of Engineers are unique and benefit all individuals in the United States and because water resources development projects are critical to maintaining economic prosperity, national security, and environmental protection, Congress should consider a water resources development bill not less than once every Congress.

TITLE II—NAVIGATION

Subtitle A—Inland Waterways

SEC. 2001. DEFINITIONS.

In this title:

(1) INLAND WATERWAYS TRUST FUND.—The term ''Inland Waterways Trust Fund'' means the Inland Waterways Trust Fund established by section 9506(a) of the Internal Revenue Code of 1986.

(2) QUALIFYING PROJECT.—The term ''qualifying project'' means any construction or major rehabilitation project for navigation infrastructure of the inland and intracoastal waterways that is—

(A) authorized before, on, or after the date of enactment of this Act;

(B) not completed on the date of enactment of this Act; and

(C) funded at least in part from the Inland Waterways Trust Fund.

SEC. 2002. PROJECT DELIVERY PROCESS REFORMS.

(a) REQUIREMENTS FOR QUALIFYING PROJECTS.—With respect to each qualifying project, the Secretary shall require—

(1) for each project manager, that—

(A) the project manager have formal project management training and certification; and

(B) the project manager be assigned from among personnel certified by the Chief of Engineers; and

(2) for an applicable cost estimation, that—

(A) the Secretary utilize a risk-based cost estimate with a confidence level of at least 80 percent; and

(B) the cost estimate be developed—

(i) for a qualifying project that requires an increase in the authorized amount in accordance with section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280), during the preparation of a post-authorization change report or other similar decision document;

(ii) for a qualifying project for which the first construction contract has not been awarded, prior to the award of the first construction contract;

(iii) for a qualifying project without a completed feasibility report in accordance with section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282), prior to the completion of such a report; and

(iv) for a qualifying project with a completed feasibility report in accordance with section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282) that has not yet been authorized, during design for the qualifying project.

(b) ADDITIONAL PROJECT DELIVERY PROCESS REFORMS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(1) establish a system to identify and apply on a continuing basis best management practices from prior or ongoing qualifying projects to improve the likelihood of on-time and on-budget completion of qualifying projects;

(2) evaluate early contractor involvement acquisition procedures to improve on-time and on-budget project delivery performance; and

(3) implement any additional measures that the Secretary determines will achieve the purposes of this subtitle, including—

(A) the implementation of applicable practices and procedures developed pursuant to management by the Secretary of an applicable military construction program;

(B) the development and use of a portfolio of standard designs for inland navigation locks, incorporating the use of a center of expertise for the design and review of qualifying projects;

(C) the use of full-funding contracts or formulation of a revised continuing contracts clause; and

(D) the establishment of procedures for recommending new project construction starts using a capital projects business model.

(c) PILOT PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may carry out pilot projects to evaluate processes and procedures for the study, design, and construction of qualifying projects.

(2) INCLUSIONS.—At a minimum, the Secretary shall carry out pilot projects under this subsection to evaluate—

(A) early contractor involvement in the development of features and components;

(B) an appropriate use of continuing contracts for the construction of features and components; and

(C) applicable principles, procedures, and processes used for military construction projects.

(d) INLAND WATERWAYS USERS BOARD.—Section 302 of the Water Resources Development Act of 1986 (33 U.S.C. 2251) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) DUTIES OF USERS BOARD.—

''(1) IN GENERAL.—The Users Board shall meet not less frequently than semiannually to develop and make recommendations to the Secretary and Congress regarding the inland waterways and inland harbors of the United States.

''(2) ADVICE AND RECOMMENDATIONS.—For commercial navigation features and components of the inland waterways and inland harbors of the United States, the Users Board shall provide—

''(A) prior to the development of the budget proposal of the President for a given fiscal year, advice and recommendations to the Secretary regarding construction and rehabilitation priorities and spending levels;

''(B) advice and recommendations to Congress regarding any feasibility report for a project on the inland waterway system that has been submitted to Congress pursuant to section 7001 of the Water Resources Reform and Development Act of 2014;

''(C) advice and recommendations to Congress regarding an increase in the authorized cost of those features and components;

''(D) not later than 60 days after the date of the submission of the budget proposal of the President to Congress, advice and recommendations to Congress regarding construction and rehabilitation priorities and spending levels; and

''(E) advice and recommendations on the development of a long-term capital investment program in accordance with subsection (d).

''(3) PROJECT DEVELOPMENT TEAMS.—The chairperson of the Users Board shall appoint a representative of the Users Board to serve as an advisor to the project development team for a qualifying project or the study or design of a commercial navigation feature or component of the inland waterways and inland harbors of the United States.

''(4) INDEPENDENT JUDGMENT.—Any advice or recommendation made by the Users Board to the Secretary shall reflect the independent judgment of the Users Board.'';

(2) by striking subsection (c) and inserting the following:

''(c) DUTIES OF SECRETARY.—The Secretary shall—

''(1) communicate not less frequently than once each quarter to the Users Board the status of the study, design, or construction of all commercial navigation features or components of the inland waterways or inland harbors of the United States; and

''(2) submit to the Users Board a courtesy copy of all completed feasibility reports relating to a commercial navigation feature or component of the inland waterways or inland harbors of the United States.

''(d) CAPITAL INVESTMENT PROGRAM.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in coordination with the Users Board, shall develop and submit to Congress a report describing a 20-year program for making capital investments on the inland and intracoastal waterways based on the application of objective, national project selection prioritization criteria.

''(2) CONSIDERATION.—In developing the program under paragraph (1), the Secretary shall take into consideration the 20-year capital investment strategy contained in the Inland Marine Transportation System (IMTS) Capital Projects Business Model, Final Report published on April 13, 2010, as approved by the Users Board.

''(3) CRITERIA.—In developing the plan and prioritization criteria under paragraph (1), the Secretary shall ensure, to the maximum extent practicable, that investments made under the 20-year program described in paragraph (1)—

''(A) are made in all geographical areas of the inland waterways system; and

''(B) ensure efficient funding of inland waterways projects.

''(4) STRATEGIC REVIEW AND UPDATE.—Not later than 5 years after the date of enactment of this subsection, and not less frequently than once every 5 years thereafter, the Secretary, in coordination with the Users Board, shall—

''(A) submit to Congress and make publicly available a strategic review of the 20-year program in effect under this subsection, which shall identify and explain any changes to the project-specific recommendations contained in the previous 20-year program (including any changes to the prioritization criteria used to develop the updated recommendations); and

''(B) make revisions to the program, as appropriate.

''(e) PROJECT MANAGEMENT PLANS.—The chairperson of the Users Board and the project development team member appointed by the chairperson under subsection (b)(3) may sign the project management plan for the qualifying project or the study or design of a commercial navigation feature or component of the inland waterways and inland harbors of the United States.

''(f) ADMINISTRATION.—

''(1) IN GENERAL.—The Users Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.), other than section 14, and, with the consent of the appropriate agency head, the Users Board may use the facilities and services of any Federal agency.

''(2) MEMBERS NOT CONSIDERED SPECIAL GOVERNMENT EMPLOYEES.—For the purposes of complying with the Federal Advisory Committee Act

(5 U.S.C. App.), the members of the Users Board shall not be considered special Government employees (as defined in section 202 of title 18, United States Code).

''(3) TRAVEL EXPENSES.—Non-Federal members of the Users Board while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.''.

SEC. 2003. EFFICIENCY OF REVENUE COLLECTION.

Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall prepare a report on the efficiency of collecting the fuel tax for the Inland Waterways Trust Fund, which shall include—

(1) an evaluation of whether current methods of collection of the fuel tax result in full compliance with requirements of the law;

(2) whether alternative methods of collection would result in increased revenues into the Inland Waterways Trust Fund; and

(3) an evaluation of alternative collection options.

SEC. 2004. INLAND WATERWAYS REVENUE STUDIES.

(a) INLAND WATERWAYS CONSTRUCTION BONDS STUDY.—

(1) STUDY.—The Secretary, in coordination with the heads of appropriate Federal agencies, shall conduct a study on the potential benefits and implications of authorizing the issuance of federally tax-exempt bonds secured against the available proceeds, including projected annual receipts, in the Inland Waterways Trust Fund established by section 9506(a) of the Internal Revenue Code of 1986.

(2) CONTENTS.—In carrying out the study, the Secretary shall examine the implications of issuing such bonds, including the potential revenues that could be generated and the projected net cost to the Treasury, including loss of potential revenue.

(3) CONSULTATION.—In carrying out the study, the Secretary, at a minimum, shall consult with—

(A) representatives of the Inland Waterway Users Board established by section 302 of the Water Resources Development Act of 1986 (33 U.S.C. 2251);

(B) representatives of the commodities and bulk cargos that are currently shipped for commercial purposes on the segments of the inland and intracoastal waterways listed in section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804);

(C) representatives of other users of locks and dams on the inland and intracoastal waterways, including persons owning, operating, using, or otherwise benefitting from—

(i) hydropower generation facilities;

(ii) electric utilities that rely on the waterways for cooling of existing electricity generation facilities;

(iii) municipal and industrial water supply;

(iv) recreation;

(v) irrigation water supply; or

(vi) flood damage reduction; and

(D) other stakeholders associated with the inland and intracoastal waterways, as identified by the Secretary.

(4) REPORT TO CONGRESS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works, the Committee on Finance, and the Committee on the Budget of the Senate and the Committee on Transportation and Infrastructure, the Committee on Ways and Means, and the Committee on the Budget of the House of Representatives, and make publicly available, a report on the results of the study.

(B) IDENTIFICATION OF ISSUES.—As part of the report, the Secretary shall identify any potential benefits or other implications of the issuance of bonds described in subsection (a)(1), including any potential changes in Federal or State law that may be necessary to provide such benefits or to address such implications.

(b) POTENTIAL REVENUE SOURCES FOR INLAND AND INTRACOASTAL WATERWAYS INFRASTRUCTURE.—

(1) IN GENERAL.—The Secretary shall conduct a study and submit to Congress a report on potential revenue sources from which funds could be collected to generate additional revenues for the Inland Waterways Trust Fund established by section 9506(a) of the Internal Revenue Code of 1986.

(2) SCOPE OF STUDY.—

(A) IN GENERAL.—In carrying out the study, the Secretary shall evaluate an array of potential revenue sources from which funds could be collected in amounts that, when combined with funds generated by section 4042 of the Internal Revenue Code of 1986, are sufficient to support one-half of annual construction expenditure levels of $380,000,000 for the authorized purposes of the Inland Waterways Trust Fund.

(B) POTENTIAL REVENUE SOURCES FOR STUDY.—In carrying out the study, the Secretary, at a minimum, shall—

(i) evaluate potential revenue sources identified in and documented by known authorities of the Inland Waterways System; and

(ii) review appropriate reports and associated literature related to revenue sources.

(3) CONDUCT OF STUDY.—In carrying out the study, the Secretary shall—

(A) take into consideration whether the potential revenues from other sources—

(i) are equitably associated with the construction, operation, and maintenance of inland and intracoastal waterway infrastructure, including locks, dams, and navigation channels; and

(ii) can be efficiently collected;

(B) consult with, at a minimum—

(i) representatives of the Inland Waterways Users Board; and

(ii) representatives of other nonnavigation beneficiaries of inland and intracoastal waterway infrastructure, including persons benefitting from—

(I) municipal water supply;

(II) hydropower;

(III) recreation;

(IV) industrial water supply;

(V) flood damage reduction;

(VI) agricultural water supply;

(VII) environmental restoration;

(VIII) local and regional economic development; or

(IX) local real estate interests; and

(iii) representatives of other interests, as identified by the Secretary; and

(C) provide the opportunity for public hearings in each of the geographic regions that contain segments of the inland and intracoastal waterways listed in section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804).

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works, the Committee on Finance, and the Committee on the Budget of the Senate and the Committee on Transportation and Infrastructure, the Committee on Ways and Means, and the Committee on the Budget of the House of Representatives, and make publicly available, a report on the results of the study.

SEC. 2005. INLAND WATERWAYS STAKEHOLDER ROUNDTABLE.

(a) IN GENERAL.—The Secretary shall conduct an inland waterways stakeholder roundtable to provide for a review and evaluation of issues related to financial management of the inland and intracoastal waterways.

(b) SELECTION OF PARTICIPANTS.—

(1) IN GENERAL.—Not later than 45 days after the date on which the Secretary submits to Congress the report required by section 2004(b), the Secretary, in consultation with the Inland Waterways Users Board, shall select individuals to be invited to participate in the stakeholder roundtable.

(2) COMPOSITION.—The individuals selected under paragraph (1) shall include—

(A) representatives of the primary users, shippers, and suppliers utilizing the inland and intracoastal waterways for commercial purposes;

(B) representatives of State and Federal agencies having a direct and substantial interest in the commercial use of the inland and intracoastal waterways;

(C) representatives of other nonnavigation beneficiaries of the inland and intracoastal waterways infrastructure, including individuals benefitting from—

(i) municipal water supply;

(ii) hydropower;

(iii) recreation;

(iv) industrial water supply;

(v) flood damage reduction;

(vi) agricultural water supply;

(vii) environmental restoration;

(viii) local and regional economic development; or

(ix) local real estate interests; and

(D) other interested individuals with significant financial and engineering expertise and direct knowledge of the inland and coastal waterways.

(c) FRAMEWORK AND AGENDA.—The Secretary shall work with a group of the individuals selected under subsection (b) to develop the framework and agenda for the stakeholder roundtable.

(d) CONDUCT OF STAKEHOLDER ROUNDTABLE.—

(1) IN GENERAL.—Not later than 120 days after the date on which the Secretary submits to Congress the report required by section 2004(b), the Secretary shall conduct the stakeholder roundtable.

(2) ISSUES TO BE DISCUSSED.—The stakeholder roundtable shall provide for the review and evaluation described in subsection (a) and shall include the following:

(A) An evaluation of any recommendations that have been developed to address funding options for the inland and coastal waterways, including any recommendations in the report required under section 2004(b).

(B) An evaluation of the funding status of the inland and coastal waterways.

(C) Identification and evaluation of the ongoing and projected water infrastructure needs of the inland and coastal waterways.

(D) Identification of a process for meeting such needs, with timeline for addressing the funding challenges for the Inland Waterways Trust Fund.

(e) REPORT TO CONGRESS.—Not later than 180 days after the date on which the Secretary submits to Congress the report required by section 2004(b), the Secretary shall submit to Congress and make publicly available a report that contains—

(1) a summary of the stakeholder roundtable, including areas of concurrence on funding approaches and areas of disagreement in meeting funding needs; and

(2) recommendations developed by the Secretary for next steps to address the issues discussed at the stakeholder roundtable.

SEC. 2006. PRESERVING THE INLAND WATERWAY TRUST FUND.

(a) OLMSTED PROJECT REFORM.—

(1) DEFINITION OF OLMSTED PROJECT.—In this subsection, the term ''Olmsted Project'' means the project for navigation, Lower Ohio River, Locks and Dams 52 and 53, Illinois and Kentucky, authorized by section 3(a)(6) of the Water Resources Development Act of 1988 (102 Stat. 4013).

(2) OLMSTED PROJECT REFORM.—Notwithstanding section 3(a)(6) of the Water Resources Development Act of 1988 (102 Stat. 4013), for each fiscal year beginning after September 30, 2014, 15 percent of the cost of construction for

the Olmsted Project shall be paid from amounts appropriated from the Inland Waterways Trust Fund.

(3) SENSE OF CONGRESS.—It is the sense of Congress that the appropriation for the Olmsted Project should be not less than $150,000,000 for each fiscal year until construction of the project is completed.

(4) REHABILITATION OF PROJECTS.—Section 205(1)(E)(ii) of the Water Resources Development Act of 1992 (33 U.S.C. 2327(1)(E)(ii)) is amended by striking ''$8,000,000'' and inserting ''$20,000,000''.

SEC. 2007. INLAND WATERWAYS OVERSIGHT.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report regarding the lessons learned from the experience of planning and constructing the Olmsted Project and how such lessons might apply to future inland waterway studies and projects.

(b) ANNUAL FINANCIAL REVIEW.—For any inland waterways project that the Secretary carries out that has an estimated total cost of $500,000,000 or more, the Secretary shall submit to the congressional committees referred to in subsection (a) an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of any future increases of the cost to complete the project.

(c) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—As soon as practicable after the date of enactment of this Act, the Comptroller General of the United States shall conduct, and submit to Congress a report describing the results of, a study to determine why, and to what extent, the project for navigation, Lower Ohio River, Locks and Dams 52 and 53, Illinois and Kentucky (commonly known as the ''Olmsted Locks and Dam project''), authorized by section 3(a)(6) of the Water Resources Development Act of 1988 (102 Stat. 4013), has exceeded the budget for the project and the reasons why the project failed to be completed as scheduled, including an assessment of—

(1) engineering methods used for the project;

(2) the management of the project;

(3) contracting for the project;

(4) the cost to the United States of benefits foregone due to project delays; and

(5) such other contributory factors as the Comptroller General determines to be appropriate.

SEC. 2008. ASSESSMENT OF OPERATION AND MAINTENANCE NEEDS OF THE ATLANTIC INTRACOASTAL WATERWAY AND THE GULF INTRACOASTAL WATERWAY.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall assess the operation and maintenance needs of the Atlantic Intracoastal Waterway and the Gulf Intracoastal Waterway.

(b) TYPES OF ACTIVITIES.—In carrying out subsection (a), the Secretary shall assess the operation and maintenance needs of the Atlantic Intracoastal Waterway and the Gulf Intracoastal Waterway as used for the following purposes:

(1) Commercial navigation.

(2) Commercial fishing.

(3) Subsistence, including utilization by Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) for subsistence and ceremonial purposes.

(4) Use as ingress and egress to harbors of refuge.

(5) Transportation of persons.

(6) Purposes relating to domestic energy production, including fabrication, servicing, and supply of domestic offshore energy production facilities.

(7) Activities of the Secretary of the department in which the Coast Guard is operating.

(8) Public health and safety related equipment for responding to coastal and inland emergencies.

(9) Recreation purposes.

(10) Any other authorized purpose.

(c) REPORT TO CONGRESS.—For fiscal year 2015, and biennially thereafter, in conjunction with the annual budget submission by the President to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report that, with respect to the Atlantic Intracoastal Waterway and the Gulf Intracoastal Waterway—

(1) identifies the operation and maintenance costs required to achieve the authorized length, width, and depth;

(2) identifies the amount of funding requested in the President's budget for operation and maintenance costs; and

(3) identifies the unmet operation and maintenance needs of the Atlantic Intracoastal Waterway and the Gulf Intracoastal Waterway.

SEC. 2009. INLAND WATERWAYS RIVERBANK STABILIZATION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and biennially thereafter, the Secretary shall conduct a study to determine the feasibility of—

(1) carrying out projects for the inland and intracoastal waterways for purposes of—

(A) flood damage reduction;

(B) emergency streambank and shoreline protection; and

(C) prevention and mitigation of shore damages attributable to navigation improvements; and

(2) modifying projects for the inland and intracoastal waterways for the purpose of improving the quality of the environment.

(b) RECOMMENDATIONS.—In conducting the study, the Secretary shall develop specific project recommendations and prioritize those recommendations based on—

(1) the extent of damage and land loss resulting from riverbank erosion;

(2) the rate of erosion;

(3) the significant threat of future flood risk to public property, public infrastructure, or public safety;

(4) the destruction of natural resources or habitats; and

(5) the potential cost savings for maintenance of the channel.

(c) DISPOSITION.—The Secretary may carry out any project identified in the study conducted pursuant to subsection (a) in accordance with the criteria for projects carried out under one of the following authorities:

(1) Section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r).

(2) Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(3) Section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i).

(4) Section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a).

(d) ANNUAL REPORT.—For a project recommended pursuant to the study that cannot be carried out under any of the authorities specified in subsection (c), upon a determination by the Secretary of the feasibility of the project, the Secretary may include a recommendation concerning the project in the annual report submitted to Congress under section 7001.

SEC. 2010. UPPER MISSISSIPPI RIVER PROTECTION.

(a) DEFINITION OF UPPER ST. ANTHONY FALLS LOCK AND DAM.—In this section, the term ''Upper St. Anthony Falls Lock and Dam'' means the lock and dam located on Mississippi River Mile 853.9 in Minneapolis, Minnesota.

(b) MANDATORY CLOSURE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall close the Upper St. Anthony Falls Lock and Dam.

(c) EMERGENCY OPERATIONS.—Nothing in this section prevents the Secretary from carrying out emergency lock operations necessary to mitigate flood damage.

SEC. 2011. CORPS OF ENGINEERS LOCK AND DAM ENERGY DEVELOPMENT.

Section 1117 of the Water Resources Development Act of 1986 (100 Stat. 4236) is amended to read as follows:

''SEC. 1117. W.D. MAYO LOCK AND DAM.

''(a) IN GENERAL.—The Cherokee Nation of Oklahoma may—

''(1) design and construct one or more hydroelectric generating facilities at the W.D. Mayo Lock and Dam on the Arkansas River, Oklahoma; and

''(2) market the electricity generated from any such facility.

''(b) PRECONSTRUCTION REQUIREMENTS.—

''(1) PERMITS.—Before the date on which construction of a hydroelectric generating facility begins under subsection (a), the Cherokee Nation shall obtain any permit required under Federal or State law, except that the Cherokee Nation shall be exempt from licensing requirements that may otherwise apply to construction, operation, or maintenance of the facility under the Federal Power Act (16 U.S.C. 791a et seq.).

''(2) REVIEW OF PLANS AND SPECIFICATIONS.—The Cherokee Nation may initiate the design or construction of a hydroelectric generating facility under subsection (a) only after the Secretary reviews and approves the plans and specifications for the design and construction.

''(c) PAYMENT OF DESIGN AND CONSTRUCTION COSTS.—

''(1) IN GENERAL.—The Secretary may accept funds offered by the Cherokee Nation and use such funds to carry out the design and construction of a hydroelectric generating facility under subsection (a).

''(2) ALLOCATION OF COSTS.—The Cherokee Nation shall—

''(A) bear all costs associated with the design and construction of a hydroelectric generating facility under subsection (a); and

''(B) provide any funds necessary for the design and construction to the Secretary prior to the Secretary initiating any activities related to the design and construction.

''(d) ASSUMPTION OF LIABILITY.—The Cherokee Nation shall—

''(1) hold all title to a hydroelectric generating facility constructed under subsection (a) and may, subject to the approval of the Secretary, assign such title to a third party;

''(2) be solely responsible for—

''(A) the operation, maintenance, repair, replacement, and rehabilitation of the facility; and

''(B) the marketing of the electricity generated by the facility; and

''(3) release and indemnify the United States from any claims, causes of action, or liabilities that may arise out of any activity undertaken to carry out this section.

''(e) ASSISTANCE AVAILABLE.—The Secretary may provide technical and construction management assistance requested by the Cherokee Nation relating to the design and construction of a hydroelectric generating facility under subsection (a).

''(f) THIRD PARTY AGREEMENTS.—The Cherokee Nation may enter into agreements with the Secretary or a third party that the Cherokee Nation or the Secretary determines are necessary to carry out this section.''.

SEC. 2012. RESTRICTED AREAS AT CORPS OF ENGINEERS DAMS.

Section 2 of the Freedom to Fish Act (127 Stat. 449) is amended—

(1) in subsection (b)(1) by striking ''2 years after the date of enactment of this Act'' and inserting ''4 years after the date of enactment of the Water Resources Reform and Development Act of 2014'';

(2) in the heading of subsection (c) by inserting ''OR MODIFIED'' after ''NEW''; and

(3) in subsection (c)—

(A) in matter preceding paragraph (1) by inserting ''new or modified'' after ''establishes any''; and

(B) in paragraph (3) by striking ''2 years after the date of enactment of this Act'' and inserting ''4 years after the date of enactment of the Water Resources Reform and Development Act of 2014''.

SEC. 2013. OPERATION AND MAINTENANCE OF FUEL TAXED INLAND WATERWAYS.

Section 102 of the Water Resources Development Act of 1986 (33 U.S.C. 2212) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) FLOODGATES ON THE INLAND WATERWAYS.—

''(1) OPERATION AND MAINTENANCE CARRIED OUT BY THE SECRETARY.—Notwithstanding any other provision of law, the Secretary shall be responsible for the operation and maintenance, including repair, of any flood gate, as well as any pumping station constructed within the channel as a single unit with that flood gate, that—

''(A) was constructed as of the date of enactment of the Water Resources Reform and Development Act of 2014 as a feature of an authorized hurricane and storm damage reduction project; and

''(B) crosses an inland or intracoastal waterway described in section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804).

''(2) NON-FEDERAL COST SHARE.—The non-Federal share of the cost of operation, maintenance, repair, rehabilitation, and replacement of any structure under this subsection shall be 35 percent.''.

Subtitle B—Port and Harbor Maintenance

SEC. 2101. FUNDING FOR HARBOR MAINTENANCE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) TOTAL AMOUNT OF HARBOR MAINTENANCE TAXES RECEIVED.—The term ''total amount of harbor maintenance taxes received'' means, with respect to a fiscal year, the aggregate of amounts appropriated, transferred, or credited to the Harbor Maintenance Trust Fund under section 9505(a) of the Internal Revenue Code of 1986 for that fiscal year as set forth in the current year estimate provided in the President's budget request for the subsequent fiscal year, submitted pursuant to section 1105 of title 31, United States Code.

(2) TOTAL BUDGET RESOURCES.—The term ''total budget resources'' means the total amount made available by appropriations Acts from the Harbor Maintenance Trust Fund for a fiscal year for making expenditures under section 9505(c) of the Internal Revenue Code of 1986.

(b) TARGET APPROPRIATIONS.—

(1) IN GENERAL.—The target total budget resources made available to the Secretary from the Harbor Maintenance Trust Fund for a fiscal year shall be not less than the following:

(A) For fiscal year 2015, 67 percent of the total amount of harbor maintenance taxes received in fiscal year 2014.

(B) For fiscal year 2016, 69 percent of the total amount of harbor maintenance taxes received in fiscal year 2015.

(C) For fiscal year 2017, 71 percent of the total amount of harbor maintenance taxes received in fiscal year 2016.

(D) For fiscal year 2018, 74 percent of the total amount of harbor maintenance taxes received in fiscal year 2017.

(E) For fiscal year 2019, 77 percent of the total amount of harbor maintenance taxes received in fiscal year 2018.

(F) For fiscal year 2020, 80 percent of the total amount of harbor maintenance taxes received in fiscal year 2019.

(G) For fiscal year 2021, 83 percent of the total amount of harbor maintenance taxes received in fiscal year 2020.

(H) For fiscal year 2022, 87 percent of the total amount of harbor maintenance taxes received in fiscal year 2021.

(I) For fiscal year 2023, 91 percent of the total amount of harbor maintenance taxes received in fiscal year 2022.

(J) For fiscal year 2024, 95 percent of the total amount of harbor maintenance taxes received in fiscal year 2023.

(K) For fiscal year 2025, and each fiscal year thereafter, 100 percent of the total amount of harbor maintenance taxes received in the previous fiscal year.

(2) USE OF AMOUNTS.—The total budget resources described in paragraph (1) may be used only for making expenditures under section 9505(c) of the Internal Revenue Code of 1986.

(c) IMPACT ON OTHER FUNDS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that any increase in funding for harbor maintenance programs under this section shall result from an overall increase in appropriations for the civil works program of the Corps of Engineers and not from reductions in the appropriations for other programs, projects, and activities carried out by the Corps of Engineers for other authorized purposes.

(2) APPLICATION.—The target total budget resources for a fiscal year specified in subsection (b)(1) shall only apply in a fiscal year for which the level of appropriations provided for the civil works program of the Corps of Engineers in that fiscal year is increased, as compared to the previous fiscal year, by a dollar amount that is at least equivalent to the dollar amount necessary to address such target total budget resources in that fiscal year.

SEC. 2102. OPERATION AND MAINTENANCE OF HARBOR PROJECTS.

(a) IN GENERAL.—Section 210 of the Water Resources Development Act of 1986 (33 U.S.C. 2238) is amended by adding at the end the following:

''(c) OPERATION AND MAINTENANCE OF HARBOR PROJECTS.—

''(1) IN GENERAL.—To the maximum extent practicable, the Secretary shall make expenditures to pay for operation and maintenance costs of the harbors and inland harbors referred to in subsection (a)(2), including expenditures of funds appropriated from the Harbor Maintenance Trust Fund, based on an equitable allocation of funds among all such harbors and inland harbors.

''(2) CRITERIA.—

''(A) IN GENERAL.—In determining an equitable allocation of funds under paragraph (1), the Secretary shall—

''(i) consider the information obtained in the assessment conducted under subsection (e);

''(ii) consider the national and regional significance of harbor operations and maintenance; and

''(iii) as appropriate, consider national security and military readiness needs.

''(B) LIMITATION.—The Secretary shall not allocate funds under paragraph (1) based solely on the tonnage transiting through a harbor.

''(3) EMERGING HARBOR PROJECTS.—Notwithstanding any other provision of this subsection, in making expenditures under paragraph (1) for each of fiscal years 2015 through 2022, the Secretary shall allocate for operation and maintenance costs of emerging harbor projects an amount that is not less than 10 percent of the funds made available under this section for fiscal year 2012 to pay the costs described in subsection (a)(2).

''(4) MANAGEMENT OF GREAT LAKES NAVIGATION SYSTEM.—To sustain effective and efficient operation and maintenance of the Great Lakes Navigation System, including any navigation feature in the Great Lakes that is a Federal responsibility with respect to operation and maintenance, the Secretary shall manage all of the individually authorized projects in the Great Lakes Navigation System as components of a single, comprehensive system, recognizing the interdependence of the projects.

''(d) PRIORITIZATION.—

''(1) PRIORITY.—

''(A) IN GENERAL.—For each of fiscal years 2015 through 2024, if priority funds are available, the Secretary shall use the priority funds as follows:

''(i) 90 percent of the priority funds shall be used for high- and moderate-use harbor projects.

''(ii) 10 percent of the priority funds shall be used for emerging harbor projects.

''(B) ADDITIONAL CONSIDERATIONS.—For each of fiscal years 2015 through 2024, of the priority funds available, the Secretary shall use—

''(i) not less than 5 percent of such funds for underserved harbor projects; and

''(ii) not less than 10 percent of such funds for projects that are located within the Great Lakes Navigation System.

''(C) UNDERSERVED HARBORS.—In determining which underserved harbor projects shall receive funds under this paragraph, the Secretary shall consider—

''(i) the total quantity of commerce supported by the water body on which the project is located; and

''(ii) the minimum width and depth that—

''(I) would be necessary at the underserved harbor project to provide sufficient clearance for fully loaded commercial vessels using the underserved harbor project to maneuver safely; and

''(II) does not exceed the constructed width and depth of the authorized navigation project.

''(2) EXPANDED USES.—

''(A) DEFINITION OF ELIGIBLE HARBOR OR INLAND HARBOR DEFINED.—In this paragraph, the term 'eligible harbor or inland harbor' means a harbor or inland harbor at which the total amount of harbor maintenance taxes collected in the immediately preceding 3 fiscal years exceeds the value of the work carried out for the harbor or inland harbor using amounts from the Harbor Maintenance Trust Fund during those 3 fiscal years.

''(B) USE OF EXPANDED USES FUNDS.—

''(i) FISCAL YEARS 2015 THROUGH 2024.—For each of fiscal years 2015 through 2024, of the priority funds available, the Secretary shall use not less than 10 percent of such funds for expanded uses carried out at an eligible harbor or inland harbor.

''(ii) SUBSEQUENT FISCAL YEARS.—For fiscal year 2025 and each fiscal year thereafter, the Secretary shall use not less than 10 percent of the priority funds available for expanded uses carried out at an eligible harbor or inland harbor.

''(C) PRIORITIZATION.—In allocating funds under this paragraph, the Secretary shall give priority to projects at eligible harbors or inland harbors for which the difference, calculated in dollars, is greatest between—

''(i) the total amount of funding made available for projects at that eligible harbor or inland harbor from the Harbor Maintenance Trust Fund in the immediately preceding 3 fiscal years; and

''(ii) the total amount of harbor maintenance taxes collected at that harbor or inland harbor in the immediately preceding 3 fiscal years.

''(3) REMAINING FUNDS.—

''(A) IN GENERAL.—For each of fiscal years 2015 through 2024, if after fully funding all projects eligible for funding under paragraphs (1)(B) and (2)(B)(i), priority funds made available under those paragraphs remain unobligated, the Secretary shall use those remaining funds to pay for operation and maintenance costs of any harbor or inland harbor referred to

in subsection (a)(2) based on an equitable allocation of those funds among the harbors and inland harbors.

''(B) CRITERIA.—In determining an equitable allocation of funds under subparagraph (A), the Secretary shall—

''(i) use the criteria specified in subsection (c)(2)(A); and

''(ii) make amounts available in accordance with the requirements of paragraph (1)(A).

''(4) EMERGENCY EXPENDITURES.—Nothing in this subsection prohibits the Secretary from making an expenditure to pay for the operation and maintenance costs of a specific harbor or inland harbor, including the transfer of funding from the operation and maintenance of a separate project, if—

''(A) the Secretary determines that the action is necessary to address the navigation needs of a harbor or inland harbor where safe navigation has been severely restricted due to an unforeseen event; and

''(B) the Secretary provides within 90 days of the action notice and information on the need for the action to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

''(e) ASSESSMENT OF HARBORS AND INLAND HARBORS.—

''(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, and biennially thereafter, the Secretary shall assess the operation and maintenance needs and uses of the harbors and inland harbors referred to in subsection (a)(2).

''(2) ASSESSMENT OF HARBOR NEEDS AND ACTIVITIES.—

''(A) TOTAL OPERATION AND MAINTENANCE NEEDS OF HARBORS.—In carrying out paragraph (1), the Secretary shall identify—

''(i) the total future costs required to achieve and maintain the constructed width and depth for the harbors and inland harbors referred to in subsection (a)(2); and

''(ii) the total expected costs for expanded uses at eligible harbors or inland harbors referred to in subsection (d)(2).

''(B) USES OF HARBORS AND INLAND HARBORS.—In carrying out paragraph (1), the Secretary shall identify current uses (and, to the extent practicable, assess the national, regional, and local benefits of such uses) of harbors and inland harbors referred to in subsection (a)(2), including the use of those harbors for—

''(i) commercial navigation, including the movement of goods;

''(ii) domestic trade;

''(iii) international trade;

''(iv) commercial fishing;

''(v) subsistence, including use by Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) for subsistence and ceremonial purposes;

''(vi) use as a harbor of refuge;

''(vii) transportation of persons;

''(viii) purposes relating to domestic energy production, including the fabrication, servicing, or supply of domestic offshore energy production facilities;

''(ix) activities of the Secretary of the department in which the Coast Guard is operating;

''(x) activities of the Secretary of the Navy;

''(xi) public health and safety related equipment for responding to coastal and inland emergencies;

''(xii) recreation purposes; and

''(xiii) other authorized purposes.

''(3) REPORT TO CONGRESS.—

''(A) IN GENERAL.—For fiscal year 2016, and biennially thereafter, in conjunction with the President's annual budget submission to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that, with respect to harbors and inland harbors referred to in subsection (a)(2)—

''(i) identifies the operation and maintenance costs associated with the harbors and inland harbors, including those costs required to achieve and maintain the constructed width and depth for the harbors and inland harbors and the costs for expanded uses at eligible harbors and inland harbors, on a project-by-project basis;

''(ii) identifies the amount of funding requested in the President's budget for the operation and maintenance costs associated with the harbors and inland harbors, on a project-by-project basis;

''(iii) identifies the unmet operation and maintenance needs associated with the harbors and inland harbors, on a project-by-project basis; and

''(iv) identifies the harbors and inland harbors for which the President will allocate funding over the subsequent 5 fiscal years for operation and maintenance activities, on a project-by-project basis, including the amounts to be allocated for such purposes.

''(B) PUBLIC AVAILABILITY.—The Secretary shall make the report submitted under subparagraph (A) available to the public, including on the Internet.

''(f) DEFINITIONS.—In this section:

''(1) CONSTRUCTED WIDTH AND DEPTH.—The term 'constructed width and depth' means the width and depth to which a project has been constructed, which may not exceed the authorized width and depth of the project.

''(2) EMERGING HARBOR PROJECT.—The term 'emerging harbor project' means a project that is assigned to a harbor or inland harbor referred to in subsection (a)(2) that transits less than 1,000,000 tons of cargo annually.

''(3) EXPANDED USES.—The term 'expanded uses' means the following activities:

''(A) The maintenance dredging of a berth in a harbor that is accessible to a Federal navigation project and that benefits commercial navigation at the harbor.

''(B) The maintenance dredging and disposal of legacy-contaminated sediment, and sediment unsuitable for open water disposal, if—

''(i) such dredging and disposal benefits commercial navigation at the harbor; and

''(ii) such sediment is located in and affects the maintenance of a Federal navigation project or is located in a berth that is accessible to a Federal navigation project.

''(4) GREAT LAKES NAVIGATION SYSTEM.—The term 'Great Lakes Navigation System' includes—

''(A)(i) Lake Superior;

''(ii) Lake Huron;

''(iii) Lake Michigan;

''(iv) Lake Erie; and

''(v) Lake Ontario;

''(B) all connecting waters between the lakes referred to in subparagraph (A) used for commercial navigation;

''(C) any navigation features in the lakes referred to in subparagraph (A) or waters described in subparagraph (B) that are a Federal operation or maintenance responsibility; and

''(D) areas of the Saint Lawrence River that are operated or maintained by the Federal Government for commercial navigation.

''(5) HARBOR MAINTENANCE TAX.—The term 'harbor maintenance tax' means the amounts collected under section 4461 of the Internal Revenue Code of 1986.

''(6) HIGH-USE HARBOR PROJECT.—The term 'high-use harbor project' means a project that is assigned to a harbor or inland harbor referred to in subsection (a)(2) that transits not less than 10,000,000 tons of cargo annually.

''(7) MODERATE-USE HARBOR PROJECT.—The term 'moderate-use harbor project' means a project that is assigned to a harbor or inland harbor referred to in subsection (a)(2) that transits annually—

''(A) more than 1,000,000 tons of cargo; but

''(B) less than 10,000,000 tons of cargo.

''(8) PRIORITY FUNDS.—The term 'priority funds' means the difference between—

''(A) the total funds that are made available under this section to pay the costs described in subsection (a)(2) for a fiscal year; and

''(B) the total funds made available under this section to pay the costs described in subsection (a)(2) in fiscal year 2012.

''(9) UNDERSERVED HARBOR PROJECT.—

''(A) IN GENERAL.—The term 'underserved harbor project' means a project that is assigned to a harbor or inland harbor referred to in subsection (a)(2)—

''(i) that is a moderate-use harbor project or an emerging harbor project;

''(ii) that has been maintained at less than the constructed width and depth of the project during each of the preceding 6 fiscal years; and

''(iii) for which State and local investments in infrastructure have been made at those projects during the preceding 6 fiscal years.

''(B) ADMINISTRATION.—For purposes of this paragraph, State and local investments in infrastructure shall include infrastructure investments made using amounts made available for activities under section 105(a)(9) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(9)).''.

(b) OPERATION AND MAINTENANCE.—Section 101(b)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(b)(1)) is amended by striking ''45 feet'' and inserting ''50 feet''.

(c) CONFORMING AMENDMENT.—Section 9505(c)(1) of the Internal Revenue Code of 1986 is amended by striking ''(as in effect on the date of the enactment of the Water Resources Development Act of 1996)''.

SEC. 2103. CONSOLIDATION OF DEEP DRAFT NAVIGATION EXPERTISE.

Section 2033(e) of the Water Resources Development Act of 2007 (33 U.S.C. 2282a(e)) is amended by adding at the end the following:

''(3) DEEP DRAFT NAVIGATION PLANNING CENTER OF EXPERTISE.—

''(A) IN GENERAL.—The Secretary shall consolidate deep draft navigation expertise within the Corps of Engineers into a deep draft navigation planning center of expertise.

''(B) LIST.—Not later than 60 days after the date of the consolidation required under subparagraph (A), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a list of the grade levels and expertise of each of the personnel assigned to the center described in subparagraph (A).''.

SEC. 2104. REMOTE AND SUBSISTENCE HARBORS.

Section 2006 of the Water Resources Development Act of 2007 (33 U.S.C. 2242) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B) by inserting ''or Alaska'' after ''Hawaii''; and

(B) in paragraph (2)—

(i) by striking ''community'' and inserting ''region''; and

(ii) by inserting '', as determined by the Secretary, including consideration of information provided by the non-Federal interest'' after ''improvement''; and

(2) by adding at the end the following:

''(c) PRIORITIZATION.—Projects recommended by the Secretary under subsection (a) shall be given equivalent budget consideration and priority as projects recommended solely by national economic development benefits.

''(d) DISPOSITION.—

''(1) IN GENERAL.—The Secretary may carry out any project identified in the study carried out pursuant to subsection (a) in accordance with the criteria for projects carried out under the authority of the Secretary under section 107

of the River and Harbor Act of 1960 (33 U.S.C. 577).

''(2) NON-FEDERAL INTERESTS.—In evaluating and implementing a project under this section, the Secretary shall allow a non-Federal interest to participate in the financing of a project in accordance with the criteria established for flood control projects under section 903(c) of the Water Resources Development Act of 1986 (Public Law 99–662; 100 Stat. 4184).

''(e) ANNUAL REPORT.—For a project that cannot be carried out under the authority specified in subsection (d), on a determination by the Secretary of the feasibility of the project under subsection (a), the Secretary may include a recommendation concerning the project in the annual report submitted to Congress under section 7001.''.

SEC. 2105. ARCTIC DEEP DRAFT PORT DEVELOPMENT PARTNERSHIPS.

(a) IN GENERAL.—The Secretary may provide technical assistance to non-Federal public entities, including Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), for the development, construction, operation, and maintenance of channels, harbors, and related infrastructure associated with deep draft ports for purposes of dealing with Arctic development and security needs.

(b) ACCEPTANCE OF FUNDS.—The Secretary is authorized to accept and expend funds provided by non-Federal public entities, including Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), to carry out the technical assistance activities described in subsection (a).

(c) LIMITATION.—No assistance may be provided under this section until after the date on which the entity to which that assistance is to be provided enters into a written agreement with the Secretary that includes such terms and conditions as the Secretary determines to be appropriate and in the public interest.

(d) PRIORITIZATION.—The Secretary shall prioritize technical assistance provided under this section for Arctic deep draft ports identified by the Secretary, the Secretary of Homeland Security, and the Secretary of Defense as important for Arctic development and security.

SEC. 2106. ADDITIONAL MEASURES AT DONOR PORTS AND ENERGY TRANSFER PORTS.

(a) DEFINITIONS.—In this section:

(1) CARGO CONTAINER.—The term ''cargo container'' means a cargo container that is 1 Twenty-foot Equivalent Unit.

(2) DONOR PORT.—The term ''donor port'' means a port—

(A) that is subject to the harbor maintenance fee under section 24.24 of title 19, Code of Federal Regulations (or a successor regulation);

(B) at which the total amount of harbor maintenance taxes collected comprise not less than $15,000,000 annually of the total funding of the Harbor Maintenance Trust Fund established under section 9505 of the Internal Revenue Code of 1986;

(C) that received less than 25 percent of the total amount of harbor maintenance taxes collected at that port in the previous 5 fiscal years; and

(D) that is located in a State in which more than 2,000,000 cargo containers were unloaded from or loaded on to vessels in fiscal year 2012.

(3) ENERGY COMMODITY.—The term ''energy commodity'' includes—

(A) petroleum products;

(B) natural gas;

(C) coal;

(D) wind and solar energy components; and

(E) biofuels.

(4) ENERGY TRANSFER PORT.—The term ''energy transfer port'' means a port—

(A) that is subject to the harbor maintenance fee under section 24.24 of title 19, Code of Federal Regulation (or any successor regulation); and

(B)(i) at which energy commodities comprised greater than 25 percent of all commercial activity by tonnage in fiscal year 2012; and

(ii) through which more than 40,000,000 tons of cargo were transported in fiscal year 2012.

(5) EXPANDED USES.—The term ''expanded uses'' has the meaning given the term in section 210(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(f)).

(6) HARBOR MAINTENANCE TAX.—The term ''harbor maintenance tax'' has the meaning given the term in section 210(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(f)).

(b) AUTHORITY.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary may provide to donor ports and energy transfer ports amounts in accordance with this section.

(2) LIMITATIONS.—Amounts provided under this section—

(A) for energy transfer ports shall be divided equally among all States with an energy transfer port; and

(B) shall be made available to a port as either a donor port or an energy transfer port and no port may receive amounts as both a donor port and an energy transfer port.

(c) USE OF FUNDS.—Amounts provided under this section may be used by a donor port or an energy transfer port—

(1) to provide payments to importers entering cargo or shippers transporting cargo through that port, as calculated by U.S. Customs and Border Protection according to the amount of harbor maintenance taxes collected;

(2) for expanded uses; or

(3) for environmental remediation related to dredging berths and Federal navigation channels.

(d) ADMINISTRATION OF PAYMENTS.—If a donor port or an energy transfer port elects to provide payments to importers or shippers under subsection (c), the Secretary shall transfer the amount that would otherwise be provided to the port under this section that is equal to those payments to the Commissioner of U.S. Customs and Border Protection to provide the payments to the importers or shippers.

(e) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall assess the impact of the authority provided by this section and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report on the results of that assessment, including any recommendations for amending or reauthorizing the authority.

(2) FACTORS.—In carrying out the assessment under paragraph (1), the Secretary shall assess—

(A) the impact of the amounts provided and used under this section on those ports that received funds under this section; and

(B) any impact on domestic harbors and ports that did not receive funds under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2015 through 2018.

(2) DIVISION BETWEEN DONOR PORTS AND ENERGY TRANSFER PORTS.—For each fiscal year, amounts made available to carry out this section shall be provided in equal amounts to donor ports and energy transfer ports.

(3) ADDITIONAL APPROPRIATIONS.—If the target total budget resources under subparagraphs (A) through (D) of section 2101(b)(1) are met for each of fiscal years 2015 through 2018, there is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2019 through 2022.

SEC. 2107. PRESERVING UNITED STATES HARBORS.

(a) IN GENERAL.—Upon a request from a non-Federal interest, the Secretary shall review a report developed by the non-Federal interest that provides an economic justification for Federal investment in the operation and maintenance of a federally authorized harbor or inland harbor (referred to in this section as a ''federally authorized harbor'').

(b) JUSTIFICATION OF INVESTMENT.—A report submitted under subsection (a) may provide for an economic justification of Federal investment in the operation and maintenance of a federally authorized harbor based on—

(1) the projected economic benefits, including transportation savings and job creation; and

(2) other factors, including navigation safety, national security, and sustainability of subsistence harbors.

(c) WRITTEN RESPONSE.—Not later than 180 days after the date on which the Secretary receives a report under subsection (a), the Secretary shall provide to the non-Federal interest a written response to the report, including an assessment of the information provided by the non-Federal interest.

(d) PRIORITIZATION.—As the Secretary determines to be appropriate, the Secretary may use the information provided in the report under subsection (a) to justify additional operation and maintenance funding for a federally authorized harbor in accordance with section 101(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(b)).

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to preclude the operation and maintenance of a federally authorized harbor under section 101(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(b)).

TITLE III—SAFETY IMPROVEMENTS AND ADDRESSING EXTREME WEATHER EVENTS

Subtitle A—Dam Safety

SEC. 3001. DAM SAFETY.

(a) ADMINISTRATOR.—

(1) IN GENERAL.—The National Dam Safety Program Act (33 U.S.C. 467 et seq.) is amended by striking ''Director'' each place it appears and inserting ''Administrator''.

(2) CONFORMING AMENDMENT.—Section 2 of the National Dam Safety Program Act (33 U.S.C. 467) is amended—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(C) by inserting before paragraph (2) (as redesignated by subparagraph (B)) the following:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.''.

(b) INSPECTION OF DAMS.—Section 3(b)(1) of the National Dam Safety Program Act (33 U.S.C. 467a(b)(1)) is amended by striking ''or maintenance'' and inserting ''maintenance, condition, or provisions for emergency operations''.

(c) NATIONAL DAM SAFETY PROGRAM.—

(1) OBJECTIVES.—Section 8(c) of the National Dam Safety Program Act (33 U.S.C. 467f(c)) is amended by striking paragraph (4) and inserting the following:

''(4) develop and implement a comprehensive dam safety hazard education and public awareness initiative to assist the public in preparing for, mitigating, responding to, and recovering from dam incidents;''.

(2) BOARD.—Section 8(f)(4) of the National Dam Safety Program Act (33 U.S.C. 467f(f)(4)) is amended by inserting '', representatives from nongovernmental organizations,'' after ''State agencies''.

(d) PUBLIC AWARENESS AND OUTREACH FOR DAM SAFETY.—The National Dam Safety Program Act (33 U.S.C. 467 et seq.) is amended—

(1) by redesignating sections 11, 12, and 13 as sections 12, 13, and 14, respectively; and

(2) by inserting after section 10 (33 U.S.C. 467g–1) the following:

''SEC. 11. PUBLIC AWARENESS AND OUTREACH FOR DAM SAFETY.

''The Administrator, in consultation with other Federal agencies, State and local governments, dam owners, the emergency management

community, the private sector, nongovernmental organizations and associations, institutions of higher education, and any other appropriate entities shall, subject to the availability of appropriations, carry out a nationwide public awareness and outreach initiative to assist the public in preparing for, mitigating, responding to, and recovering from dam incidents.''.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) NATIONAL DAM SAFETY PROGRAM.—

(A) ANNUAL AMOUNTS.—Section 14(a)(1) of the National Dam Safety Program Act (33 U.S.C. 467j(a)(1)) (as so redesignated) is amended by striking ''$6,500,000'' and all that follows through ''2011'' and inserting ''$9,200,000 for each of fiscal years 2015 through 2019''.

(B) MAXIMUM AMOUNT OF ALLOCATION.—Section 14(a)(2)(B) of the National Dam Safety Program Act (33 U.S.C. 467j(a)(2)(B)) (as so redesignated) is amended—

(i) by striking ''The amount'' and inserting the following:

''(i) IN GENERAL.—The amount''; and

(ii) by adding at the end the following:

''(ii) FISCAL YEAR 2015 AND SUBSEQUENT FISCAL YEARS.—For fiscal year 2015 and each subsequent fiscal year, the amount of funds allocated to a State under this paragraph may not exceed the amount of funds committed by the State to implement dam safety activities.''.

(2) NATIONAL DAM INVENTORY.—Section 14(b) of the National Dam Safety Program Act (33 U.S.C. 467j(b)) (as so redesignated) is amended by striking ''$650,000'' and all that follows through ''2011'' and inserting ''$500,000 for each of fiscal years 2015 through 2019''.

(3) PUBLIC AWARENESS.—Section 14 of the National Dam Safety Program Act (33 U.S.C. 467j) (as so redesignated) is amended—

(A) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(B) by inserting after subsection (b) the following:

''(c) PUBLIC AWARENESS.—There is authorized to be appropriated to carry out section 11 $1,000,000 for each of fiscal years 2015 through 2019.''.

(4) RESEARCH.—Section 14(d) of the National Dam Safety Program Act (as so redesignated) is amended by striking ''$1,600,000'' and all that follows through ''2011'' and inserting ''$1,450,000 for each of fiscal years 2015 through 2019''.

(5) DAM SAFETY TRAINING.—Section 14(e) of the National Dam Safety Program Act (as so redesignated) is amended by striking ''$550,000'' and all that follows through ''2011'' and inserting ''$750,000 for each of fiscal years 2015 through 2019''.

(6) STAFF.—Section 14(f) of the National Dam Safety Program Act (as so redesignated) is amended by striking ''$700,000'' and all that follows through ''2011'' and inserting ''$1,000,000 for each of fiscal years 2015 through 2019''.

(f) TECHNICAL AMENDMENT.—Section 14 (a)(1) of the National Dam Safety Program Act (33 U.S.C. 467j(a)(1)) (as so redesignated) is amended by striking ''sections 7, 8, and 11'' and inserting ''sections 7, 8, and 12''.

Subtitle B—Levee Safety

SEC. 3011. SYSTEMWIDE IMPROVEMENT FRAMEWORK.

A levee system shall remain eligible for rehabilitation assistance under the authority provided by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n) as long as the levee system sponsor continues to make satisfactory progress, as determined by the Secretary, on an approved systemwide improvement framework or letter of intent.

SEC. 3012. MANAGEMENT OF FLOOD RISK REDUCTION PROJECTS.

(a) IN GENERAL.—If 2 or more flood control projects are located within the same geographic area, the Secretary shall, at the request of the non-Federal interests for the affected projects, consider those projects as a single program for budgetary or project management purposes, if the Secretary determines that doing so would not be incompatible with the authorized project purposes.

(b) COST SHARE.—

(1) IN GENERAL.—If any work on a project to which subsection (a) applies is required solely because of impacts to that project from a navigation project, the cost of carrying out that work shall be shared in accordance with the cost-sharing requirements for the navigation project.

(2) USE OF AMOUNTS.—Work described in paragraph (1) may be carried out using amounts made available under subsection (a).

SEC. 3013. VEGETATION MANAGEMENT POLICY.

(a) DEFINITION OF GUIDELINES.—In this section, the term ''guidelines'' means the Corps of Engineers policy guidelines for management of vegetation on levees, including—

(1) Engineering Technical Letter 1110–2–571 entitled ''Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures'' and adopted April 10, 2009; and

(2) the draft policy guidance letter entitled ''Process for Requesting a Variance from Vegetation Standards for Levees and Floodwalls'' (77 Fed. Reg. 9637 (Feb. 17, 2012)).

(b) REVIEW.—The Secretary shall carry out a comprehensive review of the guidelines in order to determine whether current Federal policy relating to levee vegetation is appropriate for all regions of the United States.

(c) FACTORS.—

(1) IN GENERAL.—In carrying out the review, the Secretary shall consider—

(A) the varied interests and responsibilities in managing flood risks, including the need—

(i) to provide the greatest benefits for public safety with limited resources; and

(ii) to ensure that levee safety investments minimize environmental impacts and provide corresponding public safety benefits;

(B) the levee safety benefits that can be provided by woody vegetation;

(C) the preservation, protection, and enhancement of natural resources, including—

(i) the benefit of vegetation on levees in providing habitat for species of concern, including endangered, threatened, and candidate species; and

(ii) the impact of removing levee vegetation on compliance with other regulatory requirements;

(D) protecting the rights of Indian tribes pursuant to treaties and statutes;

(E) determining how vegetation impacts the performance of a levee or levee system during a storm or flood event;

(F) the available science and the historical record regarding the link between vegetation on levees and flood risk;

(G) the avoidance of actions requiring significant economic costs and environmental impacts; and

(H) other factors relating to the factors described in subparagraphs (A) through (F) identified in public comments that the Secretary determines to be appropriate.

(2) VARIANCE CONSIDERATIONS.—

(A) IN GENERAL.—In carrying out the review, the Secretary shall specifically consider factors that promote and allow for consideration of variances from guidelines on a Statewide, tribal, regional, or watershed basis, including variances based on—

(i) regional or watershed soil conditions;

(ii) hydrologic factors;

(iii) vegetation patterns and characteristics;

(iv) environmental resources, including endangered, threatened, or candidate species and related regulatory requirements;

(v) levee performance history, including historical information on original construction and subsequent operation and maintenance activities;

(vi) any effects on water supply;

(vii) any scientific evidence on the link between levee vegetation and levee safety;

(viii) institutional considerations, including implementation challenges and conflicts with or violations of Federal or State environmental laws;

(ix) the availability of limited funds for levee construction and rehabilitation;

(x) the economic and environmental costs of removing woody vegetation on levees; and

(xi) other relevant factors identified in public comments that the Secretary determines to be appropriate.

(B) SCOPE.—The scope of a variance approved by the Secretary may include a complete exemption to guidelines, if appropriate.

(d) COOPERATION AND CONSULTATION; RECOMMENDATIONS.—

(1) IN GENERAL.—The Secretary shall carry out the review under this section in consultation with other applicable Federal agencies, representatives of State, regional, local, and tribal governments, appropriate nongovernmental organizations, and the public.

(2) RECOMMENDATIONS.—

(A) REGIONAL INTEGRATION TEAMS.—Corps of Engineers Regional Integration Teams, representing districts, divisions, and headquarters, in consultation with State and Federal resource agencies, and with participation by local agencies, shall submit to the Secretary any recommendations for vegetation management policies for levees that conform with Federal and State laws and other applicable requirements, including recommendations relating to the review of guidelines under subsection (b) and the consideration of variances under subsection (c)(2).

(B) STATE, TRIBAL, REGIONAL, AND LOCAL ENTITIES.—The Secretary shall consider and accept recommendations from any State, tribal, regional, or local entity for vegetation management policies for levees that conform with Federal and State laws and other applicable requirements, including recommendations relating to the review of guidelines under subsection (b) and the consideration of variances under subsection (c)(2).

(e) INDEPENDENT CONSULTATION.—

(1) IN GENERAL.—As part of the review, the Secretary shall solicit and consider the views of independent experts on the engineering, environmental, and institutional considerations underlying the guidelines, including the factors described in subsection (c) and any information obtained by the Secretary under subsection (d).

(2) AVAILABILITY OF VIEWS.—The views of the independent experts obtained under paragraph (1) shall be—

(A) made available to the public; and

(B) included in supporting materials issued in connection with the revised guidelines required under subsection (f).

(f) REVISION OF GUIDELINES.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(A) revise the guidelines based on the results of the review, including—

(i) recommendations received as part of the consultation described in subsection (d)(1); and

(ii) the views received under subsection (e);

(B) provide the public not less than 30 days to review and comment on draft guidelines before issuing final guidelines; and

(C) submit to Congress and make publicly available a report that contains a summary of the activities of the Secretary and a description of the findings of the Secretary under this section.

(2) CONTENT; INCORPORATION INTO MANUAL.—The revised guidelines shall—

(A) provide a practical, flexible process for approving Statewide, tribal, regional, or watershed variances from the guidelines that—

(i) reflect due consideration of the factors described in subsection (c); and

(ii) incorporate State, tribal, and regional vegetation management guidelines for specific areas that—

(I) are consistent with the guidelines; and

(II) have been adopted through a formal public process; and

(B) be incorporated into the manual proposed under section 5(c) of the Act of August 18, 1941 (33 U.S.C. 701n(c)).

(3) FAILURE TO MEET DEADLINES.—If the Secretary fails to submit a report by the required deadline under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a detailed explanation of—

(A) why the deadline was missed;

(B) solutions needed to meet the deadline; and

(C) a projected date for submission of the report.

(g) INTERIM ACTIONS.—

(1) IN GENERAL.—Until the date on which revisions to the guidelines are adopted in accordance with subsection (f), the Secretary shall not require the removal of existing vegetation as a condition or requirement for any approval or funding of a project, or any other action, unless the specific vegetation has been demonstrated to present an unacceptable safety risk.

(2) REVISIONS.—Beginning on the date on which the revisions to the guidelines are adopted in accordance with subsection (f), the Secretary shall reconsider, on request of an affected entity, any previous action of the Corps of Engineers in which the outcome was affected by the former guidelines.

SEC. 3014. LEVEE CERTIFICATIONS.

(a) IMPLEMENTATION OF FLOOD PROTECTION STRUCTURE ACCREDITATION TASK FORCE.—In carrying out section 100226 of Public Law 112–141 (42 U.S.C. 4101 note; 126 Stat. 942), the Secretary shall—

(1) ensure that at least 1 program activity carried out under the inspection of completed works program of the Corps of Engineers provides adequate information to the Secretary to reach a levee accreditation decision under section 65.10 of title 44, Code of Federal Regulations (or successor regulation); and

(2) to the maximum extent practicable, carry out activities under the inspection of completed works program of the Corps of Engineers in alignment with the schedule established for the national flood insurance program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.).

(b) ACCELERATED LEVEE SYSTEM EVALUATIONS.—

(1) IN GENERAL.—On receipt of a request from a non-Federal interest, the Secretary may carry out a levee system evaluation of a federally authorized levee for purposes of the national flood insurance program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) if the evaluation will be carried out earlier than such an evaluation would be carried out under subsection (a).

(2) REQUIREMENTS.—A levee system evaluation under paragraph (1) shall—

(A) at a minimum, comply with section 65.10 of title 44, Code of Federal Regulations (as in effect on the date of enactment of this Act); and

(B) be carried out in accordance with such procedures as the Secretary, in consultation with the Administrator of the Federal Emergency Management Agency, may establish.

(3) FUNDING.—

(A) IN GENERAL.—The Secretary may use amounts made available under section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16) to carry out this subsection.

(B) COST SHARE.—The Secretary shall apply the cost share under section 22(b) of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16(b)) to any activities carried out under this subsection.

SEC. 3015. PLANNING ASSISTANCE TO STATES.

Section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting ''or other non-Federal interest working with a State'' after ''cooperate with any State''; and

(ii) by inserting '', including plans to comprehensively address water resources challenges,'' after ''of such State''; and

(B) in paragraph (2)(A), by striking '', at Federal expense,'';

(2) in subsection (b)—

(A) in paragraph (1), by striking ''subsection (a)(1)'' each place it appears and inserting ''subsection (a)'';

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(C) by inserting after paragraph (1) the following:

''(2) CONTRIBUTED FUNDS.—The Secretary may accept and expend funds in excess of the fees established under paragraph (1) that are provided by a State or other non-Federal interest for assistance under this section.''; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ''$10,000,000'' and inserting ''$30,000,000''; and

(ii) by striking ''$2,000,000'' and inserting ''$5,000,000 in Federal funds''; and

(B) in paragraph (2), by striking ''$5,000,000'' and inserting ''$15,000,000''.

SEC. 3016. LEVEE SAFETY.

(a) PURPOSES.—Section 9001 of the Water Resources Development Act of 2007 (33 U.S.C. 3301 note) is amended—

(1) in the section heading, by inserting ''***; PURPOSES***'' after ''***TITLE***'';

(2) by striking ''This title'' and inserting the following:

''(a) SHORT TITLE.—This title''; and

(3) by adding at the end the following:

''(b) PURPOSES.—The purposes of this title are—

''(1) to ensure that human lives and property that are protected by new and existing levees are safe;

''(2) to encourage the use of appropriate engineering policies, procedures, and technical practices for levee site investigation, design, construction, operation and maintenance, inspection, assessment, and emergency preparedness;

''(3) to develop and support public education and awareness projects to increase public acceptance and support of levee safety programs and provide information;

''(4) to build public awareness of the residual risks associated with living in levee protected areas;

''(5) to develop technical assistance materials, seminars, and guidelines to improve the security of levees of the United States; and

''(6) to encourage the establishment of effective State and tribal levee safety programs.''.

(b) DEFINITIONS.—Section 9002 of the Water Resources Development Act of 2007 (33 U.S.C. 3301) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), and (6), as paragraphs (3), (6), (7), (14), (15), and (16), respectively;

(2) by inserting before paragraph (3) (as redesignated by paragraph (1)) the following:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.

''(2) CANAL STRUCTURE.—

''(A) IN GENERAL.—The term 'canal structure' means an embankment, wall, or structure along a canal or manmade watercourse that—

''(i) constrains water flows;

''(ii) is subject to frequent water loading; and

''(iii) is an integral part of a flood risk reduction system that protects the leveed area from flood waters associated with hurricanes, precipitation events, seasonal high water, and other weather-related events.

''(B) EXCLUSION.—The term 'canal structure' does not include a barrier across a watercourse.'';

(3) by inserting after paragraph (3) (as redesignated by paragraph (1)) the following:

''(4) FLOODPLAIN MANAGEMENT.—The term 'floodplain management' means the operation of a community program of corrective and preventative measures for reducing flood damage.

''(5) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).''; and

(4) by striking paragraph (7) (as redesignated by paragraph (1)) and inserting the following:

''(7) LEVEE.—

''(A) IN GENERAL.—The term 'levee' means a manmade barrier (such as an embankment, floodwall, or other structure)—

''(i) the primary purpose of which is to provide hurricane, storm, or flood protection relating to seasonal high water, storm surges, precipitation, or other weather events; and

''(ii) that is normally subject to water loading for only a few days or weeks during a calendar year.

''(B) INCLUSIONS.—The term 'levee' includes a levee system, including—

''(i) levees and canal structures that—

''(I) constrain water flows;

''(II) are subject to more frequent water loading; and

''(III) do not constitute a barrier across a watercourse; and

''(ii) roadway and railroad embankments, but only to the extent that the embankments are integral to the performance of a flood damage reduction system.

''(C) EXCLUSIONS.—The term 'levee' does not include—

''(i) a roadway or railroad embankment that is not integral to the performance of a flood damage reduction system;

''(ii) a canal constructed completely within natural ground without any manmade structure (such as an embankment or retaining wall to retain water or a case in which water is retained only by natural ground);

''(iii) a canal regulated by a Federal or State agency in a manner that ensures that applicable Federal safety criteria are met;

''(iv) a levee or canal structure—

''(I) that is not a part of a Federal flood damage reduction system;

''(II) that is not recognized under the National Flood Insurance Program as providing protection from the 1-percent-annual-chance or greater flood;

''(III) that is not greater than 3 feet high;

''(IV) the population in the leveed area of which is less than 50 individuals; and

''(V) the leveed area of which is less than 1,000 acres; or

''(v) any shoreline protection or river bank protection system (such as revetments or barrier islands).

''(8) LEVEE FEATURE.—The term 'levee feature' means a structure that is critical to the functioning of a levee, including—

''(A) an embankment section;

''(B) a floodwall section;

''(C) a closure structure;

''(D) a pumping station;

''(E) an interior drainage work; and

''(F) a flood damage reduction channel.

''(9) LEVEE SYSTEM.—The term 'levee system' means 1 or more levee segments, including all levee features that are interconnected and necessary to ensure protection of the associated leveed areas—

''(A) that collectively provide flood damage reduction to a defined area; and

''(B) the failure of 1 of which may result in the failure of the entire system.

''(10) NATIONAL LEVEE DATABASE.—The term 'national levee database' means the levee database established under section 9004.

''(11) PARTICIPATING PROGRAM.—The term 'participating program' means a levee safety program developed by a State or Indian tribe that includes the minimum components necessary for recognition by the Secretary.

''(12) REHABILITATION.—The term 'rehabilitation' means the repair, replacement, reconstruction, removal of a levee, or reconfiguration of a levee system, including a setback levee, that is carried out to reduce flood risk or meet national levee safety guidelines.

''(13) RISK.—The term 'risk' means a measure of the probability and severity of undesirable consequences.''.

(c) COMMITTEE ON LEVEE SAFETY.—Section 9003 of the Water Resources Development Act of 2007 (33 U.S.C. 3302) is amended—

(1) in subsection (b)—

(A) by striking paragraphs (1) and (2) and inserting the following:

''(1) NONVOTING MEMBERS.—The following 2 nonvoting members:

''(A) The Secretary (or a designee of the Secretary).

''(B) The Administrator (or a designee of the Administrator).'';

(B) by redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as redesignated by subparagraph (B)) by inserting ''voting'' after ''14'';

(2) by redesignating subsection (g) as subsection (h); and

(3) by striking subsections (c) through (f) and inserting the following:

''(c) ADMINISTRATION.—

''(1) TERMS OF VOTING MEMBERS.—

''(A) IN GENERAL.—A voting member of the committee shall be appointed for a term of 3 years, except that, of the members first appointed—

''(i) 5 shall be appointed for a term of 1 year;

''(ii) 5 shall be appointed for a term of 2 years; and

''(iii) 4 shall be appointed for a term of 3 years.

''(B) REAPPOINTMENT.—A voting member of the committee may be reappointed to the committee, as the Secretary determines to be appropriate.

''(C) VACANCIES.—A vacancy on the committee shall be filled in the same manner as the original appointment was made.

''(2) CHAIRPERSON.—

''(A) IN GENERAL.—The voting members of the committee shall appoint a chairperson from among the voting members of the committee.

''(B) TERM.—The chairperson shall serve a term of not more than 2 years.

''(d) STANDING COMMITTEES.—

''(1) IN GENERAL.—The committee may establish standing committees comprised of volunteers from all levels of government and the private sector, to advise the committee regarding specific levee safety issues, including participating programs, technical issues, public education and awareness, and safety and the environment.

''(2) MEMBERSHIP.—The committee shall recommend to the Secretary for approval individuals for membership on the standing committees.

''(e) DUTIES AND POWERS.—The committee—

''(1) shall submit to the Secretary and Congress an annual report regarding the effectiveness of the levee safety initiative in accordance with section 9006; and

''(2) may secure from other Federal agencies such services, and enter into such contracts, as the committee determines to be necessary to carry out this subsection.

''(f) TASK FORCE COORDINATION.—The committee shall, to the maximum extent practicable, coordinate the activities of the committee with the Federal Interagency Floodplain Management Task Force.

''(g) COMPENSATION.—

''(1) FEDERAL EMPLOYEES.—Each member of the committee who is an officer or employee of the United States—

''(A) shall serve without compensation in addition to compensation received for the services of the member as an officer or employee of the United States; but

''(B) shall be allowed a per diem allowance for travel expenses, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the committee.

''(2) NON-FEDERAL EMPLOYEES.—To the extent amounts are made available to carry out this section in appropriations Acts, the Secretary shall provide to each member of the committee who is not an officer or employee of the United States a stipend and a per diem allowance for travel expenses, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in performance of services for the committee.

''(3) STANDING COMMITTEE MEMBERS.—Each member of a standing committee shall serve in a voluntary capacity.''.

(d) INVENTORY OF LEVEES.—Section 9004 of the Water Resources Development Act of 2007 (33 U.S.C. 3303) is amended—

(1) in subsection (a)(2)(A) by striking ''and, for non-Federal levees, such information on levee location as is provided to the Secretary by State and local governmental agencies'' and inserting ''and updated levee information provided by States, Indian tribes, Federal agencies, and other entities''; and

(2) by adding at the end the following:

''(c) LEVEE REVIEW.—

''(1) IN GENERAL.—The Secretary shall carry out a one-time inventory and review of all levees identified in the national levee database.

''(2) NO FEDERAL INTEREST.—The inventory and inspection under paragraph (1) does not create a Federal interest in the construction, operation, or maintenance of any levee that is included in the inventory or inspected under this subsection.

''(3) REVIEW CRITERIA.—In carrying out the inventory and review, the Secretary shall use the levee safety action classification criteria to determine whether a levee should be classified in the inventory as requiring a more comprehensive inspection.

''(4) STATE AND TRIBAL PARTICIPATION.—At the request of a State or Indian tribe with respect to any levee subject to review under this subsection, the Secretary shall—

''(A) allow an official of the State or Indian tribe to participate in the review of the levee; and

''(B) provide information to the State or Indian tribe relating to the location, construction, operation, or maintenance of the levee.

''(5) EXCEPTIONS.—In carrying out the inventory and review under this subsection, the Secretary shall not be required to review any levee that has been inspected by a State or Indian tribe using the same methodology described in paragraph (3) during the 1-year period immediately preceding the date of enactment of this subsection if the Governor of the State or chief executive of the tribal government, as applicable, requests an exemption from the review.''.

(e) LEVEE SAFETY INITIATIVE .—

(1) IN GENERAL.—Sections 9005 and 9006 of the Water Resources Development Act of 2007 (33 U.S.C. 3304, 3305) are redesignated as sections 9007 and 9008, respectively.

(2) LEVEE SAFETY INITIATIVE.—Title IX of the Water Resources Development Act of 2007 (33 U.S.C. 3301 et seq.) is amended by inserting after section 9004 the following:

''SEC. 9005. LEVEE SAFETY INITIATIVE.

''(a) ESTABLISHMENT.—The Secretary, in consultation with the Administrator, shall carry out a levee safety initiative.

''(b) MANAGEMENT.—The Secretary shall appoint—

''(1) an administrator of the levee safety initiative; and

''(2) such staff as are necessary to implement the initiative.

''(c) LEVEE SAFETY GUIDELINES.—

''(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in consultation with the Administrator and in coordination with State, local, and tribal governments and organizations with expertise in levee safety, shall establish a set of voluntary, comprehensive, national levee safety guidelines that—

''(A) are available for common, uniform use by all Federal, State, tribal, and local agencies;

''(B) incorporate policies, procedures, standards, and criteria for a range of levee types, canal structures, and related facilities and features; and

''(C) provide for adaptation to local, regional, or watershed conditions.

''(2) REQUIREMENT.—The policies, procedures, standards, and criteria under paragraph (1)(B) shall be developed taking into consideration the levee hazard potential classification system established under subsection (d).

''(3) INCORPORATION.—The guidelines shall address, to the maximum extent practicable—

''(A) the activities and practices carried out by State, local, and tribal governments, and the private sector to safely build, regulate, operate, and maintain levees; and

''(B) Federal activities that facilitate State efforts to develop and implement effective State programs for the safety of levees, including levee inspection, levee rehabilitation, locally developed floodplain management, and public education and training programs.

''(4) CONSIDERATION BY FEDERAL AGENCIES.—To the maximum extent practicable, all Federal agencies shall consider the levee safety guidelines in carrying out activities relating to the management of levees.

''(5) PUBLIC COMMENT.—Prior to finalizing the guidelines under this subsection, the Secretary shall—

''(A) issue draft guidelines for public comment, including comment by States, non-Federal interests, and other appropriate stakeholders; and

''(B) consider any comments received in the development of final guidelines.

''(d) HAZARD POTENTIAL CLASSIFICATION SYSTEM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a hazard potential classification system for use under the levee safety initiative and participating programs.

''(2) REVISION.—The Secretary shall review and, as necessary, revise the hazard potential classification system not less frequently than once every 5 years.

''(3) CONSISTENCY.—The hazard potential classification system established pursuant to this subsection shall be consistent with and incorporated into the levee safety action classification tool developed by the Corps of Engineers.

''(e) TECHNICAL ASSISTANCE AND MATERIALS.—

''(1) ESTABLISHMENT.—The Secretary, in consultation with the Administrator, shall provide technical assistance and training to promote levee safety and assist States, communities, and levee owners in—

''(A) developing levee safety programs;

''(B) identifying and reducing flood risks associated with levees;

''(C) identifying local actions that may be carried out to reduce flood risks in leveed areas; and

''(D) rehabilitating, improving, replacing, reconfiguring, modifying, and removing levees and levee systems.

''(2) ELIGIBILITY.—To be eligible to receive technical assistance under this subsection, a State shall—

''(A) be in the process of establishing or have in effect a State levee safety program under

which a State levee safety agency, in accordance with State law, carries out the guidelines established under subsection (c)(1); and

''(B) allocate sufficient funds in the budget of that State to carry out that State levee safety program.

''(3) WORK PLANS.—The Secretary shall enter into an agreement with each State receiving technical assistance under this subsection to develop a work plan necessary for the State levee safety program of that State to reach a level of program performance that meets the guidelines established under subsection (c)(1).

''(f) PUBLIC EDUCATION AND AWARENESS.—

''(1) IN GENERAL.—The Secretary, in coordination with the Administrator, shall carry out public education and awareness efforts relating to the levee safety initiative.

''(2) CONTENTS.—In carrying out the efforts under paragraph (1), the Secretary and the Administrator shall—

''(A) educate individuals living in leveed areas regarding the risks of living in those areas; and

''(B) promote consistency in the transmission of information regarding levees among Federal agencies and regarding risk communication at the State and local levels.

''(g) STATE AND TRIBAL LEVEE SAFETY PROGRAM.—

''(1) GUIDELINES.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, in consultation with the Administrator, the Secretary shall issue guidelines that establish the minimum components necessary for recognition of a State or tribal levee safety program as a participating program.

''(B) GUIDELINE CONTENTS.—The guidelines under subparagraph (A) shall include provisions and procedures requiring each participating State and Indian tribe to certify to the Secretary that the State or Indian tribe, as applicable—

''(i) has the authority to participate in the levee safety initiative;

''(ii) can receive funds under this title;

''(iii) has adopted any levee safety guidelines developed under this title;

''(iv) will carry out levee inspections;

''(v) will carry out, consistent with applicable requirements, flood risk management and any emergency action planning procedures the Secretary determines to be necessary relating to levees;

''(vi) will carry out public education and awareness activities consistent with the efforts carried out under subsection (f); and

''(vii) will collect and share information regarding the location and condition of levees, including for inclusion in the national levee database.

''(C) PUBLIC COMMENT.—Prior to finalizing the guidelines under this paragraph, the Secretary shall—

''(i) issue draft guidelines for public comment; and

''(ii) consider any comments received in the development of final guidelines.

''(2) ASSISTANCE TO STATES.—

''(A) ESTABLISHMENT.—The Administrator may provide assistance, subject to the availability of funding specified in appropriations Acts for Federal Emergency Management Agency activities pursuant to this title and subject to amounts available under subparagraph (E), to States and Indian tribes in establishing participating programs, conducting levee inventories, and improving levee safety programs in accordance with subparagraph (B).

''(B) REQUIREMENTS.—To be eligible to receive assistance under this section, a State or Indian tribe shall—

''(i) meet the requirements of a participating program established by the guidelines issued under paragraph (1);

''(ii) use not less than 25 percent of any amounts received to identify and assess non-Federal levees within the State or on land of the Indian tribe;

''(iii) submit to the Secretary and Administrator any information collected by the State or Indian tribe in carrying out this subsection for inclusion in the national levee safety database; and

''(iv) identify actions to address hazard mitigation activities associated with levees and leveed areas identified in the hazard mitigation plan of the State approved by the Administrator of the Federal Emergency Management Agency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

''(C) MEASURES TO ASSESS EFFECTIVENESS.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall implement quantifiable performance measures and metrics to assess the effectiveness of the assistance provided in accordance with subparagraph (A).

''(ii) CONSIDERATIONS.—In assessing the effectiveness of assistance under clause (i), the Administrator shall consider the degree to which the State or tribal program—

''(I) ensures that human lives and property that are protected by new and existing levees are safe;

''(II) encourages the use of appropriate engineering policies, procedures, and technical practices for levee site investigation, design, construction, operation and maintenance, inspection, assessment, and emergency preparedness;

''(III) develops and supports public education and awareness projects to increase public acceptance and support of levee safety programs and provide information;

''(IV) builds public awareness of the residual risks associated with living in levee protected areas; and

''(V) develops technical assistance materials, seminars, and guidelines to improve the security of levees of the United States.

''(D) MAINTENANCE OF EFFORT.—Technical assistance or grants may not be provided to a State under this subsection during a fiscal year unless the State enters into an agreement with the Administrator to ensure that the State will maintain during that fiscal year aggregate expenditures for programs to ensure levee safety that equal or exceed the average annual level of such expenditures for the State for the 2 fiscal years preceding that fiscal year.

''(E) AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—There is authorized to be appropriated to the Administrator to carry out this subsection $25,000,000 for each of fiscal years 2015 through 2019.

''(ii) ALLOCATION.—For each fiscal year, amounts made available under this subparagraph shall be allocated among the States and Indian tribes as follows:

''(I) ⅓ among States and Indian tribes that qualify for assistance under this subsection.

''(II) ⅔ among States and Indian tribes that qualify for assistance under this subsection, to each such State or Indian tribe in the proportion that—

''(aa) the miles of levees in the State or on the land of the Indian tribe that are listed on the inventory of levees; bears to

''(bb) the miles of levees in all States and on the land of all Indian tribes that are in the national levee database.

''(iii) MAXIMUM AMOUNT OF ALLOCATION.—The amounts allocated to a State or Indian tribe under this subparagraph shall not exceed 50 percent of the reasonable cost of implementing the State or tribal levee safety program.

''(F) PROHIBITION.—No amounts made available to the Administrator under this title shall be used for levee construction, rehabilitation, repair, operations, or maintenance.

''(h) LEVEE REHABILITATION ASSISTANCE PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall provide assistance to States, Indian tribes, and local governments relating to addressing flood mitigation activities that result in an overall reduction in flood risk.

''(2) REQUIREMENTS.—To be eligible to receive assistance under this subsection, a State, Indian tribe, or local government shall—

''(A) participate in, and comply with, all applicable Federal floodplain management and flood insurance programs;

''(B) have in place a hazard mitigation plan that—

''(i) includes all levee risks; and

''(ii) complies with the Disaster Mitigation Act of 2000 (Public Law 106–390; 114 Stat. 1552);

''(C) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

''(D) commit to provide normal operation and maintenance of the project for the 50 year-period following completion of rehabilitation; and

''(E) comply with such minimum eligibility requirements as the Secretary, in consultation with the committee, may establish to ensure that each owner and operator of a levee under a participating State or tribal levee safety program—

''(i) acts in accordance with the guidelines developed under subsection (c); and

''(ii) carries out activities relating to the public in the leveed area in accordance with the hazard mitigation plan described in subparagraph (B).

''(3) FLOODPLAIN MANAGEMENT PLANS.—

''(A) IN GENERAL.—Not later than 1 year after the date of execution of a project agreement for assistance under this subsection, a State, Indian tribe, or local government shall prepare a floodplain management plan in accordance with the guidelines under subparagraph (D) to reduce the impacts of future flood events in each applicable leveed area.

''(B) INCLUSIONS.—A plan under subparagraph (A) shall address—

''(i) potential measures, practices, and policies to reduce loss of life, injuries, damage to property and facilities, public expenditures, and other adverse impacts of flooding in each applicable leveed area;

''(ii) plans for flood fighting and evacuation; and

''(iii) public education and awareness of flood risks.

''(C) IMPLEMENTATION.—Not later than 1 year after the date of completion of construction of the applicable project, a floodplain management plan prepared under subparagraph (A) shall be implemented.

''(D) GUIDELINES.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the Administrator, shall develop such guidelines for the preparation of floodplain management plans prepared under this paragraph as the Secretary determines to be appropriate.

''(E) TECHNICAL SUPPORT.—The Secretary may provide technical support for the development and implementation of floodplain management plans prepared under this paragraph.

''(4) USE OF FUNDS.—

''(A) IN GENERAL.—Assistance provided under this subsection may be used—

''(i) for any rehabilitation activity to maximize overall risk reduction associated with a levee under a participating State or tribal levee safety program; and

''(ii) only for a levee that is not federally operated and maintained.

''(B) PROHIBITION.—Assistance provided under this subsection shall not be used—

''(i) to perform routine operation or maintenance for a levee; or

''(ii) to make any modification to a levee that does not result in an improvement to public safety.

''(5) NO PROPRIETARY INTEREST.—A contract for assistance provided under this subsection shall not be considered to confer any proprietary interest on the United States.

''(6) COST SHARE.—The maximum Federal share of the cost of any assistance provided under this subsection shall be 65 percent.

''(7) PROJECT LIMIT.—The maximum amount of Federal assistance for a project under this subsection shall be $10,000,000.

''(8) LIMITATION.—A project shall not receive Federal assistance under this subsection more than 1 time.

''(9) FEDERAL INTEREST.—For a project that is not a project eligible for rehabilitation assistance under section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), the Secretary shall determine that the proposed rehabilitation is in the Federal interest prior to providing assistance for such rehabilitation.

''(10) OTHER LAWS.—Assistance provided under this subsection shall be subject to all applicable laws (including regulations) that apply to the construction of a civil works project of the Corps of Engineers.

''(i) EFFECT OF SECTION.—Nothing in this section—

''(1) affects the requirement under section 100226(b)(2) of Public Law 112–141 (42 U.S.C. 4101 note; 126 Stat. 942); or

''(2) confers any regulatory authority on—

''(A) the Secretary; or

''(B) the Administrator, including for the purpose of setting premium rates under the national flood insurance program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.).

''SEC. 9006. REPORTS.

''(a) STATE OF LEVEES.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, and biennially thereafter, the Secretary in coordination with the committee, shall submit to Congress and make publicly available a report describing the state of levees in the United States and the effectiveness of the levee safety initiative, including—

''(A) progress achieved in implementing the levee safety initiative;

''(B) State and tribal participation in the levee safety initiative;

''(C) recommendations to improve coordination of levee safety, floodplain management, and environmental protection concerns, including—

''(i) identifying and evaluating opportunities to coordinate public safety, floodplain management, and environmental protection activities relating to levees; and

''(ii) evaluating opportunities to coordinate environmental permitting processes for operation and maintenance activities at existing levee projects in compliance with all applicable laws; and

''(D) any recommendations for legislation and other congressional actions necessary to ensure national levee safety.

''(2) INCLUSION.—Each report under paragraph (1) shall include a report of the committee that describes the independent recommendations of the committee for the implementation of the levee safety initiative.

''(b) NATIONAL DAM AND LEVEE SAFETY PROGRAM.—Not later than 3 years after the date of enactment of this subsection, to the maximum extent practicable, the Secretary and the Administrator, in coordination with the committee, shall submit to Congress and make publicly available a report that includes recommendations regarding the advisability and feasibility of, and potential approaches for, establishing a joint national dam and levee safety program.

''(c) ALIGNMENT OF FEDERAL PROGRAMS RELATING TO LEVEES.—Not later than 2 years after the date of enactment of this subsection, the Comptroller General of the United States shall submit to Congress a report on opportunities for alignment of Federal programs to provide incentives to State, tribal, and local governments and individuals and entities—

''(1) to promote shared responsibility for levee safety;

''(2) to encourage the development of strong State and tribal levee safety programs;

''(3) to better align the levee safety initiative with other Federal flood risk management programs; and

''(4) to promote increased levee safety through other Federal programs providing assistance to State and local governments.

''(d) LIABILITY FOR CERTAIN LEVEE ENGINEERING PROJECTS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall submit to Congress and make publicly available a report that includes recommendations that identify and address any legal liability associated with levee engineering projects that prevent—

''(1) levee owners from obtaining needed levee engineering services; or

''(2) development and implementation of a State or tribal levee safety program.''.

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 9008 of the Water Resources Development Act of 2007 (as redesignated by subsection (e)(1)) is amended—

(1) by striking ''are'' and inserting ''is''; and

(2) by striking ''Secretary'' and all that follows through the period at the end and inserting the following:

''Secretary—

''(1) to carry out sections 9003, 9005(c), 9005(d), 9005(e), and 9005(f), $4,000,000 for each of fiscal years 2015 through 2019;

''(2) to carry out section 9004, $20,000,000 for each of fiscal years 2015 through 2019; and

''(3) to carry out section 9005(h), $30,000,000 for each of fiscal years 2015 through 2019.''.

SEC. 3017. REHABILITATION OF EXISTING LEVEES.

(a) IN GENERAL.—The Secretary shall carry out measures that address consolidation, settlement, subsidence, sea level rise, and new datum to restore federally authorized hurricane and storm damage reduction projects that were constructed as of the date of enactment of this Act to the authorized levels of protection of the projects if the Secretary determines the necessary work is technically feasible, environmentally acceptable, and economically justified.

(b) LIMITATION.—This section shall only apply to those projects for which the executed project partnership agreement provides that the non-Federal interest is not required to perform future measures to restore the project to the authorized level of protection of the project to account for subsidence and sea-level rise as part of the operation, maintenance, repair, replacement, and rehabilitation responsibilities.

(c) COST SHARE.—

(1) IN GENERAL.—The non-Federal share of the cost of construction of a project carried out under this section shall be determined as provided in subsections (a) through (d) of section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213).

(2) CERTAIN ACTIVITIES.—The non-Federal share of the cost of operations, maintenance, repair, replacement, and rehabilitation for a project carried out under this section shall be 100 percent.

(d) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this Act, the Secretary shall include in the annual report developed under section 7001—

(1) any recommendations relating to the continued need for the authority provided under this section;

(2) a description of the measures carried out under this section;

(3) any lessons learned relating to the measures implemented under this section; and

(4) best practices for carrying out measures to restore hurricane and storm damage reduction projects.

(e) TERMINATION OF AUTHORITY.—The authority of the Secretary under this subsection terminates on the date that is 10 years after the date of enactment of this Act.

Subtitle C—Additional Safety Improvements and Risk Reduction Measures

SEC. 3021. USE OF INNOVATIVE MATERIALS.

Section 8(d) of the Water Resources Development Act of 1988 (33 U.S.C. 2314) is amended by striking ''materials'' and all that follows through the period at the end and inserting ''methods, or materials, including roller compacted concrete, geosynthetic materials, and advanced composites, that the Secretary determines are appropriate to carry out this section.''.

SEC. 3022. DURABILITY, SUSTAINABILITY, AND RESILIENCE.

In carrying out the activities of the Corps of Engineers, the Secretary, to the maximum extent practicable, shall encourage the use of durable and sustainable materials and resilient construction techniques that—

(1) allow a water resources infrastructure project—

(A) to resist hazards due to a major disaster; and

(B) to continue to serve the primary function of the water resources infrastructure project following a major disaster;

(2) reduce the magnitude or duration of a disruptive event to a water resources infrastructure project; and

(3) have the absorptive capacity, adaptive capacity, and recoverability to withstand a potentially disruptive event.

SEC. 3023. STUDY ON RISK REDUCTION.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in coordination with the Secretary of the Interior and the Secretary of Commerce, shall enter into an arrangement with the National Academy of Sciences to carry out a study and make recommendations relating to infrastructure and coastal restoration options for reducing risk to human life and property from extreme weather events, such as hurricanes, coastal storms, and inland flooding.

(b) CONSIDERATIONS.—The study under subsection (a) shall include—

(1) an analysis of strategies and water resources projects, including authorized water resources projects that have not yet been constructed, and other projects implemented in the United States and worldwide to respond to risk associated with extreme weather events;

(2) an analysis of—

(A) historical extreme weather events;

(B) the ability of existing infrastructure to mitigate risks associated with extreme weather events; and

(C) the reduction in long-term costs and vulnerability to infrastructure through the use of resilient construction techniques;

(3) identification of proven, science-based approaches and mechanisms for ecosystem protection and identification of natural resources likely to have the greatest need for protection, restoration, and conservation so that the infrastructure and restoration projects can continue safeguarding the communities in, and sustaining the economy of, the United States;

(4) an estimation of the funding necessary to improve infrastructure in the United States to reduce risk associated with extreme weather events;

(5) an analysis of the adequacy of current funding sources and the identification of potential new funding sources to finance the necessary infrastructure improvements referred to in paragraph (3); and

(6) an analysis of the Federal, State, and local costs of natural disasters and the potential cost-savings associated with implementing mitigation measures.

(c) COORDINATION.—The National Academy of Sciences may cooperate with the National Academy of Public Administration to carry out 1 or more aspects of the study under subsection (a).

(d) PUBLICATION.—Not later than 30 days after completion of the study under subsection (a), the National Academy of Sciences shall—

(1) submit a copy of the study to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

(2) make a copy of the study available on a publicly accessible Internet site.

SEC. 3024. MANAGEMENT OF FLOOD, DROUGHT, AND STORM DAMAGE.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a study of the strategies used by the Corps of Engineers for the comprehensive management of water resources in response to floods, storms, and droughts, including an historical review of the ability of the Corps of Engineers to manage and respond to historical drought, storm, and flood events.

(b) CONSIDERATIONS.—The study under subsection (a) shall address—

(1) the extent to which existing water management activities of the Corps of Engineers can better meet the goal of addressing future flooding, drought, and storm damage risks, which shall include analysis of all historical extreme weather events that have been recorded during the previous 5 centuries as well as in the geological record;

(2) whether existing water resources projects built or maintained by the Corps of Engineers, including dams, levees, floodwalls, flood gates, and other appurtenant infrastructure were designed to adequately address flood, storm, and drought impacts and the extent to which the water resources projects have been successful at addressing those impacts;

(3) any recommendations for approaches for repairing, rebuilding, or restoring infrastructure, land, and natural resources that consider the risks and vulnerabilities associated with past and future extreme weather events;

(4) whether a reevaluation of existing management approaches of the Corps of Engineers could result in greater efficiencies in water management and project delivery that would enable the Corps of Engineers to better prepare for, contain, and respond to flood, storm, and drought conditions;

(5) any recommendations for improving the planning processes of the Corps of Engineers to provide opportunities for comprehensive management of water resources that increases efficiency and improves response to flood, storm, and drought conditions;

(6) any recommendations on the use of resilient construction techniques to reduce future vulnerability from flood, storm, and drought conditions; and

(7) any recommendations for improving approaches to rebuilding or restoring infrastructure and natural resources that contribute to risk reduction, such as coastal wetlands, to prepare for flood and drought.

SEC. 3025. POST-DISASTER WATERSHED ASSESSMENTS.

(a) WATERSHED ASSESSMENTS.—

(1) IN GENERAL.—In an area that the President has declared a major disaster in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), the Secretary may carry out a watershed assessment to identify, to the maximum extent practicable, specific flood risk reduction, hurricane and storm damage reduction, ecosystem restoration, or navigation project recommendations that will help to rehabilitate and improve the resiliency of damaged infrastructure and natural resources to reduce risks to human life and property from future natural disasters.

(2) EXISTING PROJECTS.—A watershed assessment carried out paragraph (1) may identify existing projects being carried out under 1 or more of the authorities referred to in subsection (b)(1).

(3) DUPLICATE WATERSHED ASSESSMENTS.—In carrying out a watershed assessment under paragraph (1), the Secretary shall use all existing watershed assessments and related information developed by the Secretary or other Federal, State, or local entities.

(b) PROJECTS.—

(1) IN GENERAL.—The Secretary may carry out projects identified under a watershed assessment under subsection (a) in accordance with the criteria for projects carried out under one of the following authorities:

(A) Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(B) Section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i).

(C) Section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).

(D) Section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a).

(E) Section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577).

(F) Section 3 of the Act of August 13, 1946 (33 U.S.C. 426g).

(2) ANNUAL PLAN.—For each project that does not meet the criteria under paragraph (1), the Secretary shall include a recommendation relating to the project in the annual report submitted to Congress by the Secretary in accordance with section 7001.

(3) EXISTING PROJECTS.—In carrying out a project under paragraph (1), the Secretary shall—

(A) to the maximum extent practicable, use all existing information and studies available for the project; and

(B) not require any element of a study completed for the project prior to the disaster to be repeated.

(c) REQUIREMENTS.—All requirements applicable to a project under the Acts described in subsection (b) shall apply to the project.

(d) LIMITATIONS ON ASSESSMENTS.—A watershed assessment under subsection (a) shall be initiated not later than 2 years after the date on which the major disaster declaration is issued.

SEC. 3026. HURRICANE AND STORM DAMAGE REDUCTION STUDY.

(a) IN GENERAL.—As part of the study for flood and storm damage reduction related to natural disasters to be carried out by the Secretary under title II of division A of the Disaster Relief Appropriations Act, 2013, under the heading ''Department of the Army—Corps of Engineers—Civil—Investigations'' (127 Stat. 5), the Secretary shall make specific project recommendations.

(b) CONSULTATION.—In making recommendations pursuant to this section, the Secretary may consult with key stakeholders, including State, county, and city governments, and, as applicable, State and local water districts, and in the case of recommendations concerning projects that substantially affect communities served by historically Black colleges and universities, Tribal Colleges and Universities, and other minority-serving institutions, the Secretary shall consult with those colleges, universities, and institutions.

(c) REPORT.—The Secretary shall include any recommendations of the Secretary under this section in the annual report submitted to Congress by the Secretary in accordance with section 7001.

SEC. 3027. EMERGENCY COMMUNICATION OF RISK.

(a) DEFINITIONS.—In this section:

(1) AFFECTED GOVERNMENT.—The term ''affected government'' means a State, local, or tribal government with jurisdiction over an area that will be affected by a flood.

(2) ANNUAL OPERATING PLAN.—The term ''annual operating plan'' means a plan prepared by the Secretary that describes potential water condition scenarios for a river basin for a year.

(b) COMMUNICATION.—In any river basin where the Secretary carries out flood risk management activities subject to an annual operating plan, the Secretary shall establish procedures for providing the public and affected governments, including Indian tribes, in the river basin with—

(1) timely information regarding expected water levels;

(2) advice regarding appropriate preparedness actions;

(3) technical assistance; and

(4) any other information or assistance determined appropriate by the Secretary.

(c) PUBLIC AVAILABILITY OF INFORMATION.—To the maximum extent practicable, the Secretary, in coordination with the Administrator of the Federal Emergency Management Agency, shall make the information required under subsection (b) available to the public through widely used and readily available means, including on the Internet.

(d) PROCEDURES.—The Secretary shall use the procedures established under subsection (b) only when precipitation or runoff exceeds those calculations considered as the lowest risk to life and property contemplated by the annual operating plan.

SEC. 3028. SAFETY ASSURANCE REVIEW.

Section 2035 of the Water Resources Development Act of 2007 (33 U.S.C. 2344) is amended by adding at the end the following:

''(g) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a safety assurance review conducted under this section.''.

SEC. 3029. EMERGENCY RESPONSE TO NATURAL DISASTERS.

(a) EMERGENCY RESPONSE TO NATURAL DISASTERS.—Section 5(a)(1) of the Act of August 18, 1941 (33 U.S.C. 701n(a)(1)), is amended in the first sentence—

(1) by inserting ''and subject to the condition that the Chief of Engineers may include modifications to the structure or project'' after ''work for flood control''; and

(2) by striking ''structure damaged or destroyed by wind, wave, or water action of other than an ordinary nature when in the discretion of the Chief of Engineers such repair and restoration is warranted for the adequate functioning of the structure for hurricane or shore protection'' and inserting ''structure or project damaged or destroyed by wind, wave, or water action of other than an ordinary nature to the design level of protection when, in the discretion of the Chief of Engineers, such repair and restoration is warranted for the adequate functioning of the structure or project for hurricane or shore protection, subject to the condition that the Chief of Engineers may include modifications to the structure or project to address major deficiencies or implement nonstructural alternatives to the repair or restoration of the structure if requested by the non-Federal sponsor''.

(b) REVIEW OF EMERGENCY RESPONSE AUTHORITIES.—

(1) IN GENERAL.—The Secretary shall undertake a review of implementation of section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), to evaluate the alternatives available to the Secretary to ensure—

(A) the safety of affected communities to future flooding and storm events;

(B) the resiliency of water resources development projects to future flooding and storm events;

(C) the long-term cost-effectiveness of water resources development projects that provide flood control and hurricane and storm damage reduction benefits; and

(D) the policy goals and objectives that have been outlined by the President as a response to recent extreme weather events, including Hurricane Sandy, that relate to preparing for future floods are met.

(2) SCOPE OF REVIEW.—In carrying out the review, the Secretary shall—

(A) review the historical precedents and implementation of section 5 of that Act, including those actions undertaken by the Secretary, over time, under that section—

(i) to repair or restore a project; and

(ii) to increase the level of protection for a damaged project to address future conditions;

(B) evaluate the difference between adopting, as an appropriate standard under section 5 of that Act, the repair or restoration of a project to pre-flood or pre-storm levels and the repair or restoration of a project to a design level of protection, including an assessment for each standard of—

(i) the implications on populations at risk of flooding or damage;

(ii) the implications on probability of loss of life;

(iii) the implications on property values at risk of flooding or damage;

(iv) the implications on probability of increased property damage and associated costs;

(v) the implications on local and regional economies; and

(vi) the estimated total cost and estimated cost savings;

(C) review and evaluate the historic and potential uses, and economic feasibility for the life of the project, of nonstructural alternatives, including natural features such as dunes, coastal wetlands, floodplains, marshes, and mangroves, to reduce the damage caused by floods, storm surges, winds, and other aspects of extreme weather events, and to increase the resiliency and long-term cost-effectiveness of water resources development projects;

(D) incorporate the science on expected rates of sea-level rise and extreme weather events;

(E) incorporate the work completed by the Hurricane Sandy Rebuilding Task Force, established by Executive Order No. 13632 (77 Fed. Reg. 74341); and

(F) review the information obtained from the report developed under subsection (c)(1).

(c) REPORTS.—

(1) BIENNIAL REPORT TO CONGRESS.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and every 2 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report detailing the amounts expended in the previous 5 fiscal years to carry out Corps of Engineers projects under section 5 of the Act of August 18, 1941 (33 U.S.C. 701n).

(B) INCLUSIONS.—A report under subparagraph (A) shall, at a minimum, include a description of—

(i) each structure, feature, or project for which amounts are expended, including the type of structure, feature, or project and cost of the work; and

(ii) how the Secretary has repaired, restored, replaced, or modified each structure, feature, or project or intends to restore the structure, feature, or project to the design level of protection for the structure, feature, or project.

(2) REPORT ON REVIEW OF EMERGENCY RESPONSE AUTHORITIES.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report on the results of the review under subsection (b).

TITLE IV—RIVER BASINS AND COASTAL AREAS

SEC. 4001. RIVER BASIN COMMISSIONS.

Section 5019 of the Water Resources Development Act of 2007 (121 Stat. 1201) is amended by striking subsection (b) and inserting the following:

''(b) AUTHORIZATION TO ALLOCATE.—

''(1) IN GENERAL.—The Secretary shall allocate funds to the Susquehanna River Basin Commission, the Delaware River Basin Commission, and the Interstate Commission on the Potomac River Basin to fulfill the equitable funding requirements of the respective interstate compacts.

''(2) AMOUNTS.—For each fiscal year, the Secretary shall allocate to each Commission described in paragraph (1) an amount equal to the amount determined by the Commission in accordance with the respective interstate compact approved by Congress.

''(3) NOTIFICATION.—If the Secretary does not allocate funds for a given fiscal year in accordance with paragraph (2), the Secretary, in conjunction with the subsequent submission by the President of the budget to Congress under section 1105(a) of title 31, United States Code, shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a notice that describes—

''(A) the reasons why the Secretary did not allocate funds in accordance with paragraph (2) for that fiscal year; and

''(B) the impact of that decision not to allocate funds on each area of jurisdiction of each Commission described in paragraph (1), including with respect to—

''(i) water supply allocation;

''(ii) water quality protection;

''(iii) regulatory review and permitting;

''(iv) water conservation;

''(v) watershed planning;

''(vi) drought management;

''(vii) flood loss reduction;

''(viii) recreation; and

''(ix) energy development.''.

SEC. 4002. MISSISSIPPI RIVER.

(a) MISSISSIPPI RIVER FORECASTING IMPROVEMENTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the department in which the Coast Guard is operating, the Director of the United States Geological Survey, the Administrator of the National Oceanic and Atmospheric Administration, and the Director of the National Weather Service, as applicable, shall improve forecasting on the Mississippi River by—

(A) updating forecasting technology deployed on the Mississippi River and its tributaries through—

(i) the construction of additional automated river gages;

(ii) the rehabilitation of existing automated and manual river gages; and

(iii) the replacement of manual river gages with automated gages, as the Secretary determines to be necessary;

(B) constructing additional sedimentation ranges on the Mississippi River and its tributaries; and

(C) deploying additional automatic identification system base stations at river gage sites.

(2) PRIORITIZATION.—In carrying out this subsection, the Secretary shall prioritize the sections of the Mississippi River on which additional and more reliable information would have the greatest impact on maintaining navigation on the Mississippi River.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress and make publicly available a report on the activities carried out by the Secretary under this subsection.

(b) MIDDLE MISSISSIPPI RIVER PILOT PROGRAM.—

(1) IN GENERAL.—In accordance with the project for navigation, Mississippi River between the Ohio and Missouri Rivers (Regulating Works), Missouri and Illinois, authorized by the Act of June 25, 1910 (36 Stat. 631, chapter 382) (commonly known as the ''River and Harbor Act of 1910''), the Act of January 1, 1927 (44 Stat. 1010, chapter 47) (commonly known as the ''River and Harbor Act of 1927''), and the Act of July 3, 1930 (46 Stat. 918, chapter 847), the Secretary may study improvements to navigation and aquatic ecosystem restoration in the middle Mississippi River.

(2) DISPOSITION.—

(A) IN GENERAL.—The Secretary may carry out any project identified pursuant to paragraph (1) in accordance with the criteria for projects carried out under one of the following authorities:

(i) Section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).

(ii) Section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a).

(iii) Section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577).

(iv) Section 104(a) of the River and Harbor Act of 1958 (33 U.S.C. 610(a)).

(B) REPORT.—For each project that does not meet the criteria under subparagraph (A), the Secretary shall include a recommendation relating to the project in the annual report submitted to Congress by the Secretary in accordance with section 7001.

(c) GREATER MISSISSIPPI RIVER BASIN SEVERE FLOODING AND DROUGHT MANAGEMENT STUDY.—

(1) DEFINITION OF GREATER MISSISSIPPI RIVER BASIN.—In this subsection, the term ''greater Mississippi River Basin'' means the area covered by hydrologic units 5, 6, 7, 8, 10, and 11, as identified by the United States Geological Survey as of the date of enactment of this Act.

(2) IN GENERAL.—The Secretary shall carry out a study of the greater Mississippi River Basin—

(A) to improve the coordinated and comprehensive management of water resource projects in the greater Mississippi River Basin relating to severe flooding and drought conditions; and

(B) to identify and evaluate—

(i) modifications to those water resource projects, consistent with the authorized purposes of those projects; and

(ii) the development of new water resource projects to improve the reliability of navigation and more effectively reduce flood risk.

(3) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress and make publicly available a report on the study carried out under this subsection.

(4) SAVINGS CLAUSE.—Nothing in this subsection impacts the operations and maintenance of the Missouri River Mainstem System, as authorized by the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'')(58 Stat. 897, chapter 665).

(d) FLEXIBILITY IN MAINTAINING NAVIGATION.—

(1) EXTREME LOW WATER EVENT DEFINED.—In this subsection, the term ''extreme low water event'' means an extended period of time during which low water threatens the safe commercial use of the Mississippi River for navigation, including the use and availability of fleeting areas.

(2) REPORT ON AREAS FOR ACTION.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the department in which the Coast Guard is operating, shall complete and make publicly available a report identifying areas that are unsafe and unreliable for commercial navigation during extreme low water events along the authorized Federal navigation channel on the Mississippi River and measures to address those restrictions.

(B) INCLUSIONS.—The report under subparagraph (A) shall—

(i) consider data from the most recent extreme low water events that impacted navigation along the authorized Federal navigation channel on the Mississippi River;

(ii) identify locations for potential modifications, including improvements outside the authorized navigation channel, that will alleviate hazards at areas that constrain navigation during extreme low water events along the authorized Federal navigation channel on the Mississippi River; and

(iii) include recommendations for possible actions to address constrained navigation during extreme low water events.

(3) AUTHORIZED ACTIVITIES.—If the Secretary, in consultation with the Secretary of the department in which the Coast Guard is operating, determines it to be critical to maintaining safe and reliable navigation within the authorized Federal navigation channel on the Mississippi River, the Secretary may carry out activities outside the authorized Federal navigation channel along the Mississippi River, including the construction and operation of maintenance of fleeting areas, that—

(A) are necessary for safe and reliable navigation in the Federal channel; and

(B) have been identified in the report under paragraph (2).

(4) RESTRICTION.—The Secretary shall only carry out activities authorized under paragraph (3) for such period of time as is necessary to maintain reliable navigation during the extreme low water event.

(5) NOTIFICATION.—Not later than 60 days after initiating an activity under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a notice that includes—

(A) a description of the activities undertaken, including the costs associated with the activities; and

(B) a comprehensive description of how the activities are necessary for maintaining safe and reliable navigation of the Federal channel.

SEC. 4003. MISSOURI RIVER.

(a) UPPER MISSOURI BASIN FLOOD AND DROUGHT MONITORING.—

(1) IN GENERAL.—The Secretary, in coordination with the Administrator of the National Oceanic and Atmospheric Administration, the Chief of the Natural Resources Conservation Service, the Director of the United States Geological Survey, and the Commissioner of the Bureau of Reclamation, shall carry out activities to improve and support management of Corps of Engineers water resources development projects, including—

(A) soil moisture and snowpack monitoring in the Upper Missouri River Basin to reduce flood risk and improve river and water resource management in the Upper Missouri River Basin, as outlined in the February 2013 report entitled ''Upper Missouri Basin Monitoring Committee—Snow Sampling and Instrumentation Recommendations'';

(B) restoring and maintaining existing mid- and high-elevation snowpack monitoring sites operated under the SNOTEL program of the Natural Resources Conservation Service; and

(C) operating streamflow gages and related interpretive studies in the Upper Missouri River Basin under the cooperative water program and the national streamflow information program of the United States Geological Service.

(2) USE OF FUNDS.—Amounts made available to the Secretary to carry out activities under this subsection shall be used to supplement but not supplant other related activities of Federal agencies that are carried out within the Missouri River Basin.

(3) COOPERATIVE AGREEMENTS.—

(A) IN GENERAL.—The Secretary may enter into cooperative agreements with other Federal agencies to carry out this subsection.

(B) MAINTENANCE OF EFFORT.—The Secretary may only enter into a cooperative agreement with another Federal agency under this paragraph if such agreement specifies that the agency will maintain aggregate expenditures in the Missouri River Basin for existing programs that implement activities described in paragraph (1) at a level that is equal to or exceeds the aggregate expenditures for the fiscal year immediately preceding the fiscal year in which such agreement is signed.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Secretary, shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(A) identifies progress made by the Secretary and other Federal agencies in implementing the recommendations contained in the report described in paragraph (1)(A) with respect to enhancing soil moisture and snowpack monitoring in the Upper Missouri Basin;

(B) includes recommendations—

(i) to enhance soil moisture and snowpack monitoring in the Upper Missouri Basin that would enhance water resources management, including managing flood risk, in that basin; and

(ii) on the most efficient manner of collecting and sharing data to assist Federal agencies with water resources management responsibilities;

(C) identifies the expected costs and timeline for implementing the recommendations described in subparagraph (B)(i); and

(D) identifies the role of States and other Federal agencies in gathering necessary soil moisture and snowpack monitoring data.

(b) MISSOURI RIVER BETWEEN FORT PECK DAM, MONTANA AND GAVINS POINT DAM, SOUTH DAKOTA AND NEBRASKA.—Section 9(f) of the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (58 Stat. 891, chapter 665; 102 Stat. 4031) is amended in the second sentence by striking ''$3,000,000'' and inserting ''$5,000,000''.

(c) MISSOURI RIVER RECOVERY IMPLEMENTATION COMMITTEE EXPENSES REIMBURSEMENT.—Section 5018(b)(5) of the Water Resources Development Act of 2007 (121 Stat. 1200) is amended by striking subparagraph (B) and inserting the following:

''(B) TRAVEL EXPENSES.—Subject to the availability of funds, the Secretary may reimburse a member of the Committee for travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of a Federal agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in performance of services for the Committee.''.

(d) UPPER MISSOURI SHORELINE STABILIZATION.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of carrying out projects to address shoreline erosion in the Upper Missouri River Basin (including the States of South Dakota, North Dakota, and Montana) resulting from the operation of a reservoir constructed under the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (58 Stat. 891, chapter 665)).

(2) CONTENTS.—The study carried out under paragraph (1) shall, to the maximum extent practicable—

(A) use previous assessments completed by the Corps of Engineers or other Federal agencies; and

(B) assess the infrastructure needed to—

(i) reduce shoreline erosion;

(ii) mitigate additional loss of land;

(iii) contribute to environmental and ecosystem improvement; and

(iv) protect existing community infrastructure, including roads and water and waste-water related infrastructure.

(3) DISPOSITION.—The Secretary may carry out projects identified in the study under paragraph (1) in accordance with the criteria for projects carried out under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r).

(4) ANNUAL REPORT.—For each project identified in the study under paragraph (1) that cannot be carried out under any of the authorities specified in paragraph (3), upon determination by the Secretary of the feasibility of the project, the Secretary may include a recommendation relating to the project in the annual report submitted to Congress under section 7001.

(5) COORDINATION.—In carrying out this subsection, the Secretary shall consult and coordinate with the appropriate State or tribal agency for the area in which the project is located.

(6) PAYMENT OPTIONS.—The Secretary shall allow the full non-Federal contribution for a project under this subsection to be paid in accordance with section 103(k) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(k)).

(e) MISSOURI RIVER FISH AND WILDLIFE MITIGATION.—The Secretary shall include in the first budget of the United States Government submitted by the President under section 1105 of title 31, United States Code, after the date of enactment of this Act, and biennially thereafter, a report that describes activities carried out by the Secretary relating to the project for mitigation of fish and wildlife losses, Missouri River Bank Stabilization and Navigation Project, Missouri, Kansas, Iowa, and Nebraska, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4143), including—

(1) an inventory of all actions taken by the Secretary in furtherance of the project, including an inventory of land owned or acquired by the Secretary;

(2) a description, including a prioritization, of the specific actions proposed to be undertaken by the Secretary for the subsequent fiscal year in furtherance of the project;

(3) an assessment of the progress made in furtherance of the project, including—

(A) a description of how each of the actions identified under paragraph (1) have impacted the progress; and

(B) the status of implementation of any applicable requirements of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), including any applicable biological opinions; and

(4) an assessment of additional actions or authority necessary to achieve the results of the project.

(f) LOWER YELLOWSTONE.—Section 3109 of the Water Resources Development Act of 2007 (121 Stat. 1135) is amended—

(1) by striking ''The Secretary may'' and inserting the following:

''(a) IN GENERAL.—The Secretary may''; and

(2) by adding at the end the following:

''(b) LOCAL PARTICIPATION.—In carrying out subsection (a), the Secretary shall consult with, and consider the activities being carried out by—

''(1) other Federal agencies;

''(2) conservation districts;

''(3) the Yellowstone River Conservation District Council; and

''(4) the State of Montana.''.

SEC. 4004. ARKANSAS RIVER.

(a) PROJECT GOAL.—The goal for operation of the McClellan-Kerr Arkansas River navigation system, Arkansas and Oklahoma, shall be to maximize the use of the system in a balanced approach that incorporates advice from representatives from all project purposes to ensure that the full value of the system is realized by the United States.

(b) MCCLELLAN-KERR ARKANSAS RIVER NAVIGATION SYSTEM ADVISORY COMMITTEE.—

(1) IN GENERAL.—In accordance with the Federal Advisory Committee Act (5 U.S.C. App.), the Secretary shall establish an advisory committee for the McClellan-Kerr Arkansas River navigation system, Arkansas and Oklahoma project authorized by the first section of the Act of July 24, 1946 (60 Stat. 635, chapter 595).

(2) DUTIES.—The advisory committee shall—

(A) serve in an advisory capacity only; and

(B) provide information and recommendations to the Corps of Engineers relating to the efficiency, reliability, and availability of the operations of the McClellan-Kerr Arkansas River navigation system.

(3) SELECTION AND COMPOSITION.—The advisory committee shall be—

(A) selected jointly by the Little Rock district engineer and the Tulsa district engineer; and

(B) composed of members that equally represent the McClellan-Kerr Arkansas River navigation system project purposes.

(4) AGENCY RESOURCES.—The Little Rock district and the Tulsa district of the Corps of Engineers, under the supervision of the southwestern division, shall jointly provide the advisory committee with adequate staff assistance, facilities, and resources.

(5) TERMINATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the advisory committee shall terminate on the date on which the Secretary submits a report to Congress demonstrating increases in the efficiency, reliability, and availability of the McClellan-Kerr Arkansas River navigation system.

(B) RESTRICTION.—The advisory committee shall terminate not less than 2 calendar years after the date on which the advisory committee is established.

SEC. 4005. COLUMBIA BASIN.

Section 536(g) of the Water Resources Development Act of 2000 (114 Stat. 2661) is amended by striking ''$30,000,000'' and inserting ''$50,000,000''.

SEC. 4006. RIO GRANDE.

Section 5056 of the Water Resources Development Act of 2007 (121 Stat. 1213) is amended—

(1) in subsection (b)(2)—

(A) in the matter preceding subparagraph (A), by striking ''2008'' and inserting ''2014''; and

(B) in subparagraph (C), by inserting ''and an assessment of needs for other related purposes in the Rio Grande Basin, including flood damage reduction'' after ''assessment'';

(2) in subsection (c)(2)—

(A) by striking ''an interagency agreement with'' and inserting ''1 or more interagency agreements with the Secretary of State and''; and

(B) by inserting ''or the U.S. Section of the International Boundary and Water Commission'' after ''the Department of the Interior''; and

(3) in subsection (f), by striking ''2011'' and inserting ''2019''.

SEC. 4007. NORTHERN ROCKIES HEADWATERS.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of carrying out projects for aquatic ecosystem restoration and flood risk reduction that will mitigate the impacts of extreme weather events, including floods and droughts, on communities, water users, and fish and wildlife located in and along the headwaters of the Columbia, Missouri, and Yellowstone Rivers (including the tributaries of those rivers) in the States of Idaho and Montana.

(b) INCLUSIONS.—The study under subsection (a) shall, to the maximum extent practicable—

(1) emphasize the protection and enhancement of natural riverine processes; and

(2) assess the individual and cumulative needs associated with—

(A) floodplain restoration and reconnection;

(B) floodplain and riparian area protection through the use of conservation easements;

(C) instream flow restoration projects;

(D) fish passage improvements;

(E) channel migration zone mapping; and

(F) invasive weed management.

(c) DISPOSITION.—

(1) IN GENERAL.—The Secretary may carry out any project identified in the study pursuant to subsection (a) in accordance with the criteria for projects carried out under one of the following authorities:

(A) Section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).

(B) Section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a).

(C) Section 104(a) of the River and Harbor Act of 1958 (33 U.S.C. 610(a)).

(D) Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(2) REPORT.—For each project that does not meet the criteria under paragraph (1), the Secretary shall include a recommendation relating to the project in the annual report submitted to Congress by the Secretary in accordance with section 7001.

(d) COORDINATION.—In carrying out this section, the Secretary—

(1) shall consult and coordinate with the appropriate agency for each State and Indian tribe; and

(2) may enter into cooperative agreements with those State or tribal agencies described in paragraph (1).

(e) LIMITATIONS.—Nothing in this section invalidates, preempts, or creates any exception to State water law, State water rights, or Federal or State permitted activities or agreements in the States of Idaho and Montana or any State containing tributaries to rivers in those States.

SEC. 4008. RURAL WESTERN WATER.

Section 595 of the Water Resources Development Act of 1999 (113 Stat. 383) is amended—

(1) by striking subsection (c) and inserting the following:

''(c) FORM OF ASSISTANCE.—Assistance under this section may be in the form of—

''(1) design and construction assistance for water-related environmental infrastructure and resource protection and development in Idaho, Montana, rural Nevada, New Mexico, rural Utah, and Wyoming, including projects for—

''(A) wastewater treatment and related facilities;

''(B) water supply and related facilities;

''(C) environmental restoration; and

''(D) surface water resource protection and development; and

''(2) technical assistance to small and rural communities for water planning and issues relating to access to water resources.''; and

(2) by striking subsection (h) and inserting the following:

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section for the period beginning with fiscal year 2001, $435,000,000, which shall—

''(1) be made available to the States and locales described in subsection (b) consistent with program priorities determined by the Secretary in accordance with criteria developed by the Secretary to establish the program priorities; and

''(2) remain available until expended.''.

SEC. 4009. NORTH ATLANTIC COASTAL REGION.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of carrying out projects to restore aquatic ecosystems within the coastal waters of the Northeastern United States from the State of Virginia to the State of Maine, including associated bays, estuaries, and critical riverine areas.

(b) STUDY.—In carrying out the study under subsection (a), the Secretary shall—

(1) as appropriate, coordinate with the heads of other appropriate Federal agencies, the Governors of the coastal States from Virginia to Maine, nonprofit organizations, and other interested parties;

(2) identify projects for aquatic ecosystem restoration based on an assessment of the need and opportunities for aquatic ecosystem restoration within the coastal waters of the Northeastern States described in subsection (a); and

(3) use, to the maximum extent practicable, any existing plans and data.

(c) DISPOSITION.—

(1) IN GENERAL.—The Secretary may carry out any project identified in the study pursuant to subsection (a) in accordance with the criteria for projects carried out under one of the following authorities:

(A) Section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).

(B) Section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a).

(C) Section 3 of the Act of August 13, 1946 (33 U.S.C. 426g).

(D) Section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326).

(2) REPORT.—For each project that does not meet the criteria under paragraph (1), the Secretary shall include a recommendation relating to the project in the annual report submitted to Congress by the Secretary in accordance with section 7001.

SEC. 4010. CHESAPEAKE BAY.

(a) IN GENERAL.—Section 510 of the Water Resources Development Act of 1996 (Public Law 104–303; 110 Stat. 3759; 121 Stat. 1202) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''pilot program'' and inserting ''program''; and

(ii) by inserting ''in the basin States described in subsection (f) and the District of Columbia'' after ''interests''; and

(B) by striking paragraph (2) and inserting the following:

''(2) FORM.—The assistance under paragraph (1) shall be in the form of design and construction assistance for water-related resource protection and restoration projects affecting the Chesapeake Bay estuary, based on the comprehensive plan under subsection (b), including projects for—

''(A) sediment and erosion control;

''(B) protection of eroding shorelines;

''(C) ecosystem restoration, including restoration of submerged aquatic vegetation;

''(D) protection of essential public works;

''(E) beneficial uses of dredged material; and

''(F) other related projects that may enhance the living resources of the estuary.'';

(2) by striking subsection (b) and inserting the following:

''(b) COMPREHENSIVE PLAN.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Water Resources Reform and Development Act of 2014, the Secretary, in cooperation with State and local governmental officials and affected stakeholders, shall develop a comprehensive Chesapeake Bay restoration plan to guide the implementation of projects under subsection (a)(2).

''(2) COORDINATION.—The restoration plan described in paragraph (1) shall, to the maximum extent practicable, consider and avoid duplication of any ongoing or planned actions of other Federal, State, and local agencies and nongovernmental organizations.

''(3) PRIORITIZATION.—The restoration plan described in paragraph (1) shall give priority to projects eligible under subsection (a)(2) that will also improve water quality or quantity or use natural hydrological features and systems.'';

(3) in subsection (c)—

(A) in paragraph (1), by striking ''to provide'' and all that follows through the period at the end and inserting ''for the design and construction of a project carried out pursuant to the comprehensive Chesapeake Bay restoration plan described in subsection (b).'';

(B) in paragraph (2)(A), by striking ''facilities or resource protection and development plan'' and inserting ''resource protection and restoration plan''; and

(C) by adding at the end the following:

''(3) PROJECTS ON FEDERAL LAND.—A project carried out pursuant to the comprehensive Chesapeake Bay restoration plan described in subsection (b) that is located on Federal land shall be carried out at the expense of the Federal agency that owns the land on which the project will be a carried out.

''(4) NON-FEDERAL CONTRIBUTIONS.—A Federal agency carrying out a project described in paragraph (3) may accept contributions of funds from non-Federal entities to carry out that project.'';

(4) by striking subsection (e) and inserting the following:

''(e) COOPERATION.—In carrying out this section, the Secretary shall cooperate with—

''(1) the heads of appropriate Federal agencies, including—

''(A) the Administrator of the Environmental Protection Agency;

''(B) the Secretary of Commerce, acting through the Administrator of the National Oceanographic and Atmospheric Administration;

''(C) the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

''(D) the heads of such other Federal agencies as the Secretary determines to be appropriate; and

''(2) agencies of a State or political subdivision of a State, including the Chesapeake Bay Commission.'';

(5) by striking subsection (f) and inserting the following:

''(f) PROJECTS.—The Secretary shall establish, to the maximum extent practicable, at least 1 project under this section in—

''(1) regions within the Chesapeake Bay watershed of each of the basin States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia; and

''(2) the District of Columbia.'';

(6) by striking subsection (h); and

(7) by redesignating subsection (i) as subsection (h).

(b) CHESAPEAKE BAY OYSTER RESTORATION.—Section 704(b) of Water Resources Development Act of 1986 (33 U.S.C. 2263(b)) is amended—

(1) in paragraph (1), by striking ''$50,000,000'' and inserting ''$60,000,000''; and

(2) in paragraph (4), by striking subparagraph (B) and inserting the following:

''(B) FORM.—The non-Federal share may be provided through in-kind services, including—

''(i) the provision by the non-Federal interest of shell stock material that is determined by the Secretary to be suitable for use in carrying out the project; and

''(ii) in the case of a project carried out under paragraph (2)(D) after the date of enactment of this clause, land conservation or restoration efforts undertaken by the non-Federal interest that the Secretary determines provide water quality benefits that—

''(I) enhance the viability of oyster restoration efforts;

''(II) are integral to the project; and

''(III) are cost effective.''.

SEC. 4011. LOUISIANA COASTAL AREA.

(a) REVIEW OF COASTAL MASTER PLAN.—Section 7002(c) of the Water Resources Development Act of 2007 (121 Stat. 1271) is amended by inserting '', or the plan entitled 'Louisiana Comprehensive Master Plan for a Sustainable Coast' prepared by the State of Louisiana and accepted by the Louisiana Coastal Protection and Restoration Authority (including any subsequent amendments or revisions)'' before the period at the end.

(b) INTERIM USE OF PLAN.—

(1) DEFINITIONS.—In this subsection:

(A) ANNUAL REPORT.—The term ''annual report'' has the meaning given the term in section 7001(f).

(B) FEASIBILITY REPORT; FEASIBILITY STUDY.—The terms ''feasibility report'' and ''feasibility study'' have the meanings given those terms in section 7001(f).

(2) REVIEW.—The Secretary shall—

(A) review the plan entitled 'Louisiana's Comprehensive Master Plan for a Sustainable Coast' prepared by the State of Louisiana and accepted by the Louisiana Coastal Protection and Restoration Authority Board (including any subsequent amendments or revisions); and

(B) in consultation with the State of Louisiana, identify and conduct feasibility studies for up to 10 projects included in the plan described in subparagraph (A).

(3) RECOMMENDATIONS.—The Secretary shall include in the subsequent annual report, in accordance with section 7001—

(A) any proposed feasibility study initiated under paragraph (2)(B); and

(B) any feasibility report for a project identified under paragraph (2)(B).

(4) ADMINISTRATION.—Section 7008 of the Water Resources Development Act of 2007 (121 Stat. 1278) shall not apply to any feasibility study carried out under this subsection.

(c) SCIENCE AND TECHNOLOGY.—Section 7006(a)(2) of the Water Resources Development Act of 2007 (121 Stat. 1274) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following:

''(C) to examine a systemwide approach to coastal sustainability;''.

SEC. 4012. RED RIVER BASIN.

(a) IN GENERAL.—In the case of a reservoir located within the Red River Basin for which the Department of the Army is authorized to provide for municipal and industrial water supply storage and irrigation storage, the Secretary may reassign unused irrigation storage to storage for municipal and industrial water supply for use by a State or local interest that has entered into an agreement with the Secretary for water supply storage at that reservoir prior to the date of enactment of this Act.

(b) ADMINISTRATION.—Any assignment under subsection (a) shall be subject to such terms and conditions as the Secretary determines to be appropriate and necessary in the public interest.

SEC. 4013. TECHNICAL CORRECTIONS.

(a) RARITAN RIVER.—Section 102 of the Energy and Water Development Appropriations Act, 1998 (Public Law 105–62; 111 Stat. 1327), is repealed.

(b) DES MOINES, BOONE, AND RACCOON RIVERS.—The boundaries for the project referred to as the Des Moines Recreational River and Greenbelt, Iowa, under the heading ''CORPS OF ENGINEERS—CIVIL'' under the heading ''DEPARTMENT OF THE ARMY'' under the heading ''DEPARTMENT OF DEFENSE—CIVIL'' in chapter IV of title I of the Supplemental Appropriations Act, 1985 (99 Stat. 313), are revised to include the entirety of sections 19 and 29, situated in T. 89 N., R. 28 W.

(c) SOUTH FLORIDA COASTAL AREA.—Section 109 of title I of division B of the Miscellaneous Appropriations Act, 2001 (114 Stat. 2763A–221; 121 Stat. 1217) is amended—

(1) in subsection (a), by inserting ''and unincorporated communities'' after ''municipalities'';

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

''(f) PRIORITY.—In providing assistance under this section, the Secretary shall give priority to projects sponsored by current non-Federal interests, incorporated communities in Monroe County, Monroe County, and the State of Florida.''.

(d) TRINITY RIVER AND TRIBUTARIES.—Section 5141(a)(2) of the Water Resources Development Act of 2007 (121 Stat. 1253) is amended by inserting ''and the Interior Levee Drainage Study Phase–II report, Dallas, Texas, dated January 2009,'' after ''September 2006,''.

(e) CENTRAL AND SOUTHERN FLORIDA CANAL.—

(1) IN GENERAL.—The Secretary shall consider any amounts and associated program income provided prior to the date of enactment of this Act by the Secretary of the Interior to the non-Federal interest for the acquisition of areas identified in section 316(b)(2) of the Water Resources Development Act of 1996 (110 Stat. 3715)—

(A) as satisfying the requirements of that paragraph; and

(B) as part of the Federal share of the cost of implementing the plan under that subsection.

(2) NON-FEDERAL COST SHARE.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations provided for the project as part of the non-Federal share of the cost of implementing the plan under section 316(b)(2) of the Water Resources Development Act of 1996 (110 Stat. 3715).

(3) CONFORMING AMENDMENT.—Section 316(b)(2) of the Water Resources Development Act of 1996 (110 Stat. 3715) is amended in the first sentence by striking ''shall pay'' and inserting ''may pay up to''.

(f) SOUTH PLATTE RIVER WATERSHED.—Section 116 of the Energy and Water Development and Related Agencies Appropriations Act, 2009 (123 Stat. 608) is amended in the matter preceding the proviso by inserting ''(or a designee of the Department)'' after ''Colorado Department of Natural Resources''.

(g) POTOMAC RIVER.—Section 84(a) of the Water Resources Development Act of 1974 (88 Stat. 35) is amended by striking paragraph (1) and inserting the following:

''(1) A channel capacity sufficient to pass the 100-year flood event, as identified in the document entitled 'Four Mile Run Watershed Feasibility Report' and dated January 2014.''.

SEC. 4014. OCEAN AND COASTAL RESILIENCY.

(a) IN GENERAL.—The Secretary shall conduct studies to determine the feasibility of carrying out Corps of Engineers projects in coastal zones to enhance ocean and coastal ecosystem resiliency.

(b) STUDY.—In carrying out the study under subsection (a), the Secretary shall—

(1) as appropriate, coordinate with the heads of other appropriate Federal agencies, the Governors and other chief executive officers of the coastal states, nonprofit organizations, and other interested parties;

(2) identify Corps of Engineers projects in coastal zones for enhancing ocean and coastal ecosystem resiliency based on an assessment of the need and opportunities for, and feasibility of, the projects;

(3) to the maximum extent practicable, use any existing Corps of Engineers plans and data; and

(4) not later than 365 days after initial appropriations for this section, and every five years thereafter subject to the availability of appropriations, complete a study authorized under subsection (a).

(c) DISPOSITION.—

(1) IN GENERAL.—The Secretary may carry out a project identified in the study pursuant to subsection (a) in accordance with the criteria for projects carried out under one of the following authorities:

(A) Section 206(a)-(d) of the Water Resources Development Act of 1996 (33 U.S.C. 2330(a)-(d)).

(B) Section 1135(a)-(g) and (i) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(a)-(g) and (i)).

(C) Section 3(a)-(b), and (c)(1) of the Act of August, 13 1946 (33 U.S.C. 426g(a)-(b), and (c)(1)).

(D) Section 204(a)-(f) of the Water Resources Development Act of 1992 (33 U.S.C. 2326(a)-(f)).

(2) REPORT.—For each project that does not meet the criteria under paragraph (1), the Secretary shall include a recommendation relating to the project in the annual report submitted to Congress by the Secretary in accordance with section 7001.

(d) REQUESTS FOR PROJECTS.—The Secretary may carry out a project for a coastal state under this section only at the request of the Governor or chief executive officer of the coastal state, as appropriate.

(e) DEFINITION.—In this section, the terms ''coastal zone'' and ''coastal state'' have the meanings given such terms in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453), as in effect on the date of enactment of this Act

TITLE V—WATER INFRASTRUCTURE FINANCING

Subtitle A—State Water Pollution Control Revolving Funds

SEC. 5001. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) of the Federal Water Pollution Control Act (33 U.S.C. 1381(a)) is amended by

striking ''for providing assistance'' and all that follows through the period at the end and inserting the following: ''to accomplish the objectives, goals, and policies of this Act by providing assistance for projects and activities identified in section 603(c).''.

SEC. 5002. CAPITALIZATION GRANT AGREEMENTS.

Section 602(b) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)) is amended—

(1) in paragraph (6)—

(A) by striking ''section 603(c)(1) of'';

(B) by striking ''before fiscal'' and all that follows through ''grants under this title and'' and inserting ''with assistance made available by a State water pollution control revolving fund authorized under this title, or'';

(C) by inserting '', or both,'' after ''205(m) of this Act''; and

(D) by striking ''201(b)'' and all that follows through ''511(c)(1),'' and inserting ''511(c)(1)'';

(2) in paragraph (9), by striking ''standards; and'' and inserting ''standards, including standards relating to the reporting of infrastructure assets;'';

(3) in paragraph (10), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(11) the State will establish, maintain, invest, and credit the fund with repayments, such that the fund balance will be available in perpetuity for activities under this Act;

''(12) any fees charged by the State to recipients of assistance that are considered program income will be used for the purpose of financing the cost of administering the fund or financing projects or activities eligible for assistance from the fund;

''(13) beginning in fiscal year 2016, the State will require as a condition of providing assistance to a municipality or intermunicipal, interstate, or State agency that the recipient of such assistance certify, in a manner determined by the Governor of the State, that the recipient—

''(A) has studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this title; and

''(B) has selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account—

''(i) the cost of constructing the project or activity;

''(ii) the cost of operating and maintaining the project or activity over the life of the project or activity; and

''(iii) the cost of replacing the project or activity; and

''(14) a contract to be carried out using funds directly made available by a capitalization grant under this title for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services shall be negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based requirement (as determined by the Governor of the State).''.

SEC. 5003. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended—

(1) by striking subsection (c) and inserting the following:

''(c) PROJECTS AND ACTIVITIES ELIGIBLE FOR ASSISTANCE.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance—

''(1) to any municipality or intermunicipal, interstate, or State agency for construction of publicly owned treatment works (as defined in section 212);

''(2) for the implementation of a management program established under section 319;

''(3) for development and implementation of a conservation and management plan under section 320;

''(4) for the construction, repair, or replacement of decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage;

''(5) for measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water;

''(6) to any municipality or intermunicipal, interstate, or State agency for measures to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse;

''(7) for the development and implementation of watershed projects meeting the criteria set forth in section 122;

''(8) to any municipality or intermunicipal, interstate, or State agency for measures to reduce the energy consumption needs for publicly owned treatment works;

''(9) for reusing or recycling wastewater, stormwater, or subsurface drainage water;

''(10) for measures to increase the security of publicly owned treatment works; and

''(11) to any qualified nonprofit entity, as determined by the Administrator, to provide assistance to owners and operators of small and medium publicly owned treatment works—

''(A) to plan, develop, and obtain financing for eligible projects under this subsection, including planning, design, and associated preconstruction activities; and

''(B) to assist such treatment works in achieving compliance with this Act.'';

(2) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''20 years'' and inserting ''the lesser of 30 years and the projected useful life (as determined by the State) of the project to be financed with the proceeds of the loan'';

(ii) in subparagraph (B), by striking ''not later than 20 years after project completion'' and inserting ''upon the expiration of the term of the loan'';

(iii) in subparagraph (C), by striking ''and'' at the end;

(iv) in subparagraph (D), by inserting ''and'' after the semicolon at the end; and

(v) by adding at the end the following:

''(E) for a treatment works proposed for repair, replacement, or expansion, and eligible for assistance under subsection (c)(1), the recipient of a loan shall—

''(i) develop and implement a fiscal sustainability plan that includes—

''(I) an inventory of critical assets that are a part of the treatment works;

''(II) an evaluation of the condition and performance of inventoried assets or asset groupings;

''(III) a certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan; and

''(IV) a plan for maintaining, repairing, and, as necessary, replacing the treatment works and a plan for funding such activities; or

''(ii) certify that the recipient has developed and implemented a plan that meets the requirements under clause (i);''; and

(B) in paragraph (7), by inserting '', $400,000 per year, or 1/5 percent per year of the current valuation of the fund, whichever amount is greatest, plus the amount of any fees collected by the State for such purpose regardless of the source'' before the period at the end; and

(3) by adding at the end the following:

''(i) ADDITIONAL SUBSIDIZATION.—

''(1) IN GENERAL.—In any case in which a State provides assistance to a municipality or intermunicipal, interstate, or State agency under subsection (d), the State may provide additional subsidization, including forgiveness of principal and negative interest loans—

''(A) to benefit a municipality that—

''(i) meets the affordability criteria of the State established under paragraph (2); or

''(ii) does not meet the affordability criteria of the State if the recipient—

''(I) seeks additional subsidization to benefit individual ratepayers in the residential user rate class;

''(II) demonstrates to the State that such ratepayers will experience a significant hardship from the increase in rates necessary to finance the project or activity for which assistance is sought; and

''(III) ensures, as part of an assistance agreement between the State and the recipient, that the additional subsidization provided under this paragraph is directed through a user charge rate system (or other appropriate method) to such ratepayers; or

''(B) to implement a process, material, technique, or technology—

''(i) to address water-efficiency goals;

''(ii) to address energy-efficiency goals;

''(iii) to mitigate stormwater runoff; or

''(iv) to encourage sustainable project planning, design, and construction.

''(2) AFFORDABILITY CRITERIA.—

''(A) ESTABLISHMENT.—

''(i) IN GENERAL.—Not later than September 30, 2015, and after providing notice and an opportunity for public comment, a State shall establish affordability criteria to assist in identifying municipalities that would experience a significant hardship raising the revenue necessary to finance a project or activity eligible for assistance under subsection (c)(1) if additional subsidization is not provided.

''(ii) CONTENTS.—The criteria under clause (i) shall be based on income and unemployment data, population trends, and other data determined relevant by the State, including whether the project or activity is to be carried out in an economically distressed area, as described in section 301 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161).

''(B) EXISTING CRITERIA.—If a State has previously established, after providing notice and an opportunity for public comment, affordability criteria that meet the requirements of subparagraph (A)—

''(i) the State may use the criteria for the purposes of this subsection; and

''(ii) those criteria shall be treated as affordability criteria established under this paragraph.

''(C) INFORMATION TO ASSIST STATES.—The Administrator may publish information to assist States in establishing affordability criteria under subparagraph (A).

''(3) LIMITATIONS.—

''(A) IN GENERAL.—A State may provide additional subsidization in a fiscal year under this subsection only if the total amount appropriated for making capitalization grants to all States under this title for the fiscal year exceeds $1,000,000,000.

''(B) ADDITIONAL LIMITATION.—

''(i) GENERAL RULE.—Subject to clause (ii), a State may use not more than 30 percent of the total amount received by the State in capitalization grants under this title for a fiscal year for providing additional subsidization under this subsection.

''(ii) EXCEPTION.—If, in a fiscal year, the amount appropriated for making capitalization grants to all States under this title exceeds $1,000,000,000 by a percentage that is less than 30 percent, clause (i) shall be applied by substituting that percentage for 30 percent.

''(C) APPLICABILITY.—The authority of a State to provide additional subsidization under this subsection shall apply to amounts received by the State in capitalization grants under this title for fiscal years beginning after September 30, 2014.

''(D) CONSIDERATION.—If the State provides additional subsidization to a municipality or intermunicipal, interstate, or State agency

under this subsection that meets the criteria under paragraph (1)(A), the State shall take the criteria set forth in section 602(b)(5) into consideration.''.

SEC. 5004. REQUIREMENTS.

Title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) is amended by adding at the end the following:

''SEC. 608. REQUIREMENTS.

''(a) IN GENERAL.—Funds made available from a State water pollution control revolving fund established under this title may not be used for a project for the construction, alteration, maintenance, or repair of treatment works unless all of the iron and steel products used in the project are produced in the United States.

''(b) DEFINITION OF IRON AND STEEL PRODUCTS.—In this section, the term 'iron and steel products' means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, construction materials.

''(c) APPLICATION.—Subsection (a) shall not apply in any case or category of cases in which the Administrator finds that—

''(1) applying subsection (a) would be inconsistent with the public interest;

''(2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

''(3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

''(d) WAIVER.—If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public, on an informal basis, a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet site of the Environmental Protection Agency.

''(e) INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with United States obligations under international agreements.

''(f) MANAGEMENT AND OVERSIGHT.—The Administrator may retain up to 0.25 percent of the funds appropriated for this title for management and oversight of the requirements of this section.

''(g) EFFECTIVE DATE.—This section does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of enactment of the Water Resources Reform and Development Act of 2014.''.

SEC. 5005. REPORT ON THE ALLOTMENT OF FUNDS.

(a) REVIEW.—The Administrator of the Environmental Protection Agency shall conduct a review of the allotment formula in effect on the date of enactment of this Act for allocation of funds authorized under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) to determine whether that formula adequately addresses the water quality needs of eligible States, territories, and Indian tribes, based on—

(1) the most recent survey of needs developed by the Administrator under section 516(b) of that Act (33 U.S.C. 1375(b)); and

(2) any other information the Administrator considers appropriate.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report on the results of the review under subsection (a), including any recommendations for changing the allotment formula.

SEC. 5006. EFFECTIVE DATE.

This subtitle, including any amendments made by the subtitle, shall take effect on October 1, 2014.

Subtitle B—General Provisions

SEC. 5011. WATERSHED PILOT PROJECTS.

Section 122 of the Federal Water Pollution Control Act (33 U.S.C. 1274) is amended—

*(1) in the section heading, by striking ''**WET WEATHER**'';*

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''for treatment works'' and inserting ''to a municipality or municipal entity''; and

(ii) by striking ''of wet weather discharge control'';

(B) in paragraph (2), by striking ''in reducing such pollutants'' and all that follows before the period at the end and inserting ''to manage, reduce, treat, recapture, or reuse municipal stormwater, including techniques that utilize infiltration, evapotranspiration, and reuse of stormwater onsite''; and

(C) by adding at the end the following:

''(3) WATERSHED PARTNERSHIPS.—Efforts of municipalities and property owners to demonstrate cooperative ways to address nonpoint sources of pollution to reduce adverse impacts on water quality.

''(4) INTEGRATED WATER RESOURCE PLAN.—The development of an integrated water resource plan for the coordinated management and protection of surface water, ground water, and stormwater resources on a watershed or subwatershed basis to meet the objectives, goals, and policies of this Act.

''(5) MUNICIPALITY-WIDE STORMWATER MANAGEMENT PLANNING.—The development of a municipality-wide plan that identifies the most effective placement of stormwater technologies and management approaches, to reduce water quality impairments from stormwater on a municipality-wide basis.

''(6) INCREASED RESILIENCE OF TREATMENT WORKS.—Efforts to assess future risks and vulnerabilities of publicly owned treatment works to manmade or natural disasters, including extreme weather events and sea-level rise, and to carry out measures, on a systemwide or area-wide basis, to increase the resiliency of publicly owned treatment works.'';

(3) by striking subsection (c);

(4) by redesignating subsection (d) as subsection (c); and

(5) in subsection (c) (as so redesignated) by striking ''5 years after the date of enactment of this section,'' and inserting ''October 1, 2015,''.

SEC. 5012. DEFINITION OF TREATMENT WORKS.

(a) GRANTS FOR CONSTRUCTION OF TREATMENT WORKS.—Section 212(2)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)(A)) is amended—

(1) by striking ''any works, including site'';

(2) by striking ''is used for ultimate'' and inserting ''will be used for ultimate''; and

(3) by inserting before the period at the end the following: ''and acquisition of other land, and interests in land, that are necessary for construction''.

(b) DEFINITIONS.—Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

''(26) TREATMENT WORKS.—The term 'treatment works' has the meaning given the term in section 212.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2014.

SEC. 5013. FUNDING FOR INDIAN PROGRAMS.

Section 518(c) of the Federal Water Pollution Control Act (33 U.S.C. 1377(c)) is amended—

(1) by striking ''The Administrator'' and inserting the following:

''(1) FISCAL YEARS 1987–2014.—The Administrator'';

(2) in paragraph (1) (as so designated)—

(A) by striking ''each fiscal year beginning after September 30, 1986,'' and inserting ''each of fiscal years 1987 through 2014,''; and

(B) by striking the second sentence; and

(3) by adding at the end the following:

''(2) FISCAL YEAR 2015 AND THEREAFTER.—For fiscal year 2015 and each fiscal year thereafter, the Administrator shall reserve, before allotments to the States under section 604(a), not less than 0.5 percent and not more than 2.0 percent of the funds made available to carry out title VI.

''(3) USE OF FUNDS.—Funds reserved under this subsection shall be available only for grants for projects and activities eligible for assistance under section 603(c) to serve—

''(A) Indian tribes (as defined in subsection (h));

''(B) former Indian reservations in Oklahoma (as determined by the Secretary of the Interior); and

''(C) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).''.

SEC. 5014. WATER INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a pilot program to evaluate the cost effectiveness and project delivery efficiency of allowing non-Federal pilot applicants to carry out authorized water resources development projects for coastal harbor improvement, channel improvement, inland navigation, flood damage reduction, aquatic ecosystem restoration, and hurricane and storm damage reduction.

(b) PURPOSES.—The purposes of the pilot program established under subsection (a) are—

(1) to identify cost-saving project delivery alternatives that reduce the backlog of authorized Corps of Engineers projects; and

(2) to evaluate the technical, financial, and organizational benefits of allowing a non-Federal pilot applicant to carry out and manage the design or construction (or both) of 1 or more of such projects.

(c) SUBSEQUENT APPROPRIATIONS.—Any activity undertaken under this section is authorized only to the extent specifically provided for in subsequent appropriations Acts.

(d) ADMINISTRATION.—In carrying out the pilot program established under subsection (a), the Secretary shall—

(1) identify for inclusion in the program at least 15 projects that are authorized for construction for coastal harbor improvement, channel improvement, inland navigation, flood damage reduction, or hurricane and storm damage reduction;

(2) notify in writing the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of each project identified under paragraph (1);

(3) in consultation with the non-Federal pilot applicant associated with each project identified under paragraph (1), develop a detailed project management plan for the project that outlines the scope, financing, budget, design, and construction resource requirements necessary for the non-Federal pilot applicant to execute the project, or a separable element of the project;

(4) at the request of the non-Federal pilot applicant associated with each project identified under paragraph (1), enter into a project partnership agreement with the non-Federal pilot applicant under which the non-Federal pilot applicant is provided full project management control for the financing, design, or construction (or any combination thereof) of the project, or a separable element of the project, in accordance with plans approved by the Secretary;

(5) following execution of a project partnership agreement under paragraph (4) and completion of all work under the agreement, issue

payment, in accordance with subsection (g), to the relevant non-Federal pilot applicant for that work; and

(6) regularly monitor and audit each project carried out under the program to ensure that all activities related to the project are carried out in compliance with plans approved by the Secretary and that construction costs are reasonable.

(e) SELECTION CRITERIA.—In identifying projects under subsection (d)(1), the Secretary shall consider the extent to which the project—

(1) is significant to the economy of the United States;

(2) leverages Federal investment by encouraging non-Federal contributions to the project;

(3) employs innovative project delivery and cost-saving methods;

(4) received Federal funds in the past and experienced delays or missed scheduled deadlines;

(5) has unobligated Corps of Engineers funding balances; and

(6) has not received Federal funding for recapitalization and modernization since the project was authorized.

(f) DETAILED PROJECT SCHEDULE.—Not later than 180 days after entering into a project partnership agreement under subsection (d)(4), a non-Federal pilot applicant, to the maximum extent practicable, shall submit to the Secretary a detailed project schedule for the relevant project, based on estimated funding levels, that specifies deadlines for each milestone with respect to the project.

(g) PAYMENT.—Payment to the non-Federal pilot applicant for work completed pursuant to a project partnership agreement under subsection (d)(4) may be made from—

(1) if applicable, the balance of the unobligated amounts appropriated for the project; and

(2) other amounts appropriated to the Corps of Engineers, subject to the condition that the total amount transferred to the non-Federal pilot applicant may not exceed the estimate of the Federal share of the cost of construction, including any required design.

(h) TECHNICAL ASSISTANCE.—At the request of a non-Federal pilot applicant participating in the pilot program established under subsection (a), the Secretary may provide to the non-Federal pilot applicant, if the non-Federal pilot applicant contracts with and compensates the Secretary, technical assistance with respect to—

(1) a study, engineering activity, or design activity related to a project carried out by the non-Federal pilot applicant under the program; and

(2) obtaining permits necessary for such a project.

(i) IDENTIFICATION OF IMPEDIMENTS.—

(1) IN GENERAL.—The Secretary shall—

(A) except as provided in paragraph (2), identify any procedural requirements under the authority of the Secretary that impede greater use of public-private partnerships and private investment in water resources development projects;

(B) develop and implement, on a project-by-project basis, procedures and approaches that—

(i) address such impediments; and

(ii) protect the public interest and any public investment in water resources development projects that involve public-private partnerships or private investment in water resources development projects; and

(C) not later than 1 year after the date of enactment of this section, issue rules to carry out the procedures and approaches developed under subparagraph (B).

(2) RULE OF CONSTRUCTION.—Nothing in this section allows the Secretary to waive any requirement under—

(A) sections 3141 through 3148 and sections 3701 through 3708 of title 40, United States Code;

(B) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(C) any other provision of Federal law.

(j) PUBLIC BENEFIT STUDIES.—

(1) IN GENERAL.—Before entering into a project partnership agreement under subsection (d)(4), the Secretary shall conduct an assessment of whether, and provide justification in writing to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representative that, the proposed agreement provides better public and financial benefits than a similar transaction using public funding or financing.

(2) REQUIREMENTS.—An assessment under paragraph (1) shall—

(A) be completed in a period of not more than 90 days;

(B) take into consideration any supporting materials and data submitted by the relevant non-Federal pilot applicant and other stakeholders; and

(C) determine whether the proposed project partnership agreement is in the public interest by determining whether the agreement will provide public and financial benefits, including expedited project delivery and savings for taxpayers.

(k) NON-FEDERAL FUNDING.—The non-Federal pilot applicant may finance the non-Federal share of a project carried out under the pilot program established under subsection (a).

(l) APPLICABILITY OF FEDERAL LAW.—Any provision of Federal law that would apply to the Secretary if the Secretary were carrying out a project shall apply to a non-Federal pilot applicant carrying out a project under this section.

(m) COST SHARE.—Nothing in this section affects a cost-sharing requirement under Federal law that is applicable to a project carried out under the pilot program established under subsection (a).

(n) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report describing the results of the pilot program established under subsection (a), including any recommendations of the Secretary concerning whether the program or any component of the program should be implemented on a national basis.

(o) NON-FEDERAL PILOT APPLICANT DEFINED.—In this section, the term ''non-Federal pilot applicant'' means—

(1) the non-Federal sponsor of the water resources development project;

(2) a non-Federal interest, as defined in section 221 of the Flood Control Act of 1970 (42 U.S.C. 1982d–5b); or

(3) a private entity with the consent of the local government in which the project is located or that is otherwise affected by the project.

Subtitle C—Innovative Financing Pilot Projects

SEC. 5021. SHORT TITLE.

This subtitle may be cited as the ''Water Infrastructure Finance and Innovation Act of 2014''.

SEC. 5022. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COMMUNITY WATER SYSTEM.—The term ''community water system'' has the meaning given the term in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f).

(3) FEDERAL CREDIT INSTRUMENT.—The term ''Federal credit instrument'' means a secured loan or loan guarantee authorized to be made available under this subtitle with respect to a project.

(4) INVESTMENT-GRADE RATING.—The term ''investment-grade rating'' means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.

(5) LENDER.—

(A) IN GENERAL.—The term ''lender'' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or a successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)).

(B) INCLUSIONS.—The term ''lender'' includes—

(i) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(ii) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(6) LOAN GUARANTEE.—The term ''loan guarantee'' means any guarantee or other pledge by the Secretary or the Administrator to pay all or part of the principal of, and interest on, a loan or other debt obligation issued by an obligor and funded by a lender.

(7) OBLIGOR.—The term ''obligor'' means an eligible entity that is primarily liable for payment of the principal of, or interest on, a Federal credit instrument.

(8) PROJECT OBLIGATION.—

(A) IN GENERAL.—The term ''project obligation'' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project.

(B) EXCLUSION.—The term ''project obligation'' does not include a Federal credit instrument.

(9) RATING AGENCY.—The term ''rating agency'' means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

(10) SECURED LOAN.—The term ''secured loan'' means a direct loan or other debt obligation issued by an obligor and funded by the Secretary or Administrator, as applicable, in connection with the financing of a project under section 5029.

(11) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(12) STATE INFRASTRUCTURE FINANCING AUTHORITY.—The term ''State infrastructure financing authority'' means the State entity established or designated by the Governor of a State to receive a capitalization grant provided by, or otherwise carry out the requirements of, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et. seq.) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

(13) SUBSIDY AMOUNT.—The term ''subsidy amount'' means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, as calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(14) SUBSTANTIAL COMPLETION.—The term ''substantial completion'', with respect to a project, means the earliest date on which a project is considered to perform the functions for which the project is designed.

(15) TREATMENT WORKS.—The term ''treatment works'' has the meaning given the term in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292).

SEC. 5023. AUTHORITY TO PROVIDE ASSISTANCE.

(a) IN GENERAL.—The Secretary and the Administrator may provide financial assistance under this subtitle to carry out pilot projects, which shall be selected to ensure a diversity of project types and geographical locations.

(b) RESPONSIBILITY.—

(1) SECRETARY.—The Secretary shall carry out all pilot projects under this subtitle that are eligible projects under section 5026(1).

(2) ADMINISTRATOR.—The Administrator shall carry out all pilot projects under this subtitle that are eligible projects under paragraphs (2), (3), (4), (5), (6), and (8) of section 5026.

(3) OTHER PROJECTS.—The Secretary or the Administrator, as applicable, may carry out eligible projects under paragraph (7) or (9) of section 5026.

SEC. 5024. APPLICATIONS.

(a) IN GENERAL.—To receive assistance under this subtitle, an eligible entity shall submit to the Secretary or the Administrator, as applicable, an application at such time, in such manner, and containing such information as the Secretary or the Administrator may require.

(b) COMBINED PROJECTS.—In the case of an eligible project described in paragraph (8) or (9) of section 5026, the Secretary or the Administrator, as applicable, shall require the eligible entity to submit a single application for the combined group of projects.

SEC. 5025. ELIGIBLE ENTITIES.

The following entities are eligible to receive assistance under this subtitle:

(1) A corporation.

(2) A partnership.

(3) A joint venture.

(4) A trust.

(5) A Federal, State, or local governmental entity, agency, or instrumentality.

(6) A tribal government or consortium of tribal governments.

(7) A State infrastructure financing authority.

SEC. 5026. PROJECTS ELIGIBLE FOR ASSISTANCE.

The following projects may be carried out with amounts made available under this subtitle:

(1) Any project for flood damage reduction, hurricane and storm damage reduction, environmental restoration, coastal or inland harbor navigation improvement, or inland and intracoastal waterways navigation improvement that the Secretary determines is technically sound, economically justified, and environmentally acceptable, including—

(A) a project to reduce flood damage;

(B) a project to restore aquatic ecosystems;

(C) a project to improve the inland and intracoastal waterways navigation system of the United States; and

(D) a project to improve navigation of a coastal or inland harbor of the United States, including channel deepening and construction of associated general navigation features.

(2) 1 or more activities that are eligible for assistance under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)), notwithstanding the public ownership requirement under paragraph (1) of that subsection.

(3) 1 or more activities described in section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(2)).

(4) A project for enhanced energy efficiency in the operation of a public water system or a publicly owned treatment works.

(5) A project for repair, rehabilitation, or replacement of a treatment works, community water system, or aging water distribution or waste collection facility (including a facility that serves a population or community of an Indian reservation).

(6) A brackish or sea water desalination project, a managed aquifer recharge project, or a water recycling project.

(7) Acquisition of real property or an interest in real property—

(A) if the acquisition is integral to a project described in paragraphs (1) through (6); or

(B) pursuant to an existing plan that, in the judgment of the Administrator or the Secretary, as applicable, would mitigate the environmental impacts of water resources infrastructure projects otherwise eligible for assistance under this section.

(8) A combination of projects, each of which is eligible under paragraph (2) or (3), for which a State infrastructure financing authority submits to the Administrator a single application.

(9) A combination of projects secured by a common security pledge, each of which is eligible under paragraph (1), (2), (3), (4), (5), (6), or (7), for which an eligible entity, or a combination of eligible entities, submits a single application.

SEC. 5027. ACTIVITIES ELIGIBLE FOR ASSISTANCE.

For purposes of this subtitle, an eligible activity with respect to an eligible project includes the cost of—

(1) development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(2) construction, reconstruction, rehabilitation, and replacement activities;

(3) the acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation (including acquisitions pursuant to section 5026(7)), construction contingencies, and acquisition of equipment; and

(4) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

SEC. 5028. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

(a) ELIGIBILITY REQUIREMENTS.—To be eligible to receive financial assistance under this subtitle, a project shall meet the following criteria, as determined by the Secretary or Administrator, as applicable:

(1) CREDITWORTHINESS.—

(A) IN GENERAL.—The project and obligor shall be creditworthy, which shall be determined by the Secretary or the Administrator, as applicable.

(B) CONSIDERATIONS.—In determining the creditworthiness of a project and obligor, the Secretary or the Administrator, as applicable, shall take into consideration relevant factors, including—

(i) the terms, conditions, financial structure, and security features of the proposed financing;

(ii) the dedicated revenue sources that will secure or fund the project obligations;

(iii) the financial assumptions upon which the project is based; and

(iv) the financial soundness and credit history of the obligor.

(C) SECURITY FEATURES.—The Secretary or the Administrator, as applicable, shall ensure that any financing for the project has appropriate security features, such as a rate covenant, supporting the project obligations to ensure repayment.

(D) RATING OPINION LETTERS.—

(i) PRELIMINARY RATING OPINION LETTER.—The Secretary or the Administrator, as applicable, shall require each project applicant to provide, at the time of application, a preliminary rating opinion letter from at least 1 rating agency indicating that the senior obligations of the project (which may be the Federal credit instrument) have the potential to achieve an investment-grade rating.

(ii) FINAL RATING OPINION LETTERS.—The Secretary or the Administrator, as applicable, shall require each project applicant to provide, prior to final acceptance and financing of the project, final rating opinion letters from at least 2 rating agencies indicating that the senior obligations of the project have an investment-grade rating.

(E) SPECIAL RULE FOR CERTAIN COMBINED PROJECTS.—The Administrator shall develop a credit evaluation process for a Federal credit instrument provided to a State infrastructure financing authority for a project under section 5026(8) or an entity for a project under section 5026(9), which may include requiring the provision of a final rating opinion letter from at least 2 rating agencies.

(2) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the eligible project costs of a project shall be reasonably anticipated to be not less than $20,000,000.

(B) SMALL COMMUNITY WATER INFRASTRUCTURE PROJECTS.—For a project described in paragraph (2) or (3) of section 5026 that serves a community of not more than 25,000 individuals, the eligible project costs of a project shall be reasonably anticipated to be not less than $5,000,000.

(3) DEDICATED REVENUE SOURCES.—The Federal credit instrument for the project shall be repayable, in whole or in part, from dedicated revenue sources that also secure the project obligations.

(4) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—

(A) IN GENERAL.—If an eligible project is carried out by an entity that is not a State or local government or an agency or instrumentality of a State or local government or a tribal government or consortium of tribal governments, the project shall be publicly sponsored.

(B) PUBLIC SPONSORSHIP.—For purposes of this subtitle, a project shall be considered to be publicly sponsored if the obligor can demonstrate, to the satisfaction of the Secretary or the Administrator, as appropriate, that the project applicant has consulted with the affected State, local, or tribal government in which the project is located, or is otherwise affected by the project, and that such government supports the proposed project.

(5) LIMITATION.—No project receiving Federal credit assistance under this subtitle may be financed (directly or indirectly), in whole or in part, with proceeds of any obligation—

(A) the interest on which is exempt from the tax imposed under chapter 1 of the Internal Revenue Code of 1986; or

(B) with respect to which credit is allowable under subpart I or J of part IV of subchapter A of chapter 1 of such Code.

(6) USE OF EXISTING FINANCING MECHANISMS.—

(A) NOTIFICATION.—For each eligible project for which the Administrator has authority under paragraph (2) or (3) of section 5023(b) and for which the Administrator has received an application for financial assistance under this subtitle, the Administrator shall notify, not later than 30 days after the date on which the Administrator receives a complete application, the applicable State infrastructure financing authority of the State in which the project is located that such application has been submitted.

(B) DETERMINATION.—If, not later than 60 days after the date of receipt of a notification under subparagraph (A), a State infrastructure financing authority notifies the Administrator that the State infrastructure financing authority intends to commit funds to the project in an amount that is equal to or greater than the amount requested under the application, the Administrator may not provide any financial assistance for that project under this subtitle unless—

(i) by the date that is 180 days after the date of receipt of a notification under subparagraph (A), the State infrastructure financing authority fails to enter into an assistance agreement to provide funds for the project; or

(ii) the financial assistance to be provided by the State infrastructure financing authority will be at rates and terms that are less favorable than the rates and terms for financial assistance provided under this subtitle.

(7) OPERATION AND MAINTENANCE PLAN.—

(A) IN GENERAL.—The Secretary or the Administrator, as applicable, shall determine whether an applicant for assistance under this subtitle has developed, and identified adequate revenues to implement, a plan for operating, maintaining, and repairing the project over the useful life of the project.

(B) SPECIAL RULE.—An eligible project described in section 5026(1) that has not been specifically authorized by Congress shall not be eligible for Federal assistance for operations and maintenance.

(b) SELECTION CRITERIA.—

(1) ESTABLISHMENT.—The Secretary or the Administrator, as applicable, shall establish criteria for the selection of projects that meet the eligibility requirements of subsection (a), in accordance with paragraph (2).

(2) CRITERIA.—The selection criteria shall include the following:

(A) The extent to which the project is nationally or regionally significant, with respect to the generation of economic and public benefits, such as—

(i) the reduction of flood risk;

(ii) the improvement of water quality and quantity, including aquifer recharge;

(iii) the protection of drinking water, including source water protection; and

(iv) the support of international commerce.

(B) The extent to which the project financing plan includes public or private financing in addition to assistance under this subtitle.

(C) The likelihood that assistance under this subtitle would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(D) The extent to which the project uses new or innovative approaches.

(E) The amount of budget authority required to fund the Federal credit instrument made available under this subtitle.

(F) The extent to which the project—

(i) protects against extreme weather events, such as floods or hurricanes; or

(ii) helps maintain or protect the environment.

(G) The extent to which a project serves regions with significant energy exploration, development, or production areas.

(H) The extent to which a project serves regions with significant water resource challenges, including the need to address—

(i) water quality concerns in areas of regional, national, or international significance;

(ii) water quantity concerns related to groundwater, surface water, or other water sources;

(iii) significant flood risk;

(iv) water resource challenges identified in existing regional, State, or multistate agreements; or

(v) water resources with exceptional recreational value or ecological importance.

(I) The extent to which the project addresses identified municipal, State, or regional priorities.

(J) The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a Federal credit instrument is obligated for the project under this subtitle.

(K) The extent to which assistance under this subtitle reduces the contribution of Federal assistance to the project.

(3) SPECIAL RULE FOR CERTAIN COMBINED PROJECTS.—For a project described in section 5026(8), the Administrator shall only consider the criteria described in subparagraphs (B) through (K) of paragraph (2).

(c) FEDERAL REQUIREMENTS.—Nothing in this section supersedes the applicability of other requirements of Federal law (including regulations).

SEC. 5029. SECURED LOANS.

(a) AGREEMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary or the Administrator, as applicable, may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used to finance eligible project costs of any project selected under section 5028.

(2) FINANCIAL RISK ASSESSMENT.—Before entering into an agreement under this subsection for a secured loan, the Secretary or the Administrator, as applicable, in consultation with the Director of the Office of Management and Budget and each rating agency providing a rating opinion letter under section 5028(a)(1)(D), shall determine an appropriate capital reserve subsidy amount for the secured loan, taking into account each such rating opinion letter.

(3) INVESTMENT-GRADE RATING REQUIREMENT.—The execution of a secured loan under this section shall be contingent on receipt by the senior obligations of the project of an investment-grade rating.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan provided for a project under this section shall be subject to such terms and conditions, and contain such covenants, representations, warranties, and requirements (including requirements for audits), as the Secretary or the Administrator, as applicable, determines to be appropriate.

(2) MAXIMUM AMOUNT.—The amount of a secured loan under this section shall not exceed the lesser of—

(A) an amount equal to 49 percent of the reasonably anticipated eligible project costs; and

(B) if the secured loan does not receive an investment-grade rating, the amount of the senior project obligations of the project.

(3) PAYMENT.—A secured loan under this section—

(A) shall be payable, in whole or in part, from State or local taxes, user fees, or other dedicated revenue sources that also secure the senior project obligations of the relevant project;

(B) shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(C) may have a lien on revenues described in subparagraph (A), subject to any lien securing project obligations.

(4) INTEREST RATE.—The interest rate on a secured loan under this section shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) MATURITY DATE.—

(A) IN GENERAL.—The final maturity date of a secured loan under this section shall be the earlier of—

(i) the date that is 35 years after the date of substantial completion of the relevant project (as determined by the Secretary or the Administrator, as applicable); and

(ii) if the useful life of the project (as determined by the Secretary or Administrator, as applicable) is less than 35 years, the useful life the project.

(B) SPECIAL RULE FOR STATE INFRASTRUCTURE FINANCING AUTHORITIES.—The final maturity date of a secured loan to a State infrastructure financing authority under this section shall be not later than 35 years after the date on which amounts are first disbursed.

(6) NONSUBORDINATION.—A secured loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor of the project.

(7) FEES.—The Secretary or the Administrator, as applicable, may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under this section may be used to pay any non-Federal share of project costs required if the loan is repayable from non-Federal funds.

(9) MAXIMUM FEDERAL INVOLVEMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), for each project for which assistance is provided under this subtitle, the total amount of Federal assistance shall not exceed 80 percent of the total project cost.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any rural water project—

(i) that is authorized to be carried out by the Secretary of the Interior;

(ii) that includes among its beneficiaries a federally recognized Indian tribe; and

(iii) for which the authorized Federal share of the total project costs is greater than the amount described in subparagraph (A).

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary or the Administrator, as applicable, shall establish a repayment schedule for each secured loan provided under this section, based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—

(A) IN GENERAL.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project (as determined by the Secretary or Administrator, as applicable).

(B) SPECIAL RULE FOR STATE INFRASTRUCTURE FINANCING AUTHORITIES.—Scheduled loan repayments of principal or interest on a secured loan to a State infrastructure financing authority under this subtitle shall commence not later than 5 years after the date on which amounts are first disbursed.

(3) DEFERRED PAYMENTS.—

(A) AUTHORIZATION.—If, at any time after the date of substantial completion of a project for which a secured loan is provided under this section, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary or the Administrator, as applicable, subject to subparagraph (C), may allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the secured loan.

(C) CRITERIA.—

(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting such criteria as the Secretary or the Administrator, as applicable, may establish.

(ii) REPAYMENT STANDARDS.—The criteria established under clause (i) shall include standards for reasonable assurance of repayment.

(4) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay a secured loan under this section without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—A secured loan under this section may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—

(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after the date of substantial completion of a project and after providing a notice to the obligor, the Secretary or the Administrator, as applicable, may sell to another entity or reoffer into the capital markets a secured loan for a project under this section, if the Secretary or the Administrator, as applicable, determines that the sale or reoffering can be made on favorable terms.

(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary or the Administrator, as applicable, may not change the original terms and conditions of the secured loan without the written consent of the obligor.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary or the Administrator, as applicable, may provide a loan guarantee to a lender in lieu of making a secured

loan under this section, if the Secretary or the Administrator, as applicable, determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a loan guarantee provided under this subsection shall be consistent with the terms established in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary or the Administrator, as applicable.

SEC. 5030. PROGRAM ADMINISTRATION.

(a) REQUIREMENT.—The Secretary or the Administrator, as applicable, shall establish a uniform system to service the Federal credit instruments made available under this subtitle.

(b) FEES.—

(1) IN GENERAL.—The Secretary or the Administrator, as applicable, may collect and spend fees, contingent on authority being provided in appropriations Acts, at a level that is sufficient to cover—

(A) the costs of services of expert firms retained pursuant to subsection (d); and

(B) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments provided under this subtitle.

(c) SERVICER.—

(1) IN GENERAL.—The Secretary or the Administrator, as applicable, may appoint a financial entity to assist the Secretary or the Administrator in servicing the Federal credit instruments provided under this subtitle.

(2) DUTIES.—A servicer appointed under paragraph (1) shall act as the agent for the Secretary or the Administrator, as applicable.

(3) FEE.—A servicer appointed under paragraph (1) shall receive a servicing fee, subject to approval by the Secretary or the Administrator, as applicable.

(d) ASSISTANCE FROM EXPERTS.—The Secretary or the Administrator, as applicable, may retain the services, including counsel, of organizations and entities with expertise in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments provided under this subtitle.

(e) APPLICABILITY OF OTHER LAWS.—Section 513 of the Federal Water Pollution Control Act (33 U.S.C. 1372) applies to the construction of a project carried out, in whole or in part, with assistance made available through a Federal credit instrument under this subtitle in the same manner that section applies to a treatment works for which a grant is made available under that Act.

SEC. 5031. STATE, TRIBAL, AND LOCAL PERMITS.

The provision of financial assistance for a project under this subtitle shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State, local, or tribal permit or approval with respect to the project;

(2) limit the right of any unit of State, local, or tribal government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State, local, or tribal law (including any regulation) applicable to the construction or operation of the project.

SEC. 5032. REGULATIONS.

The Secretary or the Administrator, as applicable, may promulgate such regulations as the Secretary or Administrator determines to be appropriate to carry out this subtitle.

SEC. 5033. FUNDING.

(a) IN GENERAL.—There is authorized to be appropriated to each of the Secretary and the Administrator to carry out this subtitle, to remain available until expended—

(1) $20,000,000 for fiscal year 2015;

(2) $25,000,000 for fiscal year 2016;

(3) $35,000,000 for fiscal year 2017;

(4) $45,000,000 for fiscal year 2018; and

(5) $50,000,000 for fiscal year 2019.

(b) ADMINISTRATIVE COSTS.—Of the funds made available to carry out this subtitle, the Secretary or the Administrator, as applicable, may use for the administration of this subtitle, including for the provision of technical assistance to aid project sponsors in obtaining the necessary approvals for the project, not more than $2,200,000 for each of fiscal years 2015 through 2019.

(c) SMALL COMMUNITY WATER INFRASTRUCTURE PROJECTS.—

(1) IN GENERAL.—For each fiscal year, the Secretary or the Administrator, as applicable, shall set aside not less than 15 percent of the amounts made available for that fiscal year under this section for small community water infrastructure projects described in section 5028(a)(2)(B).

(2) ADMINISTRATION.—Any amounts set aside under paragraph (1) that remain unobligated on June 1 of the fiscal year for which the amounts are set aside shall be available for obligation by the Secretary or the Administrator, as applicable, for projects other than small community water infrastructure projects.

(d) ADDITIONAL FUNDING.—Notwithstanding section 5029(b)(2), the Secretary or the Administrator, as applicable, may make available up to 25 percent of the amounts made available for each fiscal year under this section for loans in excess of 49 percent of the total project costs.

SEC. 5034. REPORTS ON PILOT PROGRAM IMPLEMENTATION.

(a) AGENCY REPORTING.—As soon as practicable after each fiscal year for which amounts are made available to carry out this subtitle, the Secretary and the Administrator shall publish on a dedicated, publicly accessible Internet site—

(1) each application received for assistance under this subtitle; and

(2) a list of the projects selected for assistance under this subtitle, including—

(A) a description of each project;

(B) the amount of financial assistance provided for each project; and

(C) the basis for the selection of each project with respect to the requirements of this subtitle.

(b) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report summarizing for the projects that are receiving, or have received, assistance under this subtitle—

(A) the applications received for assistance under this subtitle;

(B) the projects selected for assistance under this subtitle, including a description of the projects and the basis for the selection of those projects with respect to the requirements of this subtitle;

(C) the type and amount of financial assistance provided for each project selected for assistance under this subtitle;

(D) the financial performance of each project selected for assistance under this subtitle, including an evaluation of whether the objectives of this subtitle are being met;

(E) the benefits and impacts of implementation of this subtitle, including the public benefit provided by the projects selected for assistance under this subtitle, including, as applicable, water quality and water quantity improvement, the protection of drinking water, and the reduction of flood risk; and

(F) an evaluation of the feasibility of attracting non-Federal public or private financing for water infrastructure projects as a result of the implementation of this subtitle.

(2) RECOMMENDATIONS.—The report under paragraph (1) shall include—

(A) an evaluation of the impacts (if any) of the limitation under section 5028 (a)(5) on the ability of eligible entities to finance water infrastructure projects under this subtitle;

(B) a recommendation as to whether the objectives of this subtitle would be best served—

(i) by continuing the authority of the Secretary or the Administrator, as applicable, to provide assistance under this subtitle;

(ii) by establishing a Government corporation or Government-sponsored enterprise to provide assistance in accordance with this subtitle; or

(iii) by terminating the authority of the Secretary and the Administrator under this subtitle and relying on the capital markets to fund the types of infrastructure investments assisted by this subtitle without Federal participation; and

(C) any proposed changes to improve the efficiency and effectiveness of this subtitle in providing financing for water infrastructure projects, taking into consideration the recommendations made under subparagraphs (A) and (B).

SEC. 5035. REQUIREMENTS.

(a) IN GENERAL.—Except as provided in subsection (c), none of the amounts made available under this subtitle may be used for the construction, alteration, maintenance, or repair of a project eligible for assistance under this subtitle unless all of the iron and steel products used in the project are produced in the United States.

(b) DEFINITION OF IRON AND STEEL PRODUCTS.—In this section, the term ''iron and steel products'' means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(c) APPLICATION.—Subsection (a) shall not apply in any case or category of cases in which the Administrator finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(d) WAIVER.—If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public, on an informal basis, a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.

(e) INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with United States obligations under international agreements.

TITLE VI—DEAUTHORIZATION AND BACKLOG PREVENTION

SEC. 6001. DEAUTHORIZATION OF INACTIVE PROJECTS.

(a) PURPOSES.—The purposes of this section are—

(1) to identify $18,000,000,000 in water resources development projects authorized by Congress that are no longer viable for construction due to—

(A) a lack of local support;

(B) a lack of available Federal or non-Federal resources; or

(C) an authorizing purpose that is no longer relevant or feasible;

(2) to create an expedited and definitive process to deauthorize water resources development projects that are no longer viable for construction; and

(3) to allow the continued authorization of water resources development projects that are viable for construction.

(b) COMPREHENSIVE STATUS REPORTS.—Section 1001(b) of the Water Resources Development

Act of 1986 (33 U.S.C. 579a(b)) is amended by adding at the end the following:

''(3) MINIMUM FUNDING LIST.—At the end of each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and make available on a publicly accessible Internet site in a manner that is downloadable, searchable, and sortable, a list of—

''(A) projects or separable elements of projects authorized for construction for which funding has been obligated during the current fiscal year or any of the 6 preceding fiscal years;

''(B) the amount of funding obligated for each such project or separable element per fiscal year;

''(C) the current phase of each such project or separable element of a project; and

''(D) the amount required to complete the current phase of each such project or separable element.

''(4) COMPREHENSIVE BACKLOG REPORT.—

''(A) IN GENERAL.—The Secretary shall compile and publish a complete list of all projects and separable elements of projects of the Corps of Engineers that are authorized for construction but have not been completed.

''(B) REQUIRED INFORMATION.—The Secretary shall include on the list developed under subparagraph (A) for each project and separable element on that list—

''(i) the date of authorization of the project or separable element, including any subsequent modifications to the original authorization;

''(ii) the original budget authority for the project or separable element;

''(iii) a brief description of the project or separable element;

''(iv) the estimated date of completion of the project or separable element;

''(v) the estimated cost of completion of the project or separable element; and

''(vi) any amounts appropriated for the project or separable element that remain unobligated.

''(C) PUBLICATION.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall submit a copy of the list developed under subparagraph (A) to—

''(I) the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

''(II) the Director of the Office of Management and Budget.

''(ii) PUBLIC AVAILABILITY.—Beginning on the date the Secretary submits the report to Congress under clause (i), the Secretary shall make a copy of the list available on a publicly accessible Internet site in a manner that is downloadable, searchable, and sortable.''.

(c) INTERIM DEAUTHORIZATION LIST.—

(1) IN GENERAL.—The Secretary shall develop an interim deauthorization list that identifies each water resources development project, or separable element of a project, authorized for construction before November 8, 2007, for which—

(A) construction was not initiated before the date of enactment of this Act; or

(B) construction was initiated before the date of enactment of this Act, but for which no funds, Federal or non-Federal, were obligated for construction of the project or separable element of the project during the current fiscal year or any of the 6 preceding fiscal years.

(2) SPECIAL RULE FOR PROJECTS RECEIVING FUNDS FOR POST-AUTHORIZATION STUDY.—A project or separable element of a project may not be identified on the interim deauthorization list, or the final deauthorization list developed under subsection (d), if the project or separable element received funding for a post-authorization study during the current fiscal year or any of the 6 preceding fiscal years.

(3) PUBLIC COMMENT AND CONSULTATION.—

(A) IN GENERAL.—The Secretary shall solicit comments from the public and the Governors of each applicable State on the interim deauthorization list developed under paragraph (1).

(B) COMMENT PERIOD.—The public comment period shall be 90 days.

(4) SUBMISSION TO CONGRESS; PUBLICATION.—Not later than 90 days after the date of submission of the list required by section 1001(b)(4)(A) of the Water Resources Development Act of 1986 (as added by subsection (b)), the Secretary shall—

(A) submit the interim deauthorization list to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) publish the interim deauthorization list in the Federal Register.

(d) FINAL DEAUTHORIZATION LIST.—

(1) IN GENERAL.—The Secretary shall develop a final deauthorization list of each water resources development project, or separable element of a project, described in subsection (c)(1) that is identified pursuant to this subsection.

(2) DEAUTHORIZATION AMOUNT.—

(A) IN GENERAL.—The Secretary shall include on the final deauthorization list projects and separable elements of projects that have, in the aggregate, an estimated Federal cost to complete that is at least $18,000,000,000.

(B) DETERMINATION OF FEDERAL COST TO COMPLETE.—For purposes of subparagraph (A), the Federal cost to complete shall take into account any allowances authorized by section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280), as applied to the most recent project schedule and cost estimate.

(3) IDENTIFICATION OF PROJECTS.—

(A) SEQUENCING OF PROJECTS.—

(i) IN GENERAL.—The Secretary shall identify projects and separable elements of projects for inclusion on the final deauthorization list according to the order in which the projects and separable elements of the projects were authorized, beginning with the earliest authorized projects and separable elements of projects and ending once the last project or separable element of a project necessary to meet the aggregate amount under paragraph (2) is identified.

(ii) FACTORS TO CONSIDER.—The Secretary may identify projects and separable elements of projects in an order other than that established by clause (i) if the Secretary determines, on a case-by-case basis, that a project or separable element of a project is critical for interests of the United States, based on the possible impact of the project or separable element of the project on public health and safety, the national economy, or the environment.

(iii) CONSIDERATION OF PUBLIC COMMENTS.—In making determinations under clause (ii), the Secretary shall consider any comments received under subsection (c)(3).

(B) APPENDIX.—The Secretary shall include as part of the final deauthorization list an appendix that—

(i) identifies each project or separable element of a project on the interim deauthorization list developed under subsection (c) that is not included on the final deauthorization list; and

(ii) describes the reasons why the project or separable element is not included.

(4) SUBMISSION TO CONGRESS; PUBLICATION.—Not later than 120 days after the date on which the public comment period under subsection (c)(3) expires, the Secretary shall—

(A) submit the final deauthorization list and the appendix to the final deauthorization list to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) publish the final deauthorization list and the appendix to the final deauthorization list in the Federal Register.

(e) DEAUTHORIZATION; CONGRESSIONAL REVIEW.—

(1) IN GENERAL.—After the expiration of the 180-day period beginning on the date of submission of the final deauthorization report under subsection (d), a project or separable element of a project identified in the report is hereby deauthorized, unless Congress passes a joint resolution disapproving the final deauthorization report prior to the end of such period.

(2) NON-FEDERAL CONTRIBUTIONS.—

(A) IN GENERAL.—A project or separable element of a project identified in the final deauthorization report under subsection (d) shall not be deauthorized under this subsection if, before the expiration of the 180-day period referred to in paragraph (1), the non-Federal interest for the project or separable element of the project provides sufficient funds to complete the project or separable element of the project.

(B) TREATMENT OF PROJECTS.—Notwithstanding subparagraph (A), each project and separable element of a project identified in the final deauthorization report shall be treated as deauthorized for purposes of the aggregate deauthorization amount specified in subsection (d)(2).

(f) GENERAL PROVISIONS.—

(1) DEFINITIONS.—In this section:

(A) POST-AUTHORIZATION STUDY.—The term ''post-authorization study'' means—

(i) a feasibility report developed under section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282);

(ii) a feasibility study, as defined in section 105(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(d)); or

(iii) a review conducted under section 216 of the Flood Control Act of 1970 (33 U.S.C. 549a), including an initial appraisal that—

(I) demonstrates a Federal interest; and

(II) requires additional analysis for the project or separable element.

(B) WATER RESOURCES DEVELOPMENT PROJECT.—The term ''water resources development project'' includes an environmental infrastructure assistance project or program of the Corps of Engineers.

(2) TREATMENT OF PROJECT MODIFICATIONS.—For purposes of this section, if an authorized water resources development project or separable element of the project has been modified by an Act of Congress, the date of the authorization of the project or separable element shall be deemed to be the date of the most recent such modification.

SEC. 6002. REVIEW OF CORPS OF ENGINEERS ASSETS.

(a) ASSESSMENT AND INVENTORY.—Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct an assessment of all properties under the control of the Corps of Engineers and develop an inventory of the properties that are not needed for the missions of the Corps of Engineers.

(b) CRITERIA.—In conducting the assessment and developing the inventory under subsection (a), the Secretary shall use the following criteria:

(1) The extent to which the property aligns with the current missions of the Corps of Engineers.

(2) The economic impact of the property on existing communities in the vicinity of the property.

(3) The extent to which the utilization rate for the property is being maximized and is consistent with nongovernmental industry standards for the given function or operation.

(4) The extent to which the reduction or elimination of the property could reduce operation and maintenance costs of the Corps of Engineers.

(5) The extent to which the reduction or elimination of the property could reduce energy consumption by the Corps of Engineers.

(c) NOTIFICATION.—As soon as practicable following completion of the inventory of properties under subsection (a), the Secretary shall provide the inventory to the Administrator of General Services.

(d) REPORT TO CONGRESS.—Not later than 30 days after the date of the notification under subsection (c), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report containing the findings of the Secretary with respect to the assessment and inventory required under subsection (a).

SEC. 6003. BACKLOG PREVENTION.

(a) PROJECT DEAUTHORIZATION.—

(1) IN GENERAL.—A water resources development project, or separable element of such a project, authorized for construction by this Act shall not be authorized after the last day of the 7-year period beginning on the date of enactment of this Act unless funds have been obligated for construction of such project during that period.

(2) IDENTIFICATION OF PROJECTS.—Not later than 60 days after the expiration of the 7-year period referred to in paragraph (1), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that identifies the projects deauthorized under paragraph (1).

(b) REPORT TO CONGRESS.—Not later than 60 days after the expiration of the 12-year period beginning on the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and make available to the public, a report that contains—

(1) a list of any water resources development projects authorized by this Act for which construction has not been completed during that period;

(2) a description of the reasons the projects were not completed;

(3) a schedule for the completion of the projects based on expected levels of appropriations; and

(4) a 5-year and 10-year projection of construction backlog and any recommendations to Congress regarding how to mitigate current problems and the backlog.

SEC. 6004. DEAUTHORIZATIONS.

(a) IN GENERAL.—

(1) WALNUT CREEK (PACHECO CREEK), CALIFORNIA.—The portions of the project for flood protection on Walnut Creek, California, constructed under section 203 of the Flood Control Act of 1960 (Public Law 86–645; 74 Stat. 488), consisting of the Walnut Creek project from Sta 0+00 to Sta 142+00 and the upstream extent of the Walnut Creek project along Pacheco Creek from Sta 0+00 to Sta 73+50 are no longer authorized beginning on the date of enactment of this Act.

(2) WALNUT CREEK (SAN RAMON CREEK), CALIFORNIA.—The portion of the project for flood protection on Walnut Creek, California, constructed under section 203 of the Flood Control Act of 1960 (Public Law 86–645; 74 Stat. 488), consisting of the culvert constructed by the Department of the Army on San Ramon Creek from Sta 4+27 to Sta 14+27 is no longer authorized beginning on the date of enactment of this Act.

(3) EIGHTMILE RIVER, CONNECTICUT.—

(A) The portion of the project for navigation, Eightmile River, Connecticut, authorized by the first section of the Act of June 25, 1910 (36 Stat. 633, chapter 382) (commonly known as the ''River and Harbor Act of 1910''), that begins at a point of the existing 8-foot channel limit with coordinates N701002.39, E1109247.73, thence running north 2 degrees 19 minutes 57.1 seconds east 265.09 feet to a point N701267.26, E1109258.52, thence running north 7 degrees 47 minutes 19.3 seconds east 322.32 feet to a point N701586.60, E1109302.20, thence running north 90 degrees 0 minutes 0 seconds east 65.61 to a point N701586.60, E1109367.80, thence running south 7 degrees 47 minutes 19.3 seconds west 328.11 feet to a point N701261.52, E1109323.34, thence running south 2 degrees 19 minutes 57.1 seconds west 305.49 feet to an end at a point N700956.28, E1109310.91 on the existing 8-foot channel limit, shall be reduced to a width of 65 feet and the channel realigned to follow the deepest available water.

(B) The project referred to in subparagraph (A) beginning at a point N701296.72, E1109262.55 and running north 45 degrees 4 minutes 2.8 seconds west 78.09 feet to a point N701341.18, E1109217.98, thence running north 5 degrees 8 minutes 34.6 seconds east 180.14 feet to a point N701520.59, E1109234.13, thence running north 54 degrees 5 minutes 50.1 seconds east 112.57 feet to a point N701568.04, E1109299.66, thence running south 7 degrees 47 minutes 18.4 seconds west 292.58 feet to the point of origin; and the remaining area north of the channel realignment beginning at a point N700956.28, E1109310.91 thence running north 2 degrees 19 minutes 57.1 seconds east 305.49 feet west to a point N701261.52, E1109323.34 north 7 degrees 47 minutes 18.4 seconds east 328.11 feet to a point N701586.60, E1109367.81 thence running north 90 degrees 0 minutes 0 seconds east 7.81 feet to a point N701586.60, E1109375.62 thence running south 5 degrees 8 minutes 34.6 seconds west 626.29 feet to a point N700962.83, E1109319.47 thence south 52 degrees 35 minutes 36.5 seconds 10.79 feet to the point of origin is no longer authorized beginning on the date of enactment of this Act.

(4) HILLSBOROUGH (HILLSBORO) BAY AND RIVER, FLORIDA.—The portions of the project for navigation, Hillsborough (Hillsboro) Bay and River, Florida, authorized by the Act of March 3, 1899 (30 Stat. 1126; chapter 425), that extend on either side of the Hillsborough River from the Kennedy Boulevard bridge to the mouth of the river that cause the existing channel to exceed 100 feet in width are no longer authorized beginning on the date of enactment of this Act.

(5) KAHULUI WASTEWATER RECLAMATION FACILITY, MAUI, HAWAII.—The project authorized pursuant to section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r) to provide shoreline protection for the Kahului Wastewater Reclamation Facility, located on the Island of Maui in the State of Hawaii is no longer authorized beginning on the date of enactment of this Act.

(6) LUCAS-BERG PIT, ILLINOIS WATERWAY AND GRANT CALUMET RIVER, ILLINOIS.—The portion of the project for navigation, Illinois Waterway and Grand Calumet River, Illinois, authorized by the first section of the Act of July 24, 1946 (60 Stat. 636; chapter 595), that consists of the Lucas-Berg Pit confined disposal facility, Illinois is no longer authorized beginning on the date of enactment of this Act.

(7) PORT OF IBERIA, LOUISIANA.—Section 1001(25) of the Water Resources Development Act of 2007 (121 Stat. 1053) is amended by striking ''; except that'' and all that follows before the period at the end.

(8) ROCKLAND HARBOR, MAINE.—The project for navigation, Rockland Harbor, Maine, authorized by the Act of June 3, 1896 (29 Stat. 202; chapter 314), and described as follows is no longer authorized beginning on the date of enactment of this Act:

(A) Beginning at the point in the 14-foot turning basin limit with coordinates N162,927.61, E826,210.16.

(B) Thence running north 45 degrees 45 minutes 15.6 seconds east 287.45 feet to a point N163,128.18, E826,416.08.

(C) Thence running south 13 degrees 17 minutes 53.3 seconds east 129.11 feet to a point N163,002.53, E826,445.77.

(D) Thence running south 45 degrees 45 minutes 18.4 seconds west 221.05 feet to a point N162,848.30, E826,287.42.

(E) Thence running north 44 degrees 14 minutes 59.5 seconds west 110.73 feet to the point of origin.

(9) THOMASTON HARBOR, GEORGES RIVER, MAINE.—The portion of the project for navigation, Georges River, Maine (Thomaston Harbor), authorized by the first section of the Act of June 3, 1896 (29 Stat. 215, chapter 314), and modified by section 317 of the Water Resources Development Act of 2000 (Public Law 106–541; 114 Stat. 2604), that lies northwesterly of a line commencing at point N87,220.51, E321,065.80 thence running northeasterly about 125 feet to a point N87,338.71, E321,106.46 is no longer authorized beginning on the date of enactment of this Act.

(10) CORSICA RIVER, QUEEN ANNE'S COUNTY, MARYLAND.—The portion of the project for improving the Corsica River, Maryland, authorized by the first section of the Act of July 25, 1912 (37 Stat. 205; chapter 253), and described as follows is no longer authorized beginning on the date of enactment of this Act: Approximately 2,000 feet of the eastern section of the project channel extending from—

(A) centerline station 0+000 (coordinates N506350.60, E1575013.60); to

(B) station 2+000 (coordinates N508012.39, E1574720.18).

(11) GOOSE CREEK, SOMERSET COUNTY, MARYLAND.—The project for navigation, Goose Creek, Somerset County, Maryland, carried out pursuant to section 107 of the Rivers and Harbor Act of 1960 (33 U.S.C. 577), is realigned as follows: Beginning at Goose Creek Channel Geometry Centerline of the 60-foot-wide main navigational ship channel, Centerline Station No. 0+00, coordinates North 157851.80, East 1636954.70, as stated and depicted on the Condition Survey Goose Creek, Sheet 1 of 1, prepared by the United States Army Corps of Engineers, Baltimore District, July 2003; thence departing the aforementioned centerline traveling the following courses and distances: S. 64 degrees 49 minutes 06 seconds E., 1583.82 feet to a point, on the outline of said 60-foot-wide channel thence binding on said out-line the following four courses and distances: S. 63 degrees 26 minutes 06 seconds E., 1460.05 feet to a point, thence; N. 50 degrees 38 minutes 26 seconds E., 973.28 feet to a point, thence; N. 26 degrees 13 minutes 09 seconds W., 240.39 feet to a point on the Left Toe of the 60-foot-wide main navigational channel at computed Centerline Station No. 42+57.54, coordinates North 157357.84, East 1640340.23. Geometry Left Toe of the 60-foot-wide main navigational ship channel, Left Toe Station No. 0+00, coordinates North 157879.00, East 1636967.40, as stated and depicted on the Condition Survey Goose Creek, Sheet 1 of 1, prepared by the United States Army Corps of Engineers, Baltimore District, August 2010; thence departing the aforementioned centerline traveling the following courses and distances: S. 64 degrees 49 minutes 12 seconds E., 1583.91 feet to a point, on the outline of said 60-foot-wide channel thence binding on said out-line the following eight courses and distances: S. 63 degrees 25 minutes 38 seconds E., 1366.25 feet to a point, thence; N. 83 degrees 36 minutes 24 seconds E., 125.85 feet to a point, thence; N. 50 degrees 38 minutes 26 seconds E., 805.19 feet to a point, thence; N. 12 degrees 12 minutes 29 seconds E., 78.33 feet to a point thence; N. 26 degrees 13 minutes 28 seconds W., 46.66 feet to a point thence; S. 63 degrees 45 minutes 41 seconds W., 54.96 feet to a point thence; N. 26 degrees 13 minutes 24 seconds W., 119.94 feet to a point on the Left Toe of the 60-foot-wide main navigational channel at computed Centerline Station No. 41+81.10, coordinates North 157320.30, East 1640264.00. Geometry Right Toe of the 60-foot-wide main navigational ship channel, Right Toe Station No. 0+00, coordinates North 157824.70, East 1636941.90, as stated and depicted on the Condition Survey Goose Creek, Sheet 1 of 1, prepared by the United States Army Corps of Engineers, Baltimore District, August 2010; thence departing the aforementioned centerline traveling the following courses and distances: S. 64 degrees 49 minutes 06 seconds E., 1583.82 feet to a point, on the outline of said 60-foot-wide channel thence

binding on said out-line the following six courses and distances: S. 63 degrees 25 minutes 47 seconds E., 1478.79 feet to a point, thence; N. 50 degrees 38 minutes 26 seconds E., 1016.69 feet to a point, thence; N. 26 degrees 14 minutes 49 seconds W., 144.26 feet to a point, thence; N. 63 degrees 54 minutes 03 seconds E., 55.01 feet to a point thence; N. 26 degrees 12 minutes 08 seconds W., 120.03 feet to a point a point on the Right Toe of the 60-foot-wide main navigational channel at computed Centerline Station No. 43+98.61, coordinates North 157395.40, East 1640416.50.

(12) LOWER THOROUGHFARE, DEAL ISLAND, MARYLAND.—The portion of the project for navigation, Lower Thoroughfare, Maryland, authorized by the Act of June 25, 1910 (36 Stat. 639, chapter 382) (commonly known as the ''River and Harbor Act of 1910''), that begins at Lower Thoroughfare Channel Geometry Centerline of the 60-foot-wide main navigational ship channel, Centerline Station No. 44+88, coordinates North 170435.62, East 1614588.93, as stated and depicted on the Condition Survey Lower Thoroughfare, Deal Island, Sheet 1 of 3, prepared by the United States Army Corps of Engineers, Baltimore District, August 2010; thence departing the aforementioned centerline traveling the following courses and distances: S. 42 degrees 20 minutes 44 seconds W., 30.00 feet to a point, on the outline of said 60-foot-wide channel thence binding on said out-line the following four courses and distances: N. 64 degrees 08 minutes 55 seconds W., 53.85 feet to a point, thence; N. 42 degrees 20 minutes 43 seconds W., 250.08 feet to a point, thence; N. 47 degrees 39 minutes 03 seconds E., 20.00 feet to a point, thence; S. 42 degrees 20 minutes 44 seconds E., 300.07 feet to a point binding on the Left Toe of the 60-foot-wide main navigational channel at computed Centerline Station No. 43+92.67, coordinates North 170415.41, 1614566.76; thence; continuing with the aforementioned centerline the following courses and distances: S. 42 degrees 20 minutes 42 seconds W., 30.00 feet to a point, on the outline of said 60-foot-wide channel thence binding on said out-line the following four courses and distances: N. 20 degrees 32 minutes 06 seconds W., 53.85 feet to a point, thence; N. 42 degrees 20 minutes 49 seconds W., 250.08 feet to a point, thence; S. 47 degrees 39 minutes 03 seconds W., 20.00 feet to a point, thence; S. 42 degrees 20 minutes 46 seconds E., 300.08 feet to a point binding on the Left Toe of the 60-foot-wide main navigational channel at computed Centerline Station No. 43+92.67, coordinates North 170415.41, 1614566.76 is no longer authorized beginning on the date of enactment of this Act.

(13) GLOUCESTER HARBOR AND ANNISQUAM RIVER, MASSACHUSETTS.—The portions of the project for navigation, Gloucester Harbor and Annisquam River, Massachusetts, authorized by section 2 of the Act of March 2, 1945 (59 Stat. 12; chapter 19), consisting of an 8-foot anchorage area in Lobster Cove, and described as follows are no longer authorized beginning on the date of enactment of this Act:

(A) Beginning at a bend along the easterly limit of the existing project, N3063230.31, E878283.77, thence running northwesterly about 339 feet to a point, N3063478.86, E878053.83, thence running northwesterly about 281 feet to a bend on the easterly limit of the existing project, N3063731.88, E877932.54, thence running southeasterly about 612 feet along the easterly limit of the existing project to the point of origin.

(B) Beginning at a bend along the easterly limit of the existing project, N3064065.80, E878031.45, thence running northwesterly about 621 feet to a point, N3064687.05, E878031.13, thence running southwesterly about 122 feet to a point, N3064686.98, E877908.85, thence running southeasterly about 624 feet to a point, N3064063.31, E877909.17, thence running southwesterly about 512 feet to a point, N3063684.73, E877564.56, thence running about 741 feet to a point along the westerly limit of the existing project, N3063273.98, E876947.77, thence running northeasterly about 533 feet to a bend along the westerly limit of the existing project, N3063585.62, E877380.63, thence running about 147 feet northeasterly to a bend along the westerly limit of the project, N3063671.29, E877499.63, thence running northeasterly about 233 feet to a bend along the westerly limit of the existing project, N3063840.60, E877660.29, thence running about 339 feet northeasterly to a bend along the westerly limit of the existing project, N3064120.34, E877852.55, thence running about 573 feet to a bend along the westerly limit of the existing project, N3064692.98, E877865.04, thence running about 113 feet to a bend along the northerly limit of the existing project, N3064739.51, E877968.31, thence running 145 feet southeasterly to a bend along the northerly limit of the existing project, N3064711.19, E878110.69, thence running about 650 feet along the easterly limit of the existing project to the point of origin.

(14) CLATSOP COUNTY DIKING DISTRICT NO. 10, KARLSON ISLAND, OREGON.—The Diking District No. 10, Karlson Island portion of the project for raising and improving existing levees in Clatsop County, Oregon, authorized by section 5 of the Act of June 22, 1936 (49 Stat. 1590) is no longer authorized beginning on the date of enactment of this Act.

(15) NUMBERG DIKE NO. 34 LEVEED AREA, CLATSOP COUNTY DIKING DISTRICT NO. 13, CLATSOP COUNTY, OREGON (WALLUSKI-YOUNGS).—The Numberg Dike No. 34 leveed area, Clatsop County Diking District, No. 13, Walluski River and Youngs River dikes, portion of the project for raising and improving existing levees in Clatsop County, Oregon, authorized by section 5 of the Act of June 22, 1936 (49 Stat. 1590) is no longer authorized beginning on the date of enactment of this Act.

(16) EAST FORK OF TRINITY RIVER, TEXAS.—The portion of the project for flood protection on the East Fork of the Trinity River, Texas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1185), that consists of the 2 levees identified as Kaufman County Levees K5E and K5W is no longer authorized beginning on the date of enactment of this Act.

(17) BURNHAM CANAL, WISCONSIN.—The portion of the project for navigation, Milwaukee Harbor Project, Milwaukee, Wisconsin, known as the Burnham Canal, authorized by the first section of the Act of March 3, 1843 (5 Stat. 619; chapter 85), and described as follows is no longer authorized beginning on the date of enactment of this Act:

(A) Beginning at channel point #415a N381768.648, E2524554.836, a distance of about 170.58 feet.

(B) Thence running south 53 degrees 43 minutes 41 seconds west to channel point #417 N381667.728, E2524417.311, a distance of about 35.01 feet.

(C) Thence running south 34 degrees 10 minutes 40 seconds west to channel point #501 N381638.761, E2524397.639, a distance of about 139.25 feet.

(D) Thence running south 34 degrees 10 minutes 48 seconds west to channel point #503 N381523.557, E2524319.406, a distance of about 235.98 feet.

(E) Thence running south 32 degrees 59 minutes 13 seconds west to channel point #505 N381325.615, E2524190.925, a distance of about 431.29 feet.

(F) Thence running south 32 degrees 36 minutes 05 seconds west to channel point #509 N380962.276, E2523958.547, a distance of about 614.52 feet.

(G) Thence running south 89 degrees 05 minutes 00 seconds west to channel point #511 N380952.445, E2523344.107, a distance of about 74.68 feet.

(H) Thence running north 89 degrees 04 minutes 59 seconds west to channel point #512 N381027.13, E2523342.91, a distance of about 533.84 feet.

(I) Thence running north 89 degrees 05 minutes 00 seconds east to channel point #510 N381035.67, E2523876.69, a distance of about 47.86 feet.

(J) Thence running north 61 degrees 02 minutes 07 seconds east to channel point #508 N381058.84, E2523918.56, a distance of about 308.55 feet.

(K) Thence running north 36 degrees 15 minutes 29 seconds east to channel point #506 N381307.65, E2524101.05, a distance of about 199.98 feet.

(L) Thence running north 32 degrees 59 minutes 12 seconds east to channel point #504 N381475.40, E2524209.93, a distance of about 195.14 feet.

(M) Thence running north 26 degrees 17 minutes 22 seconds east to channel point #502 N381650.36, E2524296.36, a distance of about 81.82 feet.

(N) Thence running north 88 degrees 51 minutes 05 seconds west to channel point #419 N381732.17, E2524294.72, a distance of about 262.65 feet.

(O) Thence running north 82 degrees 01 minutes 02 seconds east to channel point #415a, the point of origin.

(18) MANITOWOC HARBOR, WISCONSIN.—The portion of the project for navigation, Manitowoc River, Manitowoc, Wisconsin, authorized by the Act of August 30, 1852 (10 Stat. 58; chapter 104), and described as follows is no longer authorized beginning on the date of enactment of this Act: The triangular area bound by—

(A) 44.09893383N and 087.66854912W;

(B) 44.09900535N and 087.66864372W; and

(C) 44.09857884N and 087.66913123W.

(b) SEWARD WATERFRONT, SEWARD, ALASKA.—

(1) IN GENERAL.—Subject to paragraph (2), the portion of the project for navigation, Seward Harbor, Alaska, identified as Tract H, Seward Original Townsite, Waterfront Park Replat, Plat No 2012–4, Seward Recording District, shall not be subject to navigation servitude beginning on the date of enactment of this Act.

(2) ENTRY BY FEDERAL GOVERNMENT.—The Federal Government may enter upon the property referred to in paragraph (1) to carry out any required operation and maintenance of the general navigation features of the project referred to in paragraph (1).

(c) PORT OF HOOD RIVER, OREGON.—

(1) EXTINGUISHMENT OF PORTIONS OF EXISTING FLOWAGE EASEMENT.—With respect to the properties described in paragraph (2), beginning on the date of enactment of this Act, the flowage easement identified as Tract 1200E–6 on the Easement Deed recorded as Instrument No. 740320 is extinguished above elevation 79.39 feet (NGVD 29) the Ordinary High Water Line.

(2) AFFECTED PROPERTIES.—The properties referred to in paragraph (1), as recorded in Hood River County, Oregon, are as follows:

(A) Instrument Number 2010–1235.

(B) Instrument Number 2010–02366.

(C) Instrument Number 2010–02367.

(D) Parcel 2 of Partition Plat #2011–12P.

(E) Parcel 1 of Partition Plat 2005–26P.

(3) FEDERAL LIABILITIES; CULTURAL, ENVIRONMENTAL, AND OTHER REGULATORY REVIEWS.—

(A) FEDERAL LIABILITY.—The United States shall not be liable for any injury caused by the extinguishment of the easement under this subsection.

(B) CULTURAL AND ENVIRONMENTAL REGULATORY ACTIONS.—Nothing in this subsection establishes any cultural or environmental regulation relating to the properties described in paragraph (2).

(4) EFFECT ON OTHER RIGHTS.—Nothing in this subsection affects any remaining right or interest of the Corps of Engineers in the properties described in paragraph (2).

SEC. 6005. LAND CONVEYANCES.

(a) OAKLAND INNER HARBOR TIDAL CANAL, CALIFORNIA.—Section 3182(b)(1) of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1165) is amended—

(1) in subparagraph (A) by inserting '', or to a multicounty public entity that is eligible to hold title to real property'' after ''To the city of Oakland''; and

(2) in subparagraphs (B) and (C) by inserting ''multicounty public entity or other'' before ''public entity''.

(b) ST. CHARLES COUNTY, MISSOURI, LAND EXCHANGE.—

(1) DEFINITIONS.—In this subsection:

(A) FEDERAL LAND.—The term ''Federal land'' means approximately 84 acres of land, as identified by the Secretary, that is a portion of the approximately 227 acres of land leased from the Corps of Engineers by Ameren Corporation for the Portage Des Sioux Power Plant in St. Charles County, Missouri (Lease No. DA-23-065–CIVENG–64–651, Pool 26).

(B) NON-FEDERAL LAND.—The term ''non-Federal land'' means the approximately 68 acres of land owned by Ameren Corporation in Jersey County, Illinois, contained within the north half of section 23, township 6 north, range 11 west of the third principal meridian.

(2) LAND EXCHANGE.—On conveyance by Ameren Corporation to the United States of all right, title, and interest in and to the non-Federal land, the Secretary shall convey to Ameren Corporation all right, title, and interest of the United States in and to the Federal land.

(3) SPECIFIC CONDITIONS.—

(A) DEEDS.—

(i) DEED TO NON-FEDERAL LAND.—The Secretary may only accept conveyance of the non-Federal land by warranty deed, as determined acceptable by the Secretary.

(ii) DEED TO FEDERAL LAND.—The Secretary shall convey the Federal land to Ameren Corporation by quitclaim deed.

(B) CASH PAYMENT.—If the appraised fair market value of the Federal land, as determined by the Secretary, exceeds the appraised fair market value of the non-Federal land, as determined by the Secretary, Ameren Corporation shall make a cash payment to the United States reflecting the difference in the appraised fair market values.

(c) TULSA PORT OF CATOOSA, ROGERS COUNTY, OKLAHOMA, LAND EXCHANGE.—

(1) DEFINITIONS.—In this subsection:

(A) FEDERAL LAND.—The term ''Federal land'' means the approximately 87 acres of land situated in Rogers County, Oklahoma, contained within United States Tracts 413 and 427 and acquired for the McClellan-Kerr Arkansas Navigation System.

(B) NON-FEDERAL LAND.—The term ''non-Federal land'' means the approximately 34 acres of land situated in Rogers County, Oklahoma, and owned by the Tulsa Port of Catoosa that lie immediately south and east of the Federal land.

(2) LAND EXCHANGE.—On conveyance by the Tulsa Port of Catoosa to the United States of all right, title, and interest in and to the non-Federal land, the Secretary shall convey to the Tulsa Port of Catoosa all right, title, and interest of the United States in and to the Federal land.

(3) SPECIFIC CONDITIONS.—

(A) DEEDS.—

(i) DEED TO NON-FEDERAL LAND.—The Secretary may only accept conveyance of the non-Federal land by warranty deed, as determined acceptable by the Secretary.

(ii) DEED TO FEDERAL LAND.—The Secretary shall convey the Federal land to the Tulsa Port of Catoosa by quitclaim deed and subject to any reservations, terms, and conditions the Secretary determines necessary to allow the United States to operate and maintain the McClellan-Kerr Arkansas River Navigation System.

(iii) CASH PAYMENT.—If the appraised fair market value of the Federal land, as determined by the Secretary, exceeds the appraised fair market value of the non-Federal land, as determined by the Secretary, the Tulsa Port of Catoosa shall make a cash payment to the United States reflecting the difference in the appraised fair market values.

(d) HAMMOND BOAT BASIN, WARRENTON, OREGON.—

(1) DEFINITIONS.—In this subsection:

(A) CITY.—The term ''City'' means the city of Warrenton, located in Clatsop County, Oregon.

(B) MAP.—The term ''map'' means the map contained in Exhibit A of Department of the Army Lease No. DACW57–1–88–0033 (or a successor instrument).

(2) CONVEYANCE AUTHORITY.—Subject to the provisions of this subsection, the Secretary shall convey to the City by quitclaim deed, and without consideration, all right, title, and interest of the United States in and to the parcel of land described in paragraph (3).

(3) DESCRIPTION OF LAND.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the land referred to in paragraph (2) is the parcel totaling approximately 59 acres located in the City, together with any improvements thereon, including the Hammond Marina (as described in the map).

(B) EXCLUSION.—The land referred to in paragraph (2) shall not include the site provided for the fisheries research support facility of the National Marine Fisheries Service.

(C) AVAILABILITY OF MAP.—The map shall be on file in the Portland District Office of the Corps of Engineers.

(4) TERMS AND CONDITIONS.—As a condition of the conveyance under this subsection, the Secretary may impose a requirement that the City assume full responsibility for operating and maintaining the channel and the breakwater.

(5) REVERSION.—If the Secretary determines that the land conveyed under this subsection ceases to be owned by the public, all right, title, and interest in and to the land shall revert, at the discretion of the Secretary, to the United States.

(6) DEAUTHORIZATION.—After the land is conveyed under this subsection, the land shall no longer be a portion of the project for navigation, Hammond Small Boat Basin, Oregon, authorized by section 107 of the Rivers and Harbor Act of 1960 (33 U.S.C. 577).

(e) CRANEY ISLAND DREDGED MATERIAL MANAGEMENT AREA, PORTSMOUTH, VIRGINIA.—

(1) IN GENERAL.—Subject to the conditions described in this subsection, the Secretary may convey to the Commonwealth of Virginia, by quitclaim deed and without consideration, all right, title, and interest of the United States in and to 2 parcels of land situated within the project for navigation, Craney Island Eastward Expansion, Norfolk Harbor and Channels, Hampton Roads, Virginia, authorized by section 1001(45) of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1057), together with any improvements thereon.

(2) LANDS TO BE CONVEYED.—

(A) IN GENERAL.—The 2 parcels of land to be conveyed under this subsection include a parcel consisting of approximately 307.82 acres of land and a parcel consisting of approximately 13.33 acres of land, both located along the eastern side of the Craney Island Dredged Material Management Area in Portsmouth, Virginia.

(B) USE.—The 2 parcels of land described in subparagraph (A) may be used by the Commonwealth of Virginia exclusively for the purpose of port expansion, including the provision of road and rail access and the construction of a shipping container terminal.

(3) REVERSION.—If the Secretary determines that the land conveyed under this subsection ceases to be owned by the public or is used for any purpose that is inconsistent with paragraph (2), all right, title, and interest in and to the land shall revert, at the discretion of the Secretary, to the United States.

(f) CITY OF ASOTIN, WASHINGTON.—

(1) IN GENERAL.—The Secretary shall convey to the city of Asotin, Asotin County, Washington, without monetary consideration, all right, title, and interest of the United States in and to the land described in paragraph (3).

(2) REVERSION.—If the land transferred under this subsection ceases at any time to be used for a public purpose, the land shall revert to the United States.

(3) DESCRIPTION.—The land to be conveyed to the city of Asotin, Washington, under this subsection are—

(A) the public ball fields designated as Tracts 1503, 1605, 1607, 1609, 1611, 1613, 1615, 1620, 1623, 1624, 1625, 1626, and 1631; and

(B) other leased areas designated as Tracts 1506, 1522, 1523, 1524, 1525, 1526, 1527, 1529, 1530, 1531, and 1563.

(g) GENERALLY APPLICABLE PROVISIONS.—

(1) SURVEY TO OBTAIN LEGAL DESCRIPTION.—The exact acreage and the legal description of any real property to be conveyed under this section shall be determined by a survey that is satisfactory to the Secretary.

(2) APPLICABILITY OF PROPERTY SCREENING PROVISIONS.—Section 2696 of title 10, United States Code, shall not apply to any conveyance under this section.

(3) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require that any conveyance under this section be subject to such additional terms and conditions as the Secretary considers necessary and appropriate to protect the interests of the United States.

(4) COSTS OF CONVEYANCE.—An entity to which a conveyance is made under this section shall be responsible for all reasonable and necessary costs, including real estate transaction and environmental documentation costs, associated with the conveyance.

(5) LIABILITY.—An entity to which a conveyance is made under this section shall hold the United States harmless from any liability with respect to activities carried out, on or after the date of the conveyance, on the real property conveyed. The United States shall remain responsible for any liability with respect to activities carried out, before such date, on the real property conveyed.

(h) RELEASE OF USE RESTRICTIONS.—Notwithstanding any other provision of law, the Tennessee Valley Authority shall, without monetary consideration, grant releases from real estate restrictions established pursuant to section 4(k)(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831c(k)(b)) with respect to tracts of land identified in section 4(k)(b) of that Act, subject to the condition that such releases shall be granted in a manner consistent with applicable Tennessee Valley Authority policies.

TITLE VII—WATER RESOURCES INFRASTRUCTURE

SEC. 7001. ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than February 1 of each year, the Secretary shall develop and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report, to be entitled ''Report to Congress on Future Water Resources Development'', that identifies the following:

(1) FEASIBILITY REPORTS.—Each feasibility report that meets the criteria established in subsection (c)(1)(A).

(2) PROPOSED FEASIBILITY STUDIES.—Any proposed feasibility study submitted to the Secretary by a non-Federal interest pursuant to subsection (b) that meets the criteria established in subsection (c)(1)(A).

(3) PROPOSED MODIFICATIONS.—Any proposed modification to an authorized water resources development project or feasibility study that meets the criteria established in subsection (c)(1)(A) that—

(A) is submitted to the Secretary by a non-Federal interest pursuant to subsection (b); or

(B) is identified by the Secretary for authorization.

(b) REQUESTS FOR PROPOSALS.—

(1) PUBLICATION.—Not later than May 1 of each year, the Secretary shall publish in the Federal Register a notice requesting proposals from non-Federal interests for proposed feasibility studies and proposed modifications to authorized water resources development projects

and feasibility studies to be included in the annual report.

(2) DEADLINE FOR REQUESTS.—The Secretary shall include in each notice required by this subsection a requirement that non-Federal interests submit to the Secretary any proposals described in paragraph (1) by not later than 120 days after the date of publication of the notice in the Federal Register in order for the proposals to be considered for inclusion in the annual report.

(3) NOTIFICATION.—On the date of publication of each notice required by this subsection, the Secretary shall—

(A) make the notice publicly available, including on the Internet; and

(B) provide written notification of the publication to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(c) CONTENTS.—

(1) FEASIBILITY REPORTS, PROPOSED FEASIBILITY STUDIES, AND PROPOSED MODIFICATIONS.—

(A) CRITERIA FOR INCLUSION IN REPORT.—The Secretary shall include in the annual report only those feasibility reports, proposed feasibility studies, and proposed modifications to authorized water resources development projects and feasibility studies that—

(i) are related to the missions and authorities of the Corps of Engineers;

(ii) require specific congressional authorization, including by an Act of Congress;

(iii) have not been congressionally authorized;

(iv) have not been included in any previous annual report; and

(v) if authorized, could be carried out by the Corps of Engineers.

(B) DESCRIPTION OF BENEFITS.—

(i) DESCRIPTION.—The Secretary shall describe in the annual report, to the extent applicable and practicable, for each proposed feasibility study and proposed modification to an authorized water resources development project or feasibility study included in the annual report, the benefits, as described in clause (ii), of each such study or proposed modification (including the water resources development project that is the subject of the proposed feasibility study or the proposed modification to an authorized feasibility study).

(ii) BENEFITS.—The benefits (or expected benefits, in the case of a proposed feasibility study) described in this clause are benefits to—

(I) the protection of human life and property;

(II) improvement to transportation;

(III) the national economy;

(IV) the environment; or

(V) the national security interests of the United States.

(C) IDENTIFICATION OF OTHER FACTORS.—The Secretary shall identify in the annual report, to the extent practicable—

(i) for each proposed feasibility study included in the annual report, the non-Federal interest that submitted the proposed feasibility study pursuant to subsection (b); and

(ii) for each proposed feasibility study and proposed modification to an authorized water resources development project or feasibility study included in the annual report, whether the non-Federal interest has demonstrated—

(I) that local support exists for the proposed feasibility study or proposed modification to an authorized water resources development project or feasibility study (including the water resources development project that is the subject of the proposed feasibility study or the proposed modification to an authorized feasibility study); and

(II) the financial ability to provide the required non-Federal cost share.

(2) TRANSPARENCY.—The Secretary shall include in the annual report, for each feasibility report, proposed feasibility study, and proposed modification to an authorized water resources development project or feasibility study included under paragraph (1)(A)—

(A) the name of the associated non-Federal interest, including the name of any non-Federal interest that has contributed, or is expected to contribute, a non-Federal share of the cost of—

(i) the feasibility report;

(ii) the proposed feasibility study;

(iii) the authorized feasibility study for which the modification is proposed; or

(iv) construction of—

(I) the water resources development project that is the subject of—

(aa) the feasibility report;

(bb) the proposed feasibility study; or

(cc) the authorized feasibility study for which a modification is proposed; or

(II) the proposed modification to an authorized water resources development project;

(B) a letter or statement of support for the feasibility report, proposed feasibility study, or proposed modification to an authorized water resources development project or feasibility study from each associated non-Federal interest;

(C) the purpose of the feasibility report, proposed feasibility study, or proposed modification to an authorized water resources development project or feasibility study;

(D) an estimate, to the extent practicable, of the Federal, non-Federal, and total costs of—

(i) the proposed modification to an authorized feasibility study; and

(ii) construction of—

(I) the water resources development project that is the subject of—

(aa) the feasibility report; or

(bb) the authorized feasibility study for which a modification is proposed, with respect to the change in costs resulting from such modification; or

(II) the proposed modification to an authorized water resources development project; and

(E) an estimate, to the extent practicable, of the monetary and nonmonetary benefits of—

(i) the water resources development project that is the subject of—

(I) the feasibility report; or

(II) the authorized feasibility study for which a modification is proposed, with respect to the benefits of such modification; or

(ii) the proposed modification to an authorized water resources development project.

(3) CERTIFICATION.—The Secretary shall include in the annual report a certification stating that each feasibility report, proposed feasibility study, and proposed modification to an authorized water resources development project or feasibility study included in the annual report meets the criteria established in paragraph (1)(A).

(4) APPENDIX.—The Secretary shall include in the annual report an appendix listing the proposals submitted under subsection (b) that were not included in the annual report under paragraph (1)(A) and a description of why the Secretary determined that those proposals did not meet the criteria for inclusion under such paragraph.

(d) SPECIAL RULE FOR INITIAL ANNUAL REPORT.—Notwithstanding any other deadlines required by this section, the Secretary shall—

(1) not later than 60 days after the date of enactment of this Act, publish in the Federal Register a notice required by subsection (b)(1); and

(2) include in such notice a requirement that non-Federal interests submit to the Secretary any proposals described in subsection (b)(1) by not later than 120 days after the date of publication of such notice in the Federal Register in order for such proposals to be considered for inclusion in the first annual report developed by the Secretary under this section.

(e) PUBLICATION.—Upon submission of an annual report to Congress, the Secretary shall make the annual report publicly available, including through publication on the Internet.

(f) DEFINITIONS.—In this section:

(1) ANNUAL REPORT.—The term ''annual report'' means a report required by subsection (a).

(2) FEASIBILITY REPORT.—

(A) IN GENERAL.—The term ''feasibility report'' means a final feasibility report developed under section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282).

(B) INCLUSIONS.—The term ''feasibility report'' includes—

(i) a report described in section 105(d)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(d)(2)); and

(ii) where applicable, any associated report of the Chief of Engineers.

(3) FEASIBILITY STUDY.—The term ''feasibility study'' has the meaning given that term in section 105 of the Water Resources Development Act of 1986 (33 U.S.C. 2215).

(4) NON-FEDERAL INTEREST.—The term ''non-Federal interest'' has the meaning given that term in section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b).

SEC. 7002. AUTHORIZATION OF FINAL FEASIBILITY STUDIES.

The following final feasibility studies for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plan, and subject to the conditions, described in the respective reports designated in this section:

(1) NAVIGATION.—

A. State	*B. Name*	*C. Date of Report of Chief of Engineers*	*D. Estimated Costs*
1. TX, LA	*Sabine Neches Waterway, Southeast Texas and Southwest Louisiana*	*July 22, 2011*	*Federal: $748,070,000 Non-Federal: $365,970,000 Total: $1,114,040,000*
2. FL	*Jacksonville Harbor-Milepoint*	*Apr. 30, 2012*	*Federal: $27,870,000 Non-Federal: $9,290,000 Total: $37,160,000*
3. GA	*Savannah Harbor Expansion Project*	*Aug. 17, 2012*	*Federal: $492,000,000 Non-Federal: $214,000,000 Total: $706,000,000*

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
4. TX	Freeport Harbor	Jan. 7, 2013	Federal: $121,000,000 Non-Federal: $118,300,000 Total: $239,300,000
5. FL	Canaveral Harbor (Sect 203 Sponsor Report)	Feb. 25, 2013	Federal: $29,240,000 Non-Federal: $11,830,000 Total: $41,070,000
6. MA	Boston Harbor	Sept. 30, 2013	Federal: $216,470,000 Non-Federal: $94,510,000 Total: $310,980,000
7. FL	Lake Worth Inlet	Apr. 16, 2014	Federal: $57,556,000 Non-Federal: $30,975,000 Total: $88,531,000
8. FL	Jacksonville Harbor	Apr. 16, 2014	Federal: $362,000,000 Non-Federal: $238,900,000 Total: $600,900,000

(2) FLOOD RISK MANAGEMENT.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. KS	Topeka	Aug. 24, 2009	Federal: $17,360,000 Non-Federal: $9,350,000 Total: $26,710,000
2. CA	American River Watershed, Common Features Project, Natomas Basin	Dec. 30, 2010	Federal: $760,630,000 Non-Federal: $386,650,000 Total: $1,147,280,000
3. IA	Cedar River, Cedar Rapids	Jan. 27, 2011	Federal: $73,130,000 Non-Federal: $39,380,000 Total: $112,510,000
4. MN, ND	Fargo-Moorhead Metro	Dec. 19, 2011	Federal: $846,700,000 Non-Federal: $1,077,600,000 Total: $1,924,300,000
5. KY	Ohio River Shoreline, Paducah	May 16, 2012	Federal: $13,170,000 Non-Federal: $7,090,000 Total: $20,260,000
6. MO	Jordan Creek, Springfield	Aug. 26, 2013	Federal: $13,560,000 Non-Federal: $7,300,000 Total: $20,860,000
7. CA	Orestimba Creek, San Joaquin River Basin	Sept. 25, 2013	Federal: $23,680,000 Non-Federal: $21,650,000 Total: $45,330,000
8. CA	Sutter Basin	Mar. 12, 2014	Federal: $255,270,000 Non-Federal: $433,660,000 Total: $688,930,000
9. NV	Truckee Meadows	Apr. 11, 2014	Federal: $181,652,000 Non-Federal: $99,168,000 Total: $280,820,000

(3) HURRICANE AND STORM DAMAGE RISK REDUCTION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Initial Costs and Estimated Renourishment Costs
1. NC	West Onslow Beach and New River Inlet (Topsail Beach)	Sept. 28, 2009	Initial Federal: $29,900,000 Initial Non-Federal: $16,450,000 Initial Total: $46,350,000 Renourishment Federal: $69,410,000 Renourishment Non-Federal: $69,410,000 Renourishment Total: $138,820,000

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Initial Costs and Estimated Renourishment Costs
2. NC	Surf City and North Topsail Beach	Dec. 30, 2010	Initial Federal: $84,770,000 Initial Non-Federal: $45,650,000 Initial Total: $130,420,000 Renourishment Federal: $122,220,000 Renourishment Non-Federal: $122,220,000 Renourishment Total: $244,440,000
3. CA	San Clemente Shoreline	Apr. 15, 2012	Initial Federal: $7,420,000 Initial Non-Federal: $3,990,000 Initial Total: $11,410,000 Renourishment Federal: $43,835,000 Renourishment Non-Federal: $43,835,000 Renourishment Total: $87,670,000
4. FL	Walton County	July 16, 2013	Initial Federal: $17,945,000 Initial Non-Federal: $46,145,000 Initial Total: $64,090,000 Renourishment Federal: $24,740,000 Renourishment Non-Federal: $82,820,000 Renourishment Total: $107,560,000
5. LA	Morganza to the Gulf	July 8, 2013	Federal: $6,695,400,000 Non-Federal: $3,604,600,000 Total: $10,300,000,000

(4) HURRICANE AND STORM DAMAGE RISK REDUCTION AND ENVIRONMENTAL RESTORATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. MS	Mississippi Coastal Improvement Program (MSCIP) Hancock, Harrison, and Jackson Counties	Sept. 15, 2009	Federal: $693,300,000 Non-Federal: $373,320,000 Total: $1,066,620,000

(5) ENVIRONMENTAL RESTORATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. MD	Mid-Chesapeake Bay Island	Aug. 24, 2009	Federal: $1,240,750,000 Non-Federal: $668,100,000 Total: $1,908,850,000
2. FL	Central and Southern Florida Project, Comprehensive Everglades Restoration Plan, Caloosahatchee River (C–43) West Basin Storage Project, Hendry County	Mar. 11, 2010 and Jan. 6, 2011	Federal: $313,300,000 Non-Federal: $313,300,000 Total: $626,600,000
3. LA	Louisiana Coastal Area	Dec. 30, 2010	Federal: $1,026,000,000 Non-Federal: $601,000,000 Total: $1,627,000,000
4. MN	Marsh Lake	Dec. 30, 2011	Federal: $6,760,000 Non-Federal: $3,640,000 Total: $10,400,000
5. FL	Central and Southern Florida Project, Comprehensive Everglades Restoration Plan, C–111 Spreader Canal Western Project	Jan. 30, 2012	Federal: $87,280,000 Non-Federal: $87,280,000 Total: $174,560,000
6. FL	CERP Biscayne Bay Coastal Wetland, Florida	May 2, 2012	Federal: $98,510,000 Non-Federal: $98,510,000 Total: $197,020,000
7. FL	Central and Southern Florida Project, Broward County Water Preserve Area	May 21, 2012	Federal: $448,070,000 Non-Federal: $448,070,000 Total: $896,140,000
8. LA	Louisiana Coastal Area-Barataria Basin Barrier	June 22, 2012	Federal: $321,750,000 Non-Federal: $173,250,000 Total: $495,000,000

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
9. NC	Neuse River Basin	Apr. 23, 2013	Federal: $23,830,000 Non-Federal: $12,830,000 Total: $36,660,000
10. VA	Lynnhaven River	Mar. 27, 2014	Federal: $22,821,500 Non-Federal: $12,288,500 Total: $35,110,000
11. OR	Willamette River Floodplain Restoration	Jan. 6, 2014	Federal: $27,401,000 Non-Federal: $14,754,000 Total: $42,155,000

SEC. 7003. AUTHORIZATION OF PROJECT MODIFICATIONS RECOMMENDED BY THE SECRETARY.

The following project modifications for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the recommendations of the Secretary, as specified in the letters referred to in this section:

A. State	B. Name	C. Date of Secretary's Recommendation Letter	D. Updated Authorization Project Costs
1. MN	Roseau River	Jan. 24, 2013	Estimated Federal: $25,455,000 Estimated non-Federal: $18,362,000 Total: $43,817,000
2. IL	Wood River Levee System Reconstruction	May 7, 2013	Estimated Federal: $16,678,000 Estimated non-Federal: $8,980,000 Total: $25,658,000
3. TX	Corpus Christi Ship Channel	Aug. 8, 2013	Estimated Federal: $182,582,000 Estimated non-Federal: $170,649,000 Total: $353,231,000
4. IA	Des Moines River and Raccoon River Project	Feb. 12, 2014	Estimated Federal: $14,990,300 Estimated non-Federal: $8,254,700 Total: $23,245,000
5. MD	Poplar Island	Feb. 26, 2014	Estimated Federal: $868,272,000 Estimated non-Federal: $365,639,000 Total: $1,233,911,000
6. IL	Lake Michigan (Chicago Shoreline)	Mar. 18, 2014	Estimated Federal: $185,441,000 Estimated non-Federal: $355,105,000 Total: $540,546,000
7. NE	Western Sarpy and Clear Creek	Mar. 20, 2014	Estimated Federal: $28,128,800 Estimated non-Federal: $15,146,300 Total: $43,275,100
8. MO	Cape Girardeau	Apr. 14, 2014	Estimated Federal: $17,687,000 Estimated non-Federal: $746,000 Total: $18,433,000

SEC. 7004. EXPEDITED CONSIDERATION IN THE HOUSE AND SENATE.

(a) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(1) DEFINITION OF INTERIM AUTHORIZATION BILL.—In this subsection, the term ''interim authorization bill'' means a bill of the 113th Congress introduced after the date of enactment of this Act in the House of Representatives by the chair of the Committee on Transportation and Infrastructure which—

(A) has the following title: ''A bill to provide for the authorization of certain water resources development or conservation projects outside the regular authorization cycle.''; and

(B) only contains—

(i) authorization for 1 or more water resources development or conservation projects for which a final report of the Chief of Engineers has been completed; or

(ii) deauthorization for 1 or more water resources development or conservation projects.

(2) EXPEDITED CONSIDERATION.—If an interim authorization bill is not reported by a committee to which it is referred within 30 calendar days, the committee shall be discharged from its further consideration and the bill shall be referred to the appropriate calendar.

(b) CONSIDERATION IN THE SENATE.—

(1) POLICY.—The benefits of water resource projects designed and carried out in an economically justifiable, environmentally acceptable, and technically sound manner are important to the economy and environment of the United States and recommendations to Congress regarding those projects should be expedited for approval in a timely manner.

(2) APPLICABILITY.—The procedures under this subsection apply to projects for water resources development, conservation, and other purposes, subject to the conditions that—

(A) each project is carried out—

(i) substantially in accordance with the plan identified in the report of the Chief of Engineers for the project; and

(ii) subject to any conditions described in the report for the project; and

(B)(i) a report of the Chief of Engineers has been completed; and

(ii) after the date of enactment of this Act, the Assistant Secretary of the Army for Civil Works has submitted to Congress a recommendation to authorize construction of the project.

(3) EXPEDITED CONSIDERATION.—

(A) IN GENERAL.—A bill shall be eligible for expedited consideration in accordance with this subsection if the bill—

(i) authorizes a project that meets the requirements described in paragraph (2); and

(ii) is referred to the Committee on Environment and Public Works of the Senate.

(B) COMMITTEE CONSIDERATION.—

(i) IN GENERAL.—Not later than January 31st of the second session of each Congress, the Committee on Environment and Public Works of the Senate shall—

(I) report all bills that meet the requirements of subparagraph (A); or

(II) introduce and report a measure to authorize any project that meets the requirements described in paragraph (2).

(ii) FAILURE TO ACT.—Subject to clause (iii), if the committee fails to act on a bill that meets the requirements of subparagraph (A) by the date specified in clause (i), the bill shall be discharged from the committee and placed on the calendar of the Senate.

(iii) EXCEPTIONS.—Clause (ii) shall not apply if—

(I) in the 180-day period immediately preceding the date specified in clause (i), the full committee holds a legislative hearing on a bill to authorize all projects that meet the requirements described in paragraph (2);

(II)(aa) the committee favorably reports a bill to authorize all projects that meet the requirements described in paragraph (2); and

(bb) the bill described in item (aa) is placed on the calendar of the Senate; or

(III) a bill that meets the requirements of subparagraph (A) is referred to the committee not earlier than 30 days before the date specified in clause (i).

(4) TERMINATION.—The procedures for expedited consideration under this subsection terminate on December 31, 2018.

(c) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a bill addressed by this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

And the Senate agree to the same.

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

BILL SHUSTER,
JOHN J. DUNCAN, Jr., of Tennessee,
FRANK A. LOBIONDO,
SAM GRAVES of Missouri,
SHELLEY MOORE CAPITO,
CANDICE S. MILLER of Michigan,
DUNCAN HUNTER,
LARRY BUCSHON,
BOB GIBBS,
RICHARD L. HANNA,
DANIEL WEBSTER of Florida,
TOM RICE of South Carolina,
MARKWAYNE MULLIN
RODNEY DAVIS of Illinois,
NICK J. RAHALL II,
PETER A. DEFAZIO,
CORRINE BROWN of Florida,
EDDIE BERNICE JOHNSON of Texas,
TIMOTHY H. BISHOP of New York,
DONNA F. EDWARDS,
JOHN GARAMENDI,
JANICE HAHN,
LOIS FRANKEL of Florida,
CHERI BUSTOS,

From the Committee on Natural Resources, for consideration of secs. 103, 115, 144, 146, and 220 of the House bill, and secs. 2017, 2027, 2028, 2033, 2051, 3005, 5002, 5003, 5005, 5007, 5012, 5018, 5020, title XII, and sec. 13002 of the Senate amendment, and modifications committed to conference:

DOC HASTINGS of Washington,
ROB BISHOP of Utah,
GRACE F. NAPOLITANO,

Managers on the Part of the House.

BARBARA BOXER,
THOMAS R. CARPER,
BENJAMIN L. CARDIN,
SHELDON WHITEHOUSE,
BERNARD SANDERS,
DAVID VITTER,
JAMES M. INHOFE,
JOHN BARRASSO,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3080), to provide for the conservation and development of water and related resources, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Definition of Feasible

When the term ''feasible'' is used in this Act, the conferees intend this to mean a determination that a water resources project is technically feasible, economically justified, and environmentally acceptable.

SEC. 1001. VERTICAL INTEGRATION AND ACCELERATION OF STUDIES

House § 101, Senate § 2032.—Senate recedes, with an amendment.

This section generally limits a new Corps of Engineers feasibility study initiated after the date of enactment of this Act to 3 years and $3 million in federal costs. It also requires District, Division, and Headquarters personnel to concurrently conduct reviews of a feasibility study. For any feasibility study not complete after 3 years, upon notification of the non-federal project sponsor and Congress, the Secretary of the Army may take up to one additional year to complete the feasibility study. If the feasibility study is still not complete, authorization for the feasibility study is terminated. The Secretary is given authority to extend the timeline further for complex studies, provided that a notice is provided to the Committees of jurisdiction explaining the rationale for the determination.

The Managers are concerned about the length of time it often takes for the Corps of Engineers to complete its feasibility studies. While there are several reasons studies can sometimes take 15 years or more, the Managers believe that the time can be shortened by setting the deadlines established in this legislation. The schedule set by this section closely follows the one which the Corps is working to implement administratively. The Managers believe that setting an aggressive schedule in statute will increase the likelihood that necessary federal and non-federal efforts will be undertaken in a timely manner and financial resources will be provided so that feasibility studies will be completed in 3 years after the date of a feasibility cost sharing agreement with a non-federal sponsor. The objective in establishing these defined procedures is to achieve consistency and efficiency in the feasibility study process.

SEC. 1002. CONSOLIDATION OF STUDIES

House § 104, Senate § 2034.—Senate recedes, with an amendment.

This section repeals requirements that the Corps of Engineers conduct a reconnaissance study prior to initiating a feasibility study. In its place the section articulates an accelerated process which allows non-federal project sponsors and the Corps of Engineers to proceed directly to the feasibility study.

While repealing the requirement that the Corps of Engineers carry out reconnaissance studies and produce a reconnaissance report, some of the activities prescribed by Section 905(b) of the Water Resources Development of 1986 as amended may be carried out at the beginning of the feasibility study process as required under Section 1001 of this Act. At any point during a feasibility study, the Secretary may terminate the study when it is clear there is no demonstrable federal interest for a project or that construction of the project is not possible for technical, legal, or financial reasons.

SEC. 1003. EXPEDITED COMPLETION OF REPORTS

House § 105. No comparable Senate section.—Senate recedes.

SEC. 1004. REMOVAL OF DUPLICATIVE ANALYSES

House § 106. No comparable Senate section.—Senate recedes.

This section repeals a requirement that the Corps of Engineers reevaluate cost-estimates immediately after initial cost-estimates have been completed.

While the Managers applaud the Corps of Engineers for centuries of planning, constructing, operating, and maintaining projects that are integral to the Nation's economic security, implementation of Section 911 of the Water Resources Development Act of 1986 has led to unnecessary and duplicative reviews. Value engineering is a useful concept and tool in carrying out water resources development projects, however, requiring the analysis of cost-estimates immediately after costs have been initially estimated is counter-productive. By repealing Section 911, the Managers intend the Corps of Engineers to continue to apply value engineering intent and techniques to projects, but to apply them in consultation with contractors immediately prior to or after the project has initiated construction. Value engineering should be an ongoing and integral aspect of any Corps of Engineers project.

SEC. 1005. PROJECT ACCELERATION

House § 103, Senate § 2033.—House and Senate agree to an amendment.

The Managers intend this section to be narrowly designed to streamline the process for complying with the requirements of the National Environmental Policy Act (NEPA). This subsection clarifies that the requirements of all other laws continue to apply to a water resources project. The requirements of laws and regulations that do not relate to complying with the NEPA process are not affected and remain in full effect. Nothing in this section preempts or interferes with any regulatory requirements in effect at the time of enactment of this Act or may be created after enactment of this Act. Nothing in this section affects any obligation to comply with the regulations issued by the Council on Environmental Quality or any other federal agency to carry out that Act unless they

specifically impact the ability to comply with the process requirements of this section.

The Managers have included in this section a requirement that the Secretary establish and maintain an electronic database for the purpose of reporting requirements and to make publicly available the status and progress with respect to compliance with applicable laws. The language also includes a requirement that the Secretary publish the status and progress of each project study. The Managers support making more transparent the process of meeting milestones of compliance with laws so that interested parties can follow the progress of individual studies. At the same time, the Managers do not want the process to become a huge exercise that requires a large amount of time as well as human and monetary resources. The Secretary should manage this requirement so that the public receives relevant information but excessive resources are not spent maintaining the database.

SEC. 1006. EXPEDITING THE EVALUATION AND PROCESSING OF PERMITS

House § 102, Senate § 2042.—House and Senate agree to an amendment.

This section provides permanent authority for the Corps of Engineers to accept funds from non-federal public interests to expedite the processing of permits within the regulatory program of the Corps of Engineers. Additionally, this section allows public utility companies and natural gas companies to participate in the program. Finally, this section directs the Secretary to ensure that the use of the authority does not slow down the permit processing time of applicants that do not participate in the section 214 program.

According to testimony presented to the House of Representatives Committee on Transportation and Infrastructure, more than $220 billion in annual economic investment is directly related to activities associated with the Corps of Engineers regulatory program, specifically, decisions reached under section 404 of the Clean Water Act. Currently, not every Corps of Engineers District utilizes the Section 214 program. By authorizing a permanent program, the Managers provide direction and encourage each District to participate in the Section 214 program and ensure regulatory decisions are reached in a timely manner. The Managers expect that when funds are offered by an entity under this section, the Secretary will accept and utilize those funds in an expeditious manner.

The Managers have included additional transparency provisions, including an annual report to Congress, as well as provisions to ensure that a consistent approach is taken in implementing the program across the Nation. In the past, the Government Accountability Office (GAO) has critiqued the Corps' implementation of this program. In response, the Corps has taken steps to ensure greater consistency in implementation of the authority across the 38 Corps Districts and to ensure full compliance with all the regulatory requirements. These steps include updated guidance, development of a template of necessary decision documents, and ongoing training of District staff. The Managers expect the Corps to continue implementation of these initiatives as it carries out the expanded authority provided in the Conference agreement. Finally, the Conference agreement requires additional GAO oversight of the implementation of this expanded authority to ensure compliance with all regulatory requirements.

SEC. 1007. EXPEDITING APPROVAL OF MODIFICATIONS AND ALTERATIONS OF PROJECTS BY NON–FEDERAL INTERESTS

House § 107. No comparable Senate section.—Senate recedes.

SEC. 1008. EXPEDITING HYDROPOWER AT CORPS OF ENGINEERS FACILITIES

Senate § 2009. No comparable House section.—House recedes.

SEC. 1009. ENHANCED USE OF ELECTRONIC COMMERCE IN FEDERAL PROCUREMENT

House § 130. No comparable Senate section.—Senate recedes.

SEC. 1010. DETERMINATION OF PROJECT COMPLETION

Senate § 2036. No comparable House section.—House recedes.

SEC. 1011. PRIORITIZATION

Senate § 2044, § 2045. No comparable House section.—House recedes, with an amendment.

This section establishes criteria for prioritization of hurricane and storm damage reduction and ecosystem restoration projects.

The Managers are also concerned with the application of certain cost share requirements to ecosystem restoration projects. When identifying the costs of construction for navigation projects, the Corps of Engineers, pursuant to the Act of June 21, 1940 (more commonly known as the Truman-Hobbs Act) considers the cost of highway and railroad bridge alterations or removals as construction costs, eligible for cost share. However, for flood control projects and ecosystem restoration projects, local sponsors are currently required to pay the entire cost of a bridge alteration or removal as a non-federal responsibility to provide all lands, easements, rights-of-way, disposal areas, and relocations, pursuant to section 103(a) of the Water Resources Development Act of 1986, as amended. While that specific section is notably applicable to only flood control projects, the Corps has applied this responsibility broadly to other project purposes, such as ecosystem restoration purposes, as well.

Bridge alterations and removals can be essential components of ecosystem restoration projects, such as related to large-scale ecosystem restoration projects. As such, the Managers encourage the Secretary to explore whether such alterations and removals should, like navigation projects, be considered as part of the costs of construction of an ecosystem restoration project, and to report to the Committees of jurisdiction on its findings. If the Secretary determines that such alterations and removals are integral to meeting the goals of ecosystem restoration projects, the Secretary shall develop new guidance for ecosystem restoration projects that fits their unique needs.

SEC. 1012. TRANSPARENCY IN ACCOUNTING AND ADMINISTRATIVE EXPENSES

Senate § 2035. No comparable House section.—House recedes.

SEC. 1013. EVALUATION OF PROJECT PARTNERSHIP AGREEMENTS

Senate § 2037. No comparable House section.—House recedes, with an amendment.

SEC. 1014. STUDY AND CONSTRUCTION OF WATER RESOURCES DEVELOPMENT PROJECTS BY NON–FEDERAL INTERESTS

House § 108, § 112. No comparable Senate section.—Senate recedes, with an amendment.

For purposes of this section, the terms ''before construction'' and ''before initiation of construction'' are intended to mean after the issuance of a notice to proceed.

SEC. 1015. CONTRIBUTIONS BY NON–FEDERAL INTERESTS

House § 109. No comparable Senate section.—Senate recedes, with an amendment.

This section clarifies the non-federal interests that may contribute funds toward construction of authorized water resources projects. Additionally, this section clarifies that inland navigation facilities and the repair of water resources facilities after an emergency declaration are eligible for contributed funds from non-federal interests.

For example, this section clarifies non-federal interests, as defined by Section 221 of the Flood Control Act of 1970, as amended, may participate in the funding of the construction of projects on the inland navigation system. Currently, capital improvement projects are financed 50 percent from the General Fund of the Treasury, and 50 percent from the Inland Waterway Trust Fund. While this section does not alter that arrangement, it does authorize non-federal interests to fund capital improvement projects on the inland navigation system. For instance, under current law, a State cannot fund the construction of a new lock and dam. This section is intended to authorize that type of funding activity.

SEC. 1016. OPERATION AND MAINTENANCE OF CERTAIN PROJECTS

Senate § 2023. No comparable House section.—House recedes, with an amendment.

SEC. 1017. ACCEPTANCE OF CONTRIBUTED FUNDS TO INCREASE LOCK OPERATIONS

House § 110, § 217, Senate § 2039.—House recedes.

This section authorizes the Secretary of the Army to accept non-federal contributions from non-federal entities to operate and maintain the Nation's inland waterways transportation system.

The Corps of Engineers is undergoing a review of those 239 lock projects at 193 sites on the inland navigation system to prioritize operation and maintenance funding needs. Up until several years ago, almost all of the locks in the system were operated 24 hours a day, 7 days a week, 365 days a year. However, due to the age of the system, limited use for some of the projects, and limited operation and maintenance funds, the Corps of Engineers is proposing to limit the operations of certain locks on a District-by-District basis. While the Managers applaud the Corps in their efforts to prioritize projects, the Managers are wary of a lack of coordination amongst Districts when implementing these changes in hours of service, and in a few cases have proposed to limit the hours of service based on inaccurate or limited data.

While changes in hours of service are imminent and in some cases have already been implemented, non-federal interests have expressed a willingness to finance the operations and maintenance of projects where the hours of service have been proposed to be reduced. This section is intended to allow the Corps to accept such funds to ensure commercial and recreational traffic is not unduly impacted on the inland navigation system.

SEC. 1018. CREDIT FOR IN–KIND CONTRIBUTIONS

House § 116, Senate § 2012.—House recedes, with an amendment.

This section corrects two provisions in WRDA 2007 that have not been properly executed due to unintended interpretations. In previous Water Resources Development Acts, credit was authorized for individual projects. While the intent was the same, many of these provisions had been written differently over time. In an effort to harmonize those activities for which credit could be authorized, Congress requested technical assistance from the Corps of Engineers in drafting a credit provision that could be applied to all Corps projects. While the language provided by the Corps was included in WRDA 2007, the Corps subsequently determined that specific sections of the law could not be executed consistent with Congressional intent.

This section allows the Secretary to provide in-kind credit for work done by the non-

federal sponsor prior to execution of a project partnership agreement.

This section explicitly authorizes the Secretary to enter into a written agreement with the non-federal interest to credit certain in-kind contributions against the non-federal share of cost of the project.

This section directs the Secretary to reimburse the non-Federal interest for costs that exceed the non-Federal cost-share requirements if the excess costs are incurred for work carried out pursuant to a written agreement and are a result of the requirement that the non-Federal sponsor provide all lands, easements, rights-of-way, dredged material disposal areas, and relocations (LERRD) for the authorized project under this section. The Secretary is directed to enter into an agreement, subject to availability of funds, to provide the reimbursement. This provision is intended to address a disincentive created by Corps policy that discourages non-Federal interests from carrying out in-kind work on projects that that have significant LERRD costs. At a time of limited Federal budgets, the Managers urge the Secretary to work with non-Federal interests willing to invest local funding in civil works projects. The Managers intend for the Secretary to enter into a reimbursement agreement if funds are available for the project and utilize those funds to provide reimbursement prior to transfer of the project to the non-Federal sponsor for operation and maintenance.

This section requires the Secretary to update any guidance or regulations related to the approval of in-kind credit to establish a milestone for executing an in-kind memorandum of understanding, criteria and procedures for granting exceptions to this milestone, and criteria and procedures for determining that work is integral to a project. The Managers are concerned with the lack of flexibility afforded by the Secretary in determining at what point during a feasibility study a non-federal sponsor may carry out work for in-kind credit. In carrying out the update required by this section, the Managers expect that the Secretary will use an inclusive process that considers input from non-federal interests. Further, the Managers encourage the Secretary to ensure that the final guidelines provide a process for carrying out work for in-kind credit that is predictable and takes into account the unique issues that may arise regarding individual water resources projects.

Both the House and Senate Committees typically receive numerous requests for project-specific credit during the development of this Act. While requests for credit have received favorable consideration in prior water resources legislation, the Managers concluded that a general provision allowing credit under specified conditions would minimize the need for future project-specific provisions and, at the same time, assure consistency in considering future proposals for credit.

The Managers are becoming increasingly wary of non-federal interests advocating for credit for work not captured by a project partnership agreement or an in-kind Memorandum of Understanding. The Managers would strongly encourage non-federal interests to sign such agreements prior to carrying out any work related to a proposed project; otherwise such work will not be eligible for credit.

SEC. 1019. CLARIFICATION OF IN–KIND CREDIT AUTHORITY

Senate § 2010. No comparable House section.—House recedes, with an amendment.

SEC. 1020. TRANSFER OF EXCESS CREDIT

Senate § 2011. No comparable House section.—House recedes, with an amendment.

SEC. 1021. CREDITING AUTHORITY FOR FEDERALLY AUTHORIZED NAVIGATION PROJECTS

Senate § 2062. No comparable House section.—House recedes, with an amendment.

SEC. 1022. CREDIT IN LIEU OF REIMBURSEMENT

Senate § 2013. No comparable House section.—House recedes, with an amendment.

SEC. 1023. ADDITIONAL CONTRIBUTIONS BY NON–FEDERAL INTERESTS

House § 111, Senate § 2059.—Senate recedes.

SEC. 1024. AUTHORITY TO ACCEPT AND USE MATERIALS AND SERVICES

Senate § 11005. No comparable House section.—House recedes, with an amendment.

The Managers are concerned that limited operations and maintenance funding is having a negative impact on the Secretary's ability to maintain the long-term reliability of our Nation's water resources infrastructure. In many cases, there is insufficient funding available to quickly restore project operations following a natural disaster, failure of equipment, or other emergency. Restoration of project operations are dependent on enactment by the Congress of emergency supplemental funding, which could result in months before projects are fully restored to safe and reliable operations. The cost to our Nation's economy for these delayed actions is millions of dollars per day. For our Nation to remain competitive in the world's economy, the Managers believe there is a need to leverage other resources to enable the Secretary to quickly restore safe and reliable project operations after an emergency. To that end, the Secretary, working with States, local governments, industry, and other stakeholders, is authorized to accept materials and services to repair water resources projects that have been damaged or destroyed as a result of a major disaster, emergency, or other event. To enable the fastest opportunity to restore safe and reliable project operations, the Secretary is strongly encouraged to delegate to the lowest level in the Corps of Engineers the authority to make the determination of an emergency; to make the determination on whether acceptance of these contributions are in the public interest; and to accept the contributions from non-federal public, private, or non-profit entities.

SEC. 1025. WATER RESOURCES PROJECTS ON FEDERAL LAND

Senate § 2018. No comparable House section.—House recedes, with an amendment.

This section is intended to clarify the authority of the Secretary and the application of cost-sharing for certain projects carried out on federal land under the administrative jurisdiction of another federal agency.

If federal land necessary to construct a water resources development project was originally paid for by the non-federal interest for such project and the non-federal interest signs a memorandum of understanding with the Secretary to cost-share work on such federal land, the Managers intend for the Secretary to cost-share any construction with the non-federal interest as if the non-federal interest currently owns the land. In such a case, the Secretary should not require the construction on the federal land to be fully funded by the federal agency that currently has jurisdiction over the land. Any recommendations in a feasibility study should be consistent with the policy in this section.

SEC. 1026. CLARIFICATION OF IMPACTS TO OTHER FEDERAL FACILITIES

House § 113. No comparable Senate section.—Senate recedes.

This section clarifies that when a Corps of Engineers project adversely impacts other federal facilities, the Secretary may accept funds from other federal agencies to address the impacts, including removal, relocation, and reconstruction of such facilities.

SEC. 1027. CLARIFICATION OF MUNITION DISPOSAL AUTHORITIES

Senate § 2029. No comparable House section.—House recedes.

SEC. 1028. CLARIFICATION OF MITIGATION AUTHORITY

House § 114, Senate § 2017.—House recedes, with an amendment.

SEC. 1029. CLARIFICATION OF INTERAGENCY SUPPORT AUTHORITIES

Senate § 2038. No comparable House section.—House recedes, with an amendment.

SEC. 1030. CONTINUING AUTHORITY

Senate § 2003, § 2004. No comparable House section.—House recedes, with an amendment.

This section increases the authorization for small continuing authority projects associated with navigation, flood damage reduction, ecosystem restoration, emergency streambank protection, control of invasive species, and other activities carried out by the Corps of Engineers.

In some cases, Corps of Engineers projects have caused damages to other nearby infrastructure projects or other properties of local importance. For instance, coastal navigation projects may inadvertently redirect flows or waves and damage nearby shorelines. The Corps of Engineers is encouraged to use relevant continuing authorities programs to correct these deficiencies.

SEC. 1031. TRIBAL PARTNERSHIP PROGRAM

House § 115, Senate § 2027.—Senate recedes.

SEC. 1032. TERRITORIES OF THE UNITED STATES

House § 139. No comparable Senate section.—Senate recedes.

SEC. 1033. CORROSION PREVENTION

House § 131, Senate § 2048.—Senate recedes.

SEC. 1034. ADVANCED MODELING TECHNOLOGIES

House § 129. No comparable Senate section.—Senate recedes, with an amendment.

SEC. 1035. RECREATIONAL ACCESS

House § 138. No comparable Senate section.—Senate recedes, with an amendment.

SEC. 1036. NON–FEDERAL PLANS TO PROVIDE ADDITIONAL FLOOD RISK REDUCTION

House § 121, Senate § 2055.—House recedes, with an amendment.

This section authorizes the Secretary of the Army to carry out a locally preferred plan if that project increment provides a higher level of flood protection and is economically justified, technically achievable, and environmentally acceptable. The federal cost of carrying out such a plan may not exceed the federal share as authorized by law for the national economic development plan.

In certain cases, non-federal project sponsors request the Corps of Engineers carry out a locally-preferred plan that is more robust than that recommended in a Chief's Report. This provision is consistent with current practice where the Corps will recommend to Congress a more robust locally preferred plan at the request of the non-federal interest, provided the non-federal interest contributes any additional costs that may be incurred in carrying out the locally preferred plan. This provision gives the Corps authority to implement a locally preferred plan for a flood damage reduction project authorized in this Act. It is not intended to affect current law with respect to establishing cost-share for an authorized project.

SEC. 1037. HURRICANE AND STORM DAMAGE REDUCTION

Senate § 2030. No comparable House section.—House recedes, with an amendment.

This section authorizes a non-federal interest to request that the Corps of Engineers study a project to determine if there is a federal interest in carrying out an additional 15 years of work. If the study results in a determination that there continues to be a federal interest in the project, the Corps may request authorization through the Annual Report process as prescribed in section 7001 of this Act.

For those projects that are approaching the 50-year expiration over the next 5 years, the Corps of Engineers is authorized to continue work for a one time only, additional 3 years. This will give those expiring projects sufficient opportunity to get into the study pipeline and the Annual Report process while ensuring shoreline communities and infrastructure have continuing protection from storm events.

The activities prescribed in this section are not to be determined to be a ''new start'' for budgetary purposes, rather they are to be considered a continuation of an existing project.

SEC. 1038. REDUCTION OF FEDERAL COSTS FOR HURRICANE AND STORM DAMAGE REDUCTION PROJECTS

House § 128, Senate § 2031.—House and Senate agree to an amendment.

SEC. 1039. INVASIVE SPECIES

House § 137, § 144, § 145, Senate § 2052, § 5007, § 5011, § 5018.—House and Senate agree to an amendment.

It is the intent in section (a), Aquatic Species Review, that the assessment provides a national perspective of the existing federal authorities related to invasive species, including invasive vegetation in reservoir basins associated with Corps of Engineers water projects in the western United States. It would be appropriate to identify any specific tribal authorities that may exist for rivers and reservoirs that may be associated with Corps of Engineers projects that intersect with reservation lands.

This section does not authorize any activities proposed under the ''Great Lakes and Mississippi River Interbasin Study'' (GLMRIS) authorized by Section 3061(d) of the Water Resources Development Act of 2007, Public Law 110–114.

SEC. 1040. FISH AND WILDLIFE MITIGATION

Senate § 2005. No comparable House section.—House recedes, with an amendment.

SEC. 1041. MITIGATION STATUS REPORT

Senate § 2006. No comparable House section.—House recedes.

SEC. 1042. REPORTS TO CONGRESS

Senate § 2050. No comparable House section.—House recedes, with an amendment.

SEC. 1043. NON–FEDERAL IMPLEMENTATION PILOT PROGRAM

Senate § 2025, § 2026. No comparable House section.—House recedes.

SEC. 1044. INDEPENDENT PEER REVIEW

Senate § 2007. No comparable House section.—House recedes, with an amendment.

SEC. 1045. REPORT ON SURFACE ELEVATIONS AT DROUGHT AFFECTED LAKES

House § 141. No comparable Senate section.—Senate recedes.

SEC. 1046. RESERVOIR OPERATIONS AND WATER SUPPLY

House § 133, § 142, § 143, Senate § 2014, § 2061, § 2064.—House and Senate agree to an amendment.

Section 1046(a) Dam Optimization

The Managers are concerned with the impacts of drought on water supply in arid regions. The purpose of the assessment in Section 1046(a)(2)(A) is to determine if the Corps of Engineers reservoirs located in arid regions (primarily the 17 Western states) can be managed more flexibly during drought periods, to provide additional water supply, including capturing water during rain events that otherwise would have been routed directly to the ocean. If there are restrictions to managing water during drought periods, it is the intent to identify those practices and authorities that limit the management of water during droughts and determine whether and how they could be changed to allow for more effective water capture and recovery during defined drought periods. In addition, it is the intent of this section to identify if it is determined that the original capacity of the reservoir basin has been reduced due to sedimentation, that the location and extent of that reduction of storage capacity be defined.

The Managers are also concerned that in the past few years there have been significant flood and drought events affecting all areas of the country from the arid West, the Missouri River basin, the Mississippi River basin, and the Southeast. The Corps operates more than 600 dams and other water control structures around the country. The operation of many of these structures is subject to plans that may not efficiently balance all needs of these reservoirs (e.g., flood control, water supply, environmental restoration, and recreation). This section requires the Corps to do a review of all facilities and report to the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works when the last reviews and updates of operations plans were conducted, as well as what changes were implemented as a result of the operation reviews and a prioritized schedule of when the next operations review is expected for all projects.

Future updates of the operation plans for these dams and reservoirs could have significant benefits for all of the authorized project purposes. In carrying out reviews under this section, the Secretary is directed to coordinate with appropriate federal, state, and local agencies and public and private entities that could be impacted as well as affected non-federal interests.

Sec. 1046 (c)

The Managers remain concerned about the collection of fees in the Upper Missouri River basin. The Senate-passed bill included a permanent ban on such fees, and the House bill was silent with respect to such fees. The conference agreement includes a 10-year moratorium, which will allow Congress to revisit this matter in the future, including consideration of the extension of the moratorium included in this section.

The Managers recognize that an offset was required due to the direct spending impacts of this provision. Since the benefits of this provision are regional in nature, benefiting the Upper Missouri River basin, the Managers recommend that the Corps of Engineers look first to unobligated balances found in the appropriate accounts of the Upper Missouri River basin to meet the offset identified to cover the direct spending impacts of this provision. Further, the Managers direct the Secretary to ensure that the offset shall not negatively impact the Missouri River Bank Stabilization and Navigation Project.

SEC. 1047. SPECIAL USE PERMITS

Senate § 2046. No comparable House section.—House recedes, with an amendment.

SEC. 1048. AMERICA THE BEAUTIFUL NATIONAL PARKS AND FEDERAL RECREATIONAL LANDS PASS PROGRAM

Senate § 13002. No comparable House section.—House recedes.

SEC. 1049. APPLICABILITY OF SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE

Senate § 13001. No comparable House section.—House recedes, with an amendment.

SEC. 1050. NAMINGS

House § 136, Senate § 2060, § 3017.—House and Senate agree to an amendment.

SEC. 1051. INTERSTATE WATER AGREEMENTS AND COMPACTS

House § 140, Senate § 2015.—House and Senate agree.

SEC. 1052. SENSE OF CONGRESS REGARDING WATER RESOURCES DEVELOPMENT BILLS

House § 135. No comparable Senate section.—Senate recedes.

TITLE II—NAVIGATION

Subtitle A—Inland Waterways

SEC. 2001. DEFINITIONS

House § 211, Senate § 7002.—Senate recedes.

SEC. 2002. PROJECT DELIVERY PROCESS REFORMS

House § 212, Senate § 7003.—Senate recedes, with an amendment.

SEC. 2003. EFFICIENCY OF REVENUE COLLECTION

HOUSE § 213, SENATE § 7006.—SAME

SEC. 2004. INLAND WATERWAYS REVENUE STUDIES

House § 214, Senate § 7005.—Senate recedes, with an amendment.

In carrying out subsection 2004(a), the Secretary shall review, and to the extent practicable, utilize the assessments completed in the report entitled '' New Approaches for U.S. Lock and Dam Maintenance and Funding'' completed in January 2013 by the Center for Ports and Waterways, Texas Transportation Institute.

In carrying out the study under subsection 2004(b), the Secretary shall evaluate the potential benefits and implications of revenue sources identified in and documented by known authorities of the Inland System, and review appropriate reports and associated literature related to revenue sources. The Managers are aware of several reports and legislative proposals submitted to Congress over the years that should be included in this evaluation, including the 1992 Report of the Congressional Budget Office, entitled ''Paying for Highways, Airways, and Waterways: How Can Users Be Charged;'' the Final Report of the Inland Marine Transportation System (IMTS) Capital Projects Business Model, published on April 12, 2010, and the draft legislative proposals submitted by the Executive Branch in 2008 and 2011.

SEC. 2005. INLAND WATERWAYS STAKEHOLDER ROUNDTABLE

House § 215. No comparable Senate section.—Senate recedes, with an amendment.

It is the intent of this section to provide an opportunity for all stakeholders to participate in a facilitated discussion and to provide a comprehensive set of non-binding recommendations to the Secretary in respect to the future financial management of the inland and intracoastal waterways. The roundtable is to include representatives of the navigation and non-navigation users who derive benefits from the existence of the inland waterway system.

SEC. 2006. PRESERVING THE INLAND WATERWAY TRUST FUND

House § 216, Senate § 7004, § 7008.—House and Senate agree to an amendment.

SEC. 2007. INLAND WATERWAYS OVERSIGHT

House § 216, Senate § 7007.—House recedes, with an amendment.

SEC. 2008. ASSESSMENT OF OPERATION AND MAINTENANCE NEEDS OF THE ATLANTIC INTRACOASTAL WATERWAY AND THE GULF INTRACOASTAL WATERWAY

House § 218. No comparable Senate section.—Senate recedes, with an amendment.

SEC. 2009. INLAND WATERWAYS RIVERBANK STABILIZATION

Senate § 2043. No comparable House section.—House recedes, with an amendment.

It is the intent of section 2009 that attention and assessment is given to identifying specific inland and intracoastal waterways where extensive riverbank damage has been caused by vessel-generated wave-wash, plant and soil degradation caused by saltwater intrusion, and recent major flooding events. The Managers recognize the complexity of carrying out large, system-wide stabilization projects and recommend the Secretary utilize the authorities in this section to carry out smaller projects with the greatest threat to human safety and infrastructure that ensure safe navigation and protect infrastructure.

SEC. 2010. UPPER MISSISSIPPI RIVER PROTECTION

House § 219, Senate § 5021.—House and Senate agree to an amendment.

This section directs the Secretary of the Army to close the Upper St. Anthony's Fall Lock and Dam within one year of the date of enactment of this Act.

The concerns at the Upper St. Anthony Falls Lock and Dam are unique, not representative of other projects on the Nation's inland navigation system, and should not be used as precedent for agency determinations on other projects. The Managers support efforts at the state and local level to mitigate potential economic impacts of this action.

SEC. 2011. CORPS OF ENGINEERS LOCK AND DAM ENERGY DEVELOPMENT

House § 220, Senate § 5020.—Senate recedes.

SEC. 2012. RESTRICTED AREAS AT CORPS OF ENGINEERS DAMS

House § 125, Senate § 2058.—Senate recedes, with an amendment.

SEC. 2013. OPERATION AND MAINTENANCE OF FUEL TAXED INLAND WATERWAYS

Senate § 2047. No comparable House section.—House recedes, with an amendment.

Subtitle B—Port and Harbor Maintenance

SEC. 2101. FUNDING FOR HARBOR MAINTENANCE PROGRAMS

House § 201, Senate § 8003.—House and Senate agree to an amendment.

The Managers support robust federal investment in the operation and maintenance of the Nation's authorized ports and harbors, including through increased expenditures from the Harbor Maintenance Trust Fund (HMTF). While both the H.R. 3080 and S. 601 included provisions aimed at utilizing a greater portion of annual collections from shippers (which recently have averaged around $1.6 billion) for maintaining safe and efficient navigation corridors, the Managers have agreed to an amended harbor maintenance subtitle that aims to accomplish this goal, while at the same time addresses the needs of the Nation's authorized harbors in a manner that benefits both the largest commercial harbors, as well as the smaller and emerging harbors.

In section 2101, the Managers express strong support for increasing the annual expenditures from the HMTF for authorized operation and maintenance expenditures at harbor projects to a point where annual expenditures for operation and maintenance activities equal annual collections from shippers to the HMTF. At the same time, the Managers recognize that any increase in operation and maintenance expenditures should not come at the expense of other activities of the Corps of Engineers, including its navigation construction-related activities, or at the expense of other mission areas of the Corps of Engineers, including flood damage reduction or environmental restoration. Accordingly, the Managers have included language directing that any increase in annual operation and maintenance expenditures come from an equivalent increase in the total appropriations amount for the Corps of Engineers, Civil Works program. Explained a different way, the Corps would need to see its total appropriation for the entire Civil Works authority increase by a dollar amount at least equal to the value of the annual percentage increase in appropriated HMTF funds described in subsection 2101 (b) so as to not negatively impact any other budgetary account of the Corps, or any other mission area of the Corps within the operation and maintenance account.

SEC. 2102. OPERATION AND MAINTENANCE OF HARBOR PROJECTS

House §201, § 202, § 206, Senate § 8004, § 8005—House and Senate agree to an amendment.

Section 2102 amends section 210 of the Water Resources Development Act of 1986 to establish a new framework for annual allocation of operation and maintenance expenditures. The framework directs the Secretary, to the extent practicable, to base future allocations of operation and maintenance funds on an equitable basis, considering a variety of enumerated factors. For the past several years, the Secretary has made funding allocations for operation and maintenance of the Nation's harbors primarily on the basis of tonnage moved through the harbors. The Water Resources Development Act of 2007 included language that ''the operations and maintenance budget of the Corps of Engineers should reflect the use of all available economic data, rather than a single performance metric'' to urge the Secretary to consider the broader benefits of harbors in making funding decisions; however, since that time, the Corps has continued to use tonnage as the primary metric for such decisions. Accordingly, section 2102 specifically states that the ''Secretary shall not allocate funds . . . based solely on the tonnage transiting through a harbor.''

While the Managers recognize that tonnage throughput is an important metric for evaluating harbors and will continue to be a consideration in the allocation of funds, federal harbors provide critical national, regional, and local economic benefits, as well as national security or human health and safety benefits that should also be considered. Going forward, the Secretary is to evaluate all of the potential benefits of authorized harbors, including commercial uses, in making an equitable allocation of funds.

The amendments made by section 2102 also established a new prioritization of future annual expenditures for operation and maintenance of eligible harbors.

First, for each of fiscal years 2015 through 2022, the Secretary is required to allocate not less than 10 percent of the value of operation and maintenance funds appropriated in fiscal year 2012 ($898 million) (hereinafter referred to as the 2012 baseline) to address the maintenance dredging needs of emerging harbors. For the remaining 90 percent of funds within the 2012 baseline, the Secretary is authorized to make funding decisions as necessary to address harbor needs based on an equitable allocation of funds, as defined in the statute.

Second, for any funds appropriated to address the operation and maintenance needs of harbors that are above the 2012 baseline (hereinafter referred to as priority funds), for fiscal years 2015 through 2024, the Secretary is directed to allocate 90 percent of such funds to meet the needs of high-use and moderate-use harbor projects, and to allocate 10 percent of priority funds to meet the use of emerging harbors. This 10 percent allocation of priority funds for emerging harbors is in addition to the 10 percent allocation (for fiscal years 2015 through 2022) within the 2012 baseline. It is the intent that the 2012 baseline be considered as the funds made available to address the operation and maintenance needs of harbors in appropriations, not including supplemental appropriations for that year.

Third, in addition to the 90 percent–10 percent division of priority funds described in the previous paragraph, the Secretary is directed, for fiscal years 2015 through 2024, to allocate not less than 5 percent of total priority funds available in a fiscal year to meet the needs of underserved harbor projects (as defined); and not less than 10 percent of such funds for projects located within the Great Lakes Navigation System. Finally, of the total priority funds available for each of fiscal years 2015 through 2024, the Secretary is directed to use not less than 10 percent of those funds for expanded uses (as defined) carried out at eligible harbors or inland harbors (as defined).

In establishing this prioritization system the Managers are identifying certain priority areas to receive priority funds. The Managers intend that funding operation and maintenance of one project can satisfy more than one identified prioritization category. For example, if the Secretary provides funding for an emerging harbor in the Great Lakes, that funding can count both for meeting the 10 percent allocation for emerging harbors from priority funds, as well as the 10 percent allocation for projects in the Great Lakes Navigation System. Similarly, if the Secretary were to allocate funding to an underserved harbor that also meets the definition of a moderate-use harbor, that allocation could help satisfy both statutory allocations. Finally, if the Secretary were to allocate funding to an eligible high-use or medium-use harbor or inland harbor for expanded uses, that allocation could satisfy the expanded uses allocation and the allocation for meeting the needs of high-use or moderate-use harbors.

In making funding decisions under this section, the Managers expect that the Secretary can use the flexibility within the 90 percent of funds appropriated within the 2012 baseline to meet other funding priorities of the Secretary, while still meeting the priority allocations included in this section for priority funds above the 2012 baseline.

Section 2102 also directs the Secretary to undertake a biennial assessment of the total operation and maintenance needs of the Nation's harbors. The intent of this provision is to provide a more comprehensive understanding of the operation and maintenance needs of authorized harbors, both to meet their authorized widths and depths, as well as to address potential expanded uses at eligible harbors and inland harbors. The Managers expect that this information will provide a useful tool for future funding allocations, as well as provide individual harbors with some expectation of when their individual operation and maintenance needs may be addressed through future funding allocations. In addition, this assessment will provide greater detail on the current uses of high use harbors that transit 90 percent of the Nation's commerce as well as emerging harbors, including harbors used for commercial fishing purposes, and harbors that are used in emergencies to provide water access for Coast Guard, fire control and emergency relief, to nuclear power stations, other energy-related industries, or coastal developments that could be impacted by hurricanes, earthquakes, tsunamis, or other shoreline catastrophes.

It is the intent of Section 2102(a)(2) Assessment of Harbor Needs and Activities, (B)

Uses of Harbors and Inland Harbors, (xi) *public health and safety related equipment for responding to coastal and inland emergencies*, that attention and assessment be given to identifying specific harbors that would be used in emergencies to provide water access for coast guard, fire control and emergency relief, to nuclear power stations, other energy-related industries, or coastal developments that could be impacted by hurricanes, earthquakes, tsunamis, or other shoreline catastrophes.

Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (the ''IRS Reform Act'') requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code (the ''Code'') and has widespread applicability to individuals or small businesses. The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that have ''widespread applicability'' to individuals or small businesses.

SEC. 2103. CONSOLIDATION OF DEEP DRAFT NAVIGATION EXPERTISE

House § 204. No comparable Senate section.—Senate recedes.

SEC. 2104. REMOTE AND SUBSISTENCE HARBORS

Senate § 5017. No comparable House section.—House recedes, with an amendment.

SEC. 2105. ARCTIC DEEP DRAFT PORT DEVELOPMENT PARTNERSHIPS

Senate § 5022. No comparable House section.—House recedes, with an amendment.

SEC. 2106. ADDITIONAL MEASURES AT DONOR PORTS AND ENERGY TRANSFER PORTS

Senate § 8004. No comparable House section.—House recedes, with an amendment.

SEC. 2107. PRESERVING UNITED STATES HARBORS

House § 203. No comparable Senate section.—Senate recedes, with an amendment.

TITLE III—SAFETY IMPROVEMENTS AND ADDRESSING EXTREME WEATHER EVENTS

Subtitle A—Dam Safety

SEC. 3001. DAM SAFETY

House §124, Senate § 9001, § 9002, § 9003, § 9004, § 9005, § 9006, § 9007.—House recedes, with an amendment.

Subtitle B—Levee Safety

SEC. 3011. SYSTEMWIDE IMPROVEMENT FRAMEWORK

House § 127, Senate § 2041.—House recedes.

SEC. 3012. MANAGEMENT OF FLOOD RISK REDUCTION PROJECTS

Senate § 3011. No comparable House section.—House recedes, with an amendment.

SEC. 3013. VEGETATION MANAGEMENT POLICY

House § 127, Senate § 2020.—House recedes, with an amendment.

SEC. 3014. LEVEE CERTIFICATIONS

Senate § 2021. No comparable House section.—House recedes, with an amendment.

SEC. 3015. PLANNING ASSISTANCE TO STATES

House § 126, Senate § 2019.—House recedes, with an amendment.

SEC. 3016. LEVEE SAFETY

House § 126, Senate § 6001–6009.—House and Senate agree to an amendment.

SEC. 3017. REHABILITATION OF EXISTING LEVEES

Senate § 2022. No comparable House section.—House recedes, with an amendment.

Subtitle C—Additional Safety Improvements and Risk Reduction Measures

SEC. 3021. USE OF INNOVATIVE MATERIALS

House § 132. No comparable Senate section.—Senate recedes, with an amendment.

SEC. 3022. DURABILITY, SUSTAINABILITY, AND RESILIENCE

House § 132, Senate § 11001.—House and Senate agree to an amendment.

SEC. 3023. STUDY ON RISK REDUCTION

Senate § 11002. No comparable House section.—House recedes.

SEC. 3024. MANAGEMENT OF FLOOD, DROUGHT, AND STORM DAMAGE

Senate § 11003. No comparable House section.—House recedes, with an amendment.

SEC. 3025. POST-DISASTER WATERSHED ASSESSMENTS

Senate §11004. No comparable House section.—House recedes, with an amendment.

SEC. 3026. HURRICANE AND STORM DAMAGE REDUCTION STUDY

House § 120, Senate § 3004.—Senate recedes.

Section 3026 clarifies that Congress intends that the study for flood and storm damage reduction related to natural disasters carried out by the Secretary under Title II of Division A of the Disaster Relief Appropriations Act, 2013, shall include in the recommendations specific reference to regional and watershed level actions that could be taken, including the development of coastal wetlands to serve as protective surge reduction areas, to reduce shoreline impacts from storm surges. It is the intent of this section to provide direction on the development of a recommended step down approach that local and regional governments could collaborate on to improve coastal storm damage reduction.

SEC. 3027. EMERGENCY COMMUNICATION OF RISK

House § 123. No comparable Senate section.—Senate recedes, with an amendment.

SEC. 3028. SAFETY ASSURANCE REVIEW

Senate § 2002. No comparable House section.—House recedes.

SEC. 3029. EMERGENCY RESPONSE TO NATURAL DISASTERS

House § 122, Senate § 2040.—House and Senate agree to an amendment.

TITLE IV—RIVER BASINS AND COASTAL AREAS

SEC. 4001. RIVER BASIN COMMISSIONS

House § 134, Senate §2063.—House recedes, with an amendment.

It is the intent of Section 4001 that the Secretary follow through on the direction provided by Congress to find and implement the means necessary to financially support the Susquehanna, Delaware, and Potomac River Basin Commissions. Congress has made clear its intent that the three River Basin Commissions be supported and expects the Corps of Engineers to act appropriately.

SEC. 4002. MISSISSIPPI RIVER

Senate § 2056, § 2057, § 5012, § 5023. No comparable House section.—House recedes, with an amendment.

This section authorizes the Secretary to update forecasting technology in the interest of maintaining navigation. This section authorizes the Secretary to study the feasibility of carrying out projects to improve navigation and aquatic ecosystem restoration. This section authorizes the Secretary to carry out a study to improve the coordinated and comprehensive management of water resource projects related to severe flooding and drought conditions. This section authorizes the Secretary to carry out navigation projects outside of the authorized federal navigation channel to ensure safe and reliable fleeting areas.

The Upper Mississippi River System (UMRS) is the only river designated by the United States Congress as a ''nationally significant ecosystem and a nationally significant commercial navigation system.'' Congress declared its commitment to modernize the infrastructure and improve its ecosystem with authorization of the Navigation and Ecosystem Sustainability Program (NESP) in WRDA 2007.This commitment is reinforced with the prioritization list contained in the Inland Marine Transportation System Capital Projects Business Model, parts of which are authorized in this bill.

The Managers recognize the interconnected nature of the many systems that make up the greater Mississippi River Basin and the need to better manage the Basin during times of severe flooding and drought that threaten personal safety, property, and navigation within the Basin. The study authorized in subsection (c) should identify any federal actions that are likely to prevent and mitigate the impacts of severe flooding and drought, including changes to authorized channel dimensions, operational procedures of locks and dams, and reservoir management within the greater Mississippi River Basin, consistent with the authorized purposes of the water resource projects; identify and make recommendations to remedy challenges to the Corps of Engineers presented by severe flooding and drought, including river access, in carrying out its mission to maintain safe, reliable navigation, consistent with the authorized purposes of the water resource projects in the greater Mississippi River Basin; and identify and locate natural or other physical impediments along the middle and lower Mississippi River to maintaining navigation on the middle and lower Mississippi River during periods of low water. In carrying out the study, Managers encourage the Secretary to consult with appropriate committees of Congress, federal, State, tribal, and local agencies, environmental interests, agricultural interests, recreational interests, river navigation industry representatives, other shipping and business interests, organized labor, and nongovernmental organizations; use existing data to the maximum extent practicable; and incorporate lessons learned and best practices developed as a result of past severe flooding and drought events, including major floods and the successful effort to maintain navigation during the near historic low water levels on the Mississippi River during the winter of 2012–2013.

Subsection (d) provides the Secretary with authority to carry out activities identified in the report required under paragraph (2) to maintain safe and reliable navigation within the authorized federal navigation channel on the Mississippi River. The Managers intend for any project carried out under this authority to be subject to applicable cost-sharing and mitigation requirements.

SEC. 4003. MISSOURI RIVER

House § 119, Senate § 3003, § 3005, § 5008, §5009, §5015.—House recedes, with an amendment.

It is the intent of the Managers that the Secretary of the Army coordinate with the appropriate agencies to carry out activities to improve and support management of the federal water resources development projects in the Missouri River basin. In carrying out this coordination the Secretary shall consult with the appropriate federal, State, and tribal agencies located in the area in which the water resources project is located. It is the intent that the shoreline erosion study be limited to those Upper Missouri River mainstem reservoirs operated by the Corps of Engineers.

SEC. 4004. ARKANSAS RIVER

Senate § 5006. No comparable House section.—House recedes.

SEC. 4005. COLUMBIA BASIN

Senate §5005. No comparable House section.—House recedes, with an amendment.

SEC. 4006. RIO GRANDE

Senate § 5004. No comparable House section.—House recedes, with an amendment.

SEC. 4007. NORTHERN ROCKIES HEADWATERS

Senate § 5010. No comparable House section.—House recedes, with an amendment.

SEC. 4008. RURAL WESTERN WATER

Senate § 5013. No comparable House section.—House recedes, with an amendment.

SEC. 4009. NORTH ATLANTIC COASTAL REGION

Senate § 5002. No comparable House section.—House recedes, with an amendment.

In carrying out the study authorized under this section, the Managers urge the Secretary to look at a broad array of aquatic ecosystem restoration opportunities and needs, and identify those geographic areas and associated activities that will have the greatest impact on restoration and sustainability of the northeast coastal ecosystem. Issues that the study may evaluate include:

—an inventory and evaluation of coastal habitats

—identification of aquatic resources in need of improvement

—identification and prioritization of potential aquatic habitat restoration projects, and

—identification of geographical and ecological areas of concern, including finfish habitats, diadromous fisheries migratory corridors, shellfish habitats, submerged aquatic vegetation, wetland, and beach dune complexes and other similar habitats.

SEC. 4010. CHESAPEAKE BAY

Senate §5003, §5014. No comparable House section.—House recedes, with an amendment.

For the purposes of the comprehensive plan authorized under this section, the Managers direct the Corps to use the Chesapeake Bay Comprehensive Water Resource and Restoration Plan, which was initiated in Fiscal 2014.

SEC. 4011. LOUISIANA COASTAL AREA

Senate § 3018. No comparable House section.—House recedes, with an amendment.

The Managers recognize the importance of ensuring that water resources projects do not cause incidental storm surge damage to neighboring states and local municipalities. Where incidental storm surge could occur, the Secretary is encouraged to consult with any affected states and local municipalities when developing a feasibility report under this section.

SEC. 4012. RED RIVER BASIN

Senate § 3008. No comparable House section.—House recedes, with an amendment.

SEC. 4013. TECHNICAL CORRECTIONS

Senate § 3002, § 3007, § 3012, § 3013, § 3019. No comparable House section.—House and Senate agree to an amendment.

SEC. 4014. OCEAN AND COASTAL RESILLIENCY

No comparable House or Senate section.

TITLE V—WATER INFRASTRUCTURE FINANCING

The Managers support robust investment in the construction, repair, and replacement of the Nation's network of wastewater infrastructure, as well as other measures to address ongoing sources of pollution under the Clean Water Act. In the conference report to accompany H.R. 3080, the Managers have agreed both to the creation of a new Water Infrastructure Finance and Innovation Act (WIFIA) as well improvements to the existing Clean Water State Revolving Fund (Clean Water SRF), authorized by Title VI of the Clean Water Act.

Subtitle A and B

During the consideration of H.R. 3080 and S. 601, the Mangers received statements of support for both the creation of a new WIFIA, as well as for reauthorization of the Clean Water SRF. The Managers agreed to include several targeted amendments to Title VI of the Clean Water Act (included in sections 5001, 5002, 5003, 5004, 5005, 5011, 5012, and 5013 of the conference report) to address several recommendations made by States and municipalities, and other stakeholders that used the Clean Water SRF for financing water quality improvements over the years. Many of these amendments have been subject to numerous hearings and have passed either the House of Representatives or the United States Senate in various bills over the last decade. These amendments are intended to increase the affordability of SRF financing to local communities, to increase flexibility in the uses of the Clean Water SRF to address local water quality concerns, and to promote more cost-effective management of infrastructure financed by SRF resources. The Managers also have agreed to codify, within Title VI of the Clean Water Act, several legislative provisions that have been carried forward through annual appropriations bills, including provisions related to the appropriate Clean Water SRF allocation for Indian tribes, nationwide.

By including these target amendments to the Clean Water SRF in the conference report to accompany H.R. 3080, the Managers intend to ensure that the Clean Water SRF remains a viable option for local communities and States to address ongoing local water quality concerns. After completion of the reports called for under this Title, the Managers expect to revisit the issue of financing wastewater infrastructure to address any recommendations or challenges raised by these reports or through implementation of the provisions authorized by this Title.

Subtitle A—State Water Pollution Control Revolving Funds

SEC. 5001. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS

Senate § 10002, § 10007, §10011. No comparable House section.—House and Senate agree to an amendment.

SEC. 5002. CAPITALIZATION GRANT AGREEMENTS

Senate § 10002, § 10007, §10011. No comparable House section.—House and Senate agree to an amendment.

SEC. 5003. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS

Senate § 10002, § 10007, §10011. No comparable House section.—House and Senate agree to an amendment.

SEC. 5004. REQUIREMENTS

Senate §10016. No comparable House section.—House and Senate agree to an amendment.

SEC. 5005. REPORT ON THE ALLOTMENT OF FUNDS

Senate § 10002, § 10007, §10011. No comparable House section.—House and Senate agree to an amendment.

SEC. 5006. EFFECTIVE DATE

Senate § 10002, § 10007, §10011. No comparable House section.—House and Senate agree to an amendment.

Subtitle B—General Provisions

SEC. 5011. WATERSHED PILOT PROJECTS

Senate § 10002, § 10007, §10011. No comparable House section.—House and Senate agree to an amendment.

SEC. 5012. DEFINITION OF TREATMENT WORKS

Senate § 10002, § 10007, §10011. No comparable House section.—House and Senate agree to an amendment.

SEC. 5013. FUNDING FOR INDIAN PROGRAMS

Senate § 10002, § 10007, §10011. No comparable House section.—House and Senate agree to an amendment.

SEC. 5014. WATER INFRASTRUCTURE PUBLIC–PRIVATE PARTNERSHIP PILOT PROGRAM

House § 117. No comparable Senate section.—Senate recedes, with an amendment.

Subtitle C—Innovative Financing Pilot Projects

The Conference agreement maintains the Water Infrastructure Finance and Innovation Act (WIFIA) included in S. 601. The conference agreement includes targeted modifications to the Senate-passed bill to ensure WIFIA does not duplicate efforts undertaken by existing State Revolving Funds, to provide dedicated funding for rural infrastructure projects, and to provide additional flexibility to provide loans that are in excess of 49 percent of a project's total cost.

SEC. 5021. SHORT TITLE

Senate § 10001. No comparable House section.—House recedes, with an amendment.

SEC. 5022. DEFINITIONS

Senate § 10003. No comparable House section.—House recedes, with an amendment.

SEC. 5023. AUTHORITY TO PROVIDE ASSISTANCE

Senate § 10004. No comparable House section.—House recedes, with an amendment.

SEC. 5024. APPLICATIONS

Senate §10005. No comparable House section.—House recedes, with an amendment.

SEC. 5025. ELIGIBLE ENTITIES

Senate § 10006. No comparable House section.—House recedes, with an amendment.

SEC. 5026. PROJECTS ELIGIBLE FOR ASSISTANCE

Senate § 10007. No comparable House section.—House recedes, with an amendment.

SEC. 5027. ACTIVITIES ELIGIBLE FOR ASSISTANCE

Senate § 10008. No comparable House section.—House recedes, with an amendment.

SEC. 5028. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION

Senate § 10009. No comparable House section.—House recedes, with an amendment.

SEC. 5029. SECURED LOANS

Senate §10010. No comparable House section.—House recedes, with an amendment.

SEC. 5030. PROGRAM ADMINISTRATION

Senate §10011. No comparable House section.—House recedes, with an amendment.

SEC. 5031. STATE, TRIBAL, AND LOCAL PERMITS

Senate § 10012. No comparable House section.—House recedes, with an amendment.

SEC. 5032. REGULATIONS

Senate §10013. No comparable House section.—House recedes, with an amendment.

SEC. 5033. FUNDING

Senate § 10014. No comparable House section.—House recedes, with an amendment.

SEC. 5034. REPORTS ON PILOT PROGRAM IMPLEMENTATION

Senate § 10015. No comparable House section.—House recedes, with an amendment.

SEC. 5035. REQUIREMENTS

Senate § 10016. No comparable House section.—House recedes, with an amendment.

TITLE VI—DEAUTHORIZATION AND BACKLOG PREVENTION

SEC. 6001. DEAUTHORIZATION OF INACTIVE PROJECTS

House § 301, Senate § 2049.—Senate recedes, with an amendment.

This section establishes a process that will lead to the deauthorization of old, inactive projects the value of which shall exceed the value of projects authorized in this Act by $6 billion. This section requires the Secretary of the Army submit a list of inactive projects to the Congress that were authorized prior to the Water Resources Development Act of 2007, have not begun construction, or if they have begun construction, have not received any funds, federal or non-federal, in the past 6 years. The Secretary shall identify projects from the oldest authorization to the newest until the total federal cost of the projects on the list totals not less than $6 billion more than the value of the projects authorized by this Act. After a 180 day period of congressional review, the projects on the list are deauthorized.

This section is not intended to apply to project studies, or any activities authorized in the Water Resources Development Act of 2007 or those projects that have or are undergoing a post-authorization study (as defined) in the past 6 years.

Traditionally, Water Resources Development Acts contained lists of projects to be deauthorized. However, the Corps of Engineers has seemingly lost track of inactive projects. While the Managers applaud devoting scarce funds and human resources to active projects, the Managers expect the Corps of Engineers to be able to readily identify those projects subject to this section.

In addition, to avoid a similar situation in the future, the Managers direct the Secretary to utilize existing authorities, including the authorities authorized by section 2041 of the Water Resources Development Act of 2007 (121 Stat. 1100), to regularly maintain and update the status of each water resources development project, study, or modification that is authorized by the Congress, including those projects, studies, and modifications that were authorized prior to the date of enactment of this Act, but that are not included in the final deauthorization list that is submitted to Congress under 6001(d)(4). The Managers expect that, upon completion of the deauthorization process established under this section, the Secretary will have identified each project, study, or modification that is currently authorized to be carried out by the Corps of Engineers. A single data base will be established that will consolidate all of the required information. This information will be accessible through Headquarters and will be updated quarterly to ensure consistency and accuracy.

SEC. 6002. REVIEW OF CORPS OF ENGINEERS ASSETS

House § 302. No comparable Senate section.—Senate recedes, with an amendment.

It is the intent of section 6002 that the Army Corps of Engineers work directly with the General Services Administration (GSA) to identify and coordinate the identification and action on any physical asset that could be potentially transferred or removed from government ownership.

SEC. 6003. BACKLOG PREVENTION

House § 303, Senate § 2049.—Senate recedes, with an amendment.

SEC. 6004. DEAUTHORIZATIONS

House § 304, Senate § 3006, § 3020, § 3021.—House and Senate agree to an amendment.

SEC. 6005. LAND CONVEYANCES

House § 305, Senate § 3010, § 3014, § 3016, § 5019, § 12008.—House and Senate agree to an amendment.

TITLE VII—WATER RESOURCES INFRASTRUCTURE

SEC. 7001. ANNUAL REPORT TO CONGRESS

House § 118, Senate § 4001, § 4002, § 4003.—Senate recedes, with an amendment.

This section requires the Secretary of the Army to annually publish a notice in the Federal Register requesting proposals from non-federal interests for project authorizations, studies, and modifications to existing Corps of Engineers projects. Further, it requires the Secretary to submit to Congress and make publicly available an annual report of those activities that are related to the missions of the Corps of Engineers and require specific authorization by law. Additionally, this section requires the Secretary to certify the proposals included in the annual report meet the criteria established by Congress in this section.

The section requires that information be provided about each proposal that is in the Annual Report submitted to the Congress. This information is meant to help the Congress set priorities regarding which potential studies, projects, and modifications will receive authorizations. The Secretary is expected to make use of information that is readily available and is not expected to begin a detailed and time-consuming analysis for additional information.

This section contains a provision to require the Corps of Engineers submit to Congress an appendix containing descriptions of those projects requested by non-federal interests that were not included in the Annual Report. The activities to be included in the appendix provide an additional layer of transparency that will allow Congress to review all non-federal interest submittals to the Corps of Engineers. This will allow Congress to receive a more complete spectrum of potential project studies, authorizations, and modifications. Activities described in the appendix are not subject to authorization from Congress.

SEC. 7002. AUTHORIZATION OF FINAL FEASIBILITY STUDIES

House §401, Senate §1002.—Senate recedes, with an amendment.

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

REPLY TO
ATTENTION OF

JUL 22 2011

CEMP-SWD (1105-2-10-a)

SUBJECT: Sabine-Neches Waterway Channel Improvement Project, Southeast Texas and Southwest Louisiana

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on navigation improvements for the Sabine-Neches Waterway (SNWW) in Southeast Texas and Southwest Louisiana. It is accompanied by the report of the Galveston District Engineer and the Southwestern Division Engineer. These reports are in response to a Congressional resolution adopted on 5 June 1997 by the Senate Committee on Environment and Public Works. The committee requested a review of the reports on the SNWW and other pertinent reports to determine the feasibility of modifying the channels serving the ports of Beaumont, Port Arthur, and Orange, Texas in the interest of commercial navigation. Pre-construction engineering and design activities for this proposed project, if funded, would be continued under this authority. The existing SNWW 40-Foot Navigation Project was authorized by the River and Harbor Act of 1962 and construction of the 40-foot project was completed in 1968.

2. The report recommends a project that will contribute to the economic efficiency of commercial navigation. The SNWW is a system of navigation channels that have been superimposed upon the Sabine-Neches estuary in Texas and Louisiana. The study evaluated navigation and environmental problems and opportunities for the entire estuarine system, which is defined as the study area. The study area encompasses a 2,000-square-mile area, which contains the smaller project area that includes those areas that would be directly affected by construction of the project (i.e. the dredging footprint, existing and proposed placement areas, and mitigation areas). The study area includes the following water bodies and adjacent coastal wetlands: Sabine Lake and adjacent marshes in Texas and Louisiana, the Neches River channel up to the new Neches River Saltwater Barrier, the Sabine River channel to the Sabine Island Wildlife Management Area, the GIWW west to Star Bayou, the GIWW east to Gum Cove Ridge, the Gulf shoreline extending to 10 miles either side of Sabine Pass, and 35 miles offshore into the Gulf of Mexico.

3. The reporting officers recommend the Locally Preferred Plan (LPP) to modify the existing SNWW. The LPP consists of the following improvements:

a. Deepen the SNWW from 40 to 48 feet and the offshore channel from 42 to 50 feet in depth from offshore to the Port of Beaumont Turning Basin;

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b. Extend the 50-foot deep offshore channel by 13.2 miles to deep water in the Gulf, increasing the total length of channel from 64 to 77 miles;

c. Taper and mark the Sabine Bank Channel from 800 feet wide to 700 feet wide;

d. Deepen and widen Taylor Bayou channels and turning basins;

e. Ease selected bends on the Sabine-Neches Canal and Neches River Channel;

f. Construct new and enlarge/deepen existing turning and anchorage basins on the Neches River Channel.

Dredged material placement for this project would be provided in accordance with the Dredged Material Management Plan (DMMP) developed during the study. Deepening of the SNWW would generate approximately 98 million cubic yards of new work material and 650 million cubic yards of maintenance material over the 50-year period of economic evaluation. Material from the extension channel, Sabine Bank Channel, Sabine Pass Outer Bar Channel, and Sabine Pass Jetty Channel would be placed offshore, either in existing placement areas or newly designated sites. Material from the inland reaches would be placed in existing confined, upland placement sites adjacent to each reach. Expansion of some existing upland sites would also be required. Some dredged material from the inland reaches would be used beneficially to restore large degraded marsh areas on the Neches River and nourish the Gulf shoreline at Texas and Louisiana Points.

4. As discussed further in the report of the Galveston District Engineer and the Southwestern Division Engineer, the recommended plan includes preliminary conclusions that 41 pipelines located within the SNWW Channel must be relocated and are classified as utility relocations for which the non-Federal sponsor must perform or assure performance. In accordance with Section 101(a)(4) of the Water Resources Development Act (WRDA) of 1986, as amended, one-half of the cost of each such relocation will be borne by the owner of the facility being relocated and one-half of the cost of each such relocation will be borne by the non-Federal sponsor. All relocations, including utility relocations, are to be accomplished at no cost to the Federal Government. The recommended plan also includes preliminary conclusions that there are an additional 5 pipelines that must be removed but not replaced. The Government, in coordination with the non-Federal sponsor, will conduct further analysis and finalize its conclusions during the period of pre-construction engineering and design.

5. Environmental benefits of the Neches River beneficial use (BU) features would offset all environmental impacts in the state of Texas and on all Federal lands, by restoring 2,853 acres of emergent marsh, improving 871 acres of shallow water habitat, and nourishing 1,234 acres of existing marsh in Texas. After consideration of project impacts in Texas and on Federal lands in the project area, the Neches River BU features will provide a net increase of 316 Average

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Annual Habitat Units (AAHUs). The Gulf Shore BU features would offset minor erosion impacts to Gulf shorelines in Texas and Louisiana by periodically nourishing three miles of shoreline in each state. Unavoidable environmental impacts on non-Federal lands in Louisiana would be fully compensated by restoring 2,783 acres of emergent marsh, improving 957 acres of shallow water habitat, and stabilizing and nourishing 4,355 acres of existing marsh. These actions will provide 1,181 AAHUs to compensate for a loss of 1,159 AAHUs in Louisiana. Post-construction monitoring and adaptive management plans for the BU features and mitigation areas will be required until such time that the following performance criteria are met, as determined by the Division Commander: (1) each mitigation site and the Neches River BU features have an aerial coverage of 60 to 80 percent native, typical, emergent marsh vegetation; and invasive noxious and/or exotic plant species comprise less than 4 percent of mitigation site marsh coverage; (2) Texas Point BU feature shows a decreased erosion rate averaging less than 44 ft/yr after two disposal events; and (3) Louisiana Point BU feature shows an accretion rate averaging more than 1.2 ft/yr after two disposal events.

6. The recommended navigation project is not the National Economic Development (NED) plan. The recommended SNWW improvement is shallower and will be less costly than the NED plan and is the LPP supported by the non-Federal sponsor. The Sabine-Neches Navigation District is the non-Federal cost sharing sponsor.

7. Project Cost Breakdown Based on October 2010 Prices.

a. Total First Cost of Constructing Project. The estimated total first cost of constructing the project is $1,053,000,000 which includes the cost of constructing the general navigation features and the value of lands, easements, rights-of-way and relocations estimated as follows: $894,500,000 for channel modification and dredged material placement; $79,000,000 for environmental mitigation; $52,800,000 for bridge fender modifications; $1,270,000 Federal cost for cultural resources; $774,000 for additional Corps administrative costs; $3,690,000 for the value of lands, easements, rights-of-way, and relocations (except utility relocations) provided by the non-Federal sponsor; and $21,300,000 for the one-half of the cost of utility relocations borne by the non-Federal sponsor pursuant to Section 101(a)(4) of WRDA 1986, as amended.

b. Estimated Federal and non-Federal Shares. The estimated Federal and non-Federal shares of the total first cost of constructing the project are $707,000,000 and $345,990,000, respectively, as apportioned in accordance with the cost sharing provisions of Section 101 of WRDA 1986, as amended, as follows:

(1) The costs for the deepening of the channel from 40 to 45 feet will be shared at the rate of 75 percent by the Government and 25 percent by the non-Federal sponsor. Accordingly, the Federal and non-Federal shares of the estimated $772,000,000 cost in this zone will be approximately $579,000,000 and $193,000,000, respectively, with the difference of $1,270,000 being the Federal cost for cultural resources.

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(2) The costs for the deepening of the channel from 45 to 48 feet will be shared at the rate of 50 percent by the Government and 50 percent by the non-Federal sponsor. Accordingly, the Federal and non-Federal shares of the estimated $256,000,000 cost in this zone will be approximately $128,000,000 each.

(3) In addition to payment by the non-Federal sponsor of its share of costs as estimated and addressed in sub-paragraphs (1) and (2) above, the estimated non-Federal share of $345,990,000 includes $3,690,000 for the estimated value of lands, easements, rights-of-way, and relocations (except utility relocations) that it must provide pursuant to Section 101(a)(3) of WRDA 1986, as amended, and $21,300,000 for one-half of the estimated costs of utility relocations borne by the non-Federal sponsor pursuant to Section 101(a)(4) of WRDA 1986, as amended.

c. Additional 10 Percent Payment. In addition to the non-Federal sponsor's estimated share of the total first cost of constructing the project in the amount of $345,990,000, pursuant to Section 101(a)(2) of WRDA 1986, as amended, the non-Federal sponsor must pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period not to exceed 30 years, with interest. The value of lands, easements, rights-of-way, and relocations provided by the non-Federal sponsor under Section 101(a)(3) of WRDA 1986, as amended, and the costs of utility relocations borne by the non-Federal sponsor under Section 101(a)(4) of WRDA 1986, as amended, will be credited toward this payment.

d. Operations and Maintenance Costs. The additional annual cost of operation and maintenance for this recommended plan is estimated at $32,800,000. In accordance with Section 101(b) of WRDA 1986, the non-Federal sponsor will be responsible for an amount equal to 50 percent of the excess of the cost of the operation and maintenance of the project over the cost which would be incurred for operation and maintenance of the project if the project had a depth of 45 feet. The excess annual cost attributable to operation and maintenance for the depth in excess of 45 feet is $12,300,000 with the non-Federal sponsor responsible for $6,150,000.

e. Associated Costs. Estimated total project associated costs of $43,500,000 include $20,700,000 in non-Federal costs associated with dredging of berthing areas and development of other local service facilities; $1,500,000 for navigation aids (a U.S. Coast Guard expense); and $21,300,000 for the one-half of the cost of utility relocations to be borne by the facility owners in accordance with Section 101(a) (4) of WRDA of 1986, as amended.

f. Authorized Project Cost and Section 902 Calculation. The total estimated first cost of the project for the purposes of authorization and calculating the maximum cost of the project pursuant to Section 902 of WRDA 1986, as amended, should include the estimates for general navigation features (GNF) construction costs, the value of lands, easements, and rights-of-way,

the value of relocations provided under Section 101(a)(3) of WRDA 1986, as amended, and the one-half of the costs of utility relocations borne by the non-Federal sponsor for utility relocations under Section 101(a)(4) of WRDA 1986, as amended. Accordingly, as set forth in paragraph 7.a. above, based on October 2010 prices, the estimated total first cost of the project for these purposes is $1,053,000,000 with a Federal share of $707,000,000 and a non-Federal share of $345,990,000.

8. Based on October 2010 price levels, a discount rate of 4 1/8 percent, and a 50-year period of economic analysis, the project average annual benefits and costs for the SNWW improvements are estimated at $115,400,000 and $90,600,000, respectively, with a resulting net benefit of $24,800,000 and a benefit-to-cost ratio of 1.3 to 1.

9. In accordance with the Corps Engineering Circular on review of decision documents, all technical, engineering, and scientific work underwent an open, dynamic, and vigorous review process to ensure technical quality. This included an Agency Technical Review (ATR), an Independent External Peer Review (IEPR), and a Corps Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the final report. The IEPR was completed by Battelle Memorial Institute. A total of 18 comments were documented. The comments were related to plan formulation, vessel fleet analysis, benefits, dredging and sedimentation, risk and uncertainty, and impact of salinity changes. In response, sections in the main report and EIS were expanded to include additional information. The final IEPR Report was completed in June 2010 with all comments addressed sufficiently.

10. Washington level review indicates that the plan recommended by the reporting officers is technically sound, environmentally and socially acceptable, and on the basis of congressional directives, economically justified. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies, except for the measurement of the National Economic Benefits which was modified by Section 6009 of the ESAA of 2005. Further, the recommended plan complies with other administration and legislative policies and guidelines. The views of interested parties, including Federal, State and local agencies, have been considered.

11. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that navigation improvements for the Sabine-Neches Waterway be authorized in accordance with the reporting officer's recommended plan at an estimated cost of $1,053,000,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 101 of WRDA 1986, as amended. This recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and policies including that the non-Federal sponsor must agree with the following requirements prior to project implementation.

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a. Provide 10 percent of the total cost of construction of the GNFs attributable to dredging to a depth not in excess of 20 feet; plus 25 percent of the total cost of construction of the GNFs attributable to dredging to a depth in excess of 20 feet but not in excess of 45 feet; plus 50 percent of the total cost of construction of the GNFs attributable to dredging to a depth in excess of 45 feet as further specified below:

(1) Provide 25 percent of design costs allocated by the Government to commercial navigation in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

(2) Provide, during the first year of construction, any additional funds necessary to pay the full non-Federal share of design costs allocated by the Government to commercial navigation;

(3) Provide, during construction, any additional funds necessary to make its total contribution for commercial navigation equal to 10 percent of the total cost of construction of the GNFs attributable to dredging to a depth not in excess of 20 feet; plus 25 percent of the total cost of construction of the GNFs attributable to dredging to a depth in excess of 20 feet but not in excess of 45 feet; plus 50 percent of the total cost of construction of the GNFs attributable to dredging to a depth in excess of 45 feet;

b. Provide all lands, easements, and rights-of way (LER), including those necessary for the borrowing of material and the disposal of dredged or excavated material, and perform or assure the performance of all relocations, including utility relocations, all as determined by the Federal Government to be necessary for the construction or operation and maintenance of the GNFs;

c. Pay with interest, over a period not to exceed 30 years following completion of the period of construction of the GNFs, an additional amount equal to 10 percent of the total cost of construction of the GNFs less the amount of credit afforded by the Government for the value of the LER and relocations, including utility relocations, provided by the Sponsor for the GNFs. If the amount of credit afforded by the Government for the value of LER, and relocations, including utility relocations, provided by the Sponsor equals or exceeds 10 percent of the total cost of construction of the GNFs, the Sponsor shall not be required to make any contribution under this paragraph, nor shall it be entitled to any refund for the value of LER and relocations, including utility relocations, in excess of 10 percent of the total cost of construction of the GNFs;

d. Provide, operate, and maintain, at no cost to the Government, the local service facilities in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

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e. Provide 50 percent of the excess cost of operation and maintenance of the project over that cost which the Federal Government determines would be incurred for operation and maintenance if the project had a depth of 45 feet;

f. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the Sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating and maintaining the GNFs;

g. Hold and save the United States free from all damages arising from the construction or operation and maintenance of the project, any betterments, and the local service facilities, except for damages due to the fault or negligence of the United States or its contractors;

h. Keep, and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents, and other evidence are required, to the extent and in such detail as will properly reflect total cost of the project, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and local governments at 32 CFR, Section 33.20;

i. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601–9675, that may exist in, on, or under LER that the Federal Government determines to be necessary for the construction or operation and maintenance of the GNFs. However, for lands, easements, or rights-of-way that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigations unless the Federal Government provides the Sponsor with prior specific written direction, in which case the Sponsor shall perform such investigations in accordance with such written direction;

j. Assume complete financial responsibility, as between the Federal Government and the Sponsor, for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under LER that the Federal Government determines to be necessary for the construction or operation and maintenance of the project;

k. To the maximum extent practicable, perform its obligations in a manner that will not cause liability to arise under CERCLA;

l. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended, (42 U.S.C. 1962d-5b) and Section 101(e) of the WRDA 86, Public Law 99-662, as amended,

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(33 U.S.C. 2211(e)) which provide that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the Sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element;

m. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended, (42 U.S.C. 4601-4655) and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way necessary for construction, operation, and maintenance of the project including those necessary for relocations, the borrowing of material, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said act;

n. Comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c);

o. Provide the non-Federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation, that are in excess of 1 percent of the total amount authorized to be appropriated for the project; and

p. Not use funds from other Federal programs, including any non-Federal contribution required as a matching share therefor, to meet any of the Sponsor's obligations for the project unless the Federal agency providing the Federal portion of such funds verifies in writing that such funds are authorized to be used to carry out the project.

12. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to the

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Congress, the States of Louisiana and Texas, the Sabine Neches Navigation District (the non-Federal sponsor), interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

MERDITH W.B. TEMPLE
Major General, USA
Acting Commander

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CECW-PC (1105-2-10a) APR 30 2012

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THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress, the final feasibility report and environmental assessment on navigation improvements for Jacksonville Harbor Mile Point, Duval County, Florida. It is accompanied by the report of the district and division engineers. This report was prepared in response to a congressional resolution adopted on March 24, 1998 by the House Committee on Transportation and Infrastructure. Congress added funding in the appropriations for Fiscal Year 2000 to begin the reconnaissance phase of the feasibility study. This report constitutes the final report in response to this resolution. Preconstruction engineering and design activities for the Jacksonville Harbor Mile Point, Duval County, Florida Navigation Project will continue under the authority provided by the resolution cited above.

2. The report recommends authorizing a project that will contribute to the economic efficiency of commercial navigation. The recommended plan reduces the ebb tide crosscurrents at the confluence of the St. Johns River with the Intracoastal Waterway (IWW) by construction of a relocated Mile Point training wall. Relocation of the Mile Point training wall involves removal of the western 3,110 feet (ft) of existing Mile Point training wall, including land removal and dredging to open the confluence of the IWW and St. Johns River, construction of a new training wall western leg (~4,250 ft) and relocated eastern leg (~2,050 ft), restoration of Great Marsh Island as the least-cost disposal alternative and mitigation site providing beneficial use of dredged material, and construction of a flow improvement channel to offset project induced adverse impacts.

3. The reporting officers recommend the National Economic Development (NED) Plan to relocate/reconfigure the existing Mile Point Training Wall. The NED plan consists of the following improvements:

a. The training wall reconfiguration includes removal of the western 3,110 ft of the existing Mile Point training wall, construction of a relocated Eastern Leg training wall, approximately 2,050 ft, and a new West Leg training wall, approximately 4,250 ft. Total estimated quantity of material to be excavated is approximately 889,000 cubic yards (cy). All usable stone material recovered from the existing training wall will be stockpiled for use in either the West or East Leg of the relocated training wall and all other material excavated will be placed as beneficial use in the Salt Marsh Mitigation Area at Great Marsh Island and as foundation for the relocated training

wall. It is estimated that approximately 14,600 cy of armor stone can be recovered for reuse purposes; however, additional geophysical exploration will more precisely ascertain the exact quantities of stone available for reuse during the preconstruction, engineering and design phase.

b. The East Leg training wall incorporates a larger scour apron (25') than the West Leg (10') due to the predicted permanent shift of stronger currents in Pablo Creek towards the east, especially during the ebb tide. Channel migration of the IWW is anticipated and realignment of the channel to deep water may become necessary. The relocated East Leg consists of building approximately 2,050 ft of training wall tying into the existing structure on Helen Cooper Floyd Park and the West Leg consists of building approximately 4,250 ft of training wall across the breakthrough at Great Marsh Island. Estimated quantities associated with the East Leg are 26,900 cy of armor stone and 11,900 cy of bedding stone, and for the West Leg are 5,670 cy of concrete (567 units at 10cy/unit) and 32,000 square yards (sy) of geotextile fabric for bags and tubes to be filled with 40,500 cy of excavated material. Both legs will incorporate the use of a total of approximately 34,900 sy of filter fabric.

c. The least-cost disposal method is to restore the breakthrough at Great Marsh Island by constructing an approximate 4,250-foot Western Leg training wall and placing dredged material to restore the island. Restoration of this area provides an opportunity for beneficial use of dredged material and an opportunity to address impacts caused by the physical decay of the ecosystem through erosion of natural habitat caused by the crosscurrents. Without the project, Great Marsh Island will continue to erode. Restoring Great Marsh Island is both the least-cost alternative for dredged material and also provides up to 53 acres of salt marsh restoration. This alternative provides incidental environmental benefits, in addition to providing mitigation for approximately 8.15 acres of impacted salt marsh by the training wall removal.

d. The Flow Improvement Channel (FIC) would be constructed to offset any adverse effects that would be caused by closing off the breakthrough of Great Marsh Island. If Great Marsh Island is restored and the FIC is not built, then water quality is expected to be degraded within Chicopit Bay due to non-point source pollution loadings from the upstream watershed not being flushed out of the hydrological system. This would occur because the restoration would close off the recently formed channel through the eroded portion of Great Marsh Island, which now flushes the bay. The FIC would allow for improved water quality and environmental stability of the project area by potentially improving the flushing of sediment and other waterborne constituents into the adjacent IWW. The construction of the FIC would also restore the historic channel through Chicopit Bay, which has silted in with eroded material from Great Marsh Island. The FIC consists of dredging a channel 80 ft wide and 6 ft deep for a length of approximately 3,620 ft through Western Chicopit Bay. Dredged material from the FIC would be placed back into the Great Marsh Island restoration area.

e. Approximately 51.2 acres of land are under the control of the U.S. Navy. The U.S. Army Corps of Engineers (USACE) will coordinate with the U.S. Navy for a license that will allow

removal of the real property (uplands). Additionally, the federal government has navigational servitude over submerged lands impacted by the proposed project. The non-federal sponsor (Jacksonville Port Authority) owns lands in the vicinity of the proposed project, but those lands will not be impacted by the proposed project. The Nature Conservancy, Incorporated (Inc.) owns lands in the vicinity of the proposed project that may be required for construction of the western leg training wall through perpetual easement. The Nature Conservancy, Inc. is familiar with the proposed project and has indicated their support for the project.

4. Project Cost Breakdown Based on October 2011 Prices.

a. Project First Cost. The estimated project first cost is $35,999,000, which includes the cost of constructing the general navigation features (GNF) and the value of lands, easements, rights-of-way and relocations (LERR) estimated as follows: $32,812,000 for channel modification, turbidity and endangered species monitoring, and dredged material placement; $3,088,000 for environmental mitigation; and $99,000 administrative costs for the value of LERR. The Jacksonville Port Authority is the non-federal cost-sharing sponsor for all features.

b. Estimated Federal and Non-Federal Shares. The estimated federal and non-federal shares of the project first cost are $26,998,000 and $9,001,000, respectively, as apportioned in accordance with the cost sharing provisions of Section 101 of the Water Resources Development Act (WRDA) 1986, as amended (33 U.S.C. 2211), as follows:

(1) The cost for the general navigation features from greater than 20 ft to 45 ft will be shared at a rate of 75 percent by the Government and 25 percent by the non-federal sponsor. Accordingly, the federal and non-federal shares of the costs in this zone are estimated to be $26,924,000 and $8,976,000, respectively.

(2) In addition to the costs outlined in sub-paragraph (1) above, the project first cost includes administrative costs for LERR estimated at $99,000. The federal administrative costs include project real estate planning, review, and incidental costs between the U.S. Navy and the USACE. Accordingly, the federal and non-federal shares of the administrative costs are estimated to be $74,000 and $25,000, respectively. Credit is given for the incidental costs borne by the non-federal sponsor for LERR per Section 101 of WRDA 1986. Of the non-federal share, approximately $12,500, is eligible for LERR credit.

c. Additional 10 Percent Payment. In addition to the non-federal sponsor's estimated share of the total first cost of constructing the project in the amount of $9,001,000, pursuant to Section 101(a)(2) of WRDA 1986, as amended, the non-federal sponsor must pay an additional 10% of the costs of general navigation features of the project, $3,590,000, in cash over a period not to exceed 30 years, with interest. The value of the LERR provided by the non-federal sponsor under Section 101(a)(3) of WRDA 1986 as amended will be credited toward this payment.

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d. Operations and Maintenance Costs. There are no additional costs of operation and maintenance for this recommended plan.

e. Associated Costs. Estimated associated costs of $431,000 include navigation aids, which is a U.S. Coast Guard expense.

f. Authorized Project Cost and Section 902 Calculation. The project first cost, for the purposes of authorization and calculating the maximum cost of the project pursuant to Section 902 of WRDA 1986, as amended, should include estimates for GNF construction costs, the value of LERR provided under Section 101(a)(3) of WRDA 1986, as amended. Accordingly, as set forth in paragraph 4.a. above, based on October 2011 prices, the estimated project first cost for these purposes is $35,999,000 with a federal share of $26,998,000 and a non-federal share of $9,001,000.

5. Based on October 2011 price levels, a 4-percent discount rate, and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $1,737,000. The average annual equivalent benefits are estimated to be $2,440,000. The average annual net benefits are estimated to be $703,000. The benefit-to-cost ratio for the recommended plan is 1.4.

6. Examination of the maximum flood and ebb tide current vectors indicate that flow velocities within the federal navigation channel are very similar between the existing and with-project condition and in isolated areas of the Mile Point turn are about 1 foot/second less under the with-project condition. This comparison suggests that little or no significant net increase in shoaling rates will occur in the Jacksonville Harbor federal channel over existing project conditions. A natural shift of the IWW at the entrance to Pablo Creek will be expected as a result of the realignment of the training wall. Lower water velocities will increase the opportunities for sedimentation on the western side of the entrance; while higher velocities along the eastern side have the potential to scour and undermine the location of the new training wall if unprotected against erosion. However, little or no significant net increase in shoaling of the IWW navigational channel is predicted as a result of the reconfiguration of the Mile Point training wall.

a. Historically, the training walls along the St. Johns River have performed well and required very little maintenance. With proper design and construction, it is anticipated that no maintenance of the relocated training wall legs will be required over the 50 year period of analysis. All dredged material for the recommended plan will be placed at Great Marsh Island; therefore, the selected plan will have no effect on future channel dredging maintenance activities for Jacksonville Harbor or the IWW.

b. Based on model investigations and current measurements, the resulting bottom current velocities from the relocated training wall legs and excavation and removal of a portion of the existing training wall and entire surrounding area to -13 ft Mean Low Water (MLW) are of such

magnitude to expect little deposition to occur in either of the channels. The Chicopit Bay FIC is also not expected to require maintenance dredging. Prior to the breakthrough of Great Marsh Island, a natural channel existed in the same location as the proposed FIC. Historical maps show water depths up to 10 ft due to tidal flushing of Chicopit Bay, as well as freshwater runoff from the neighboring creeks. Once Great Marsh Island is restored, the water from Greenfield and Mount Pleasant Creeks, as well as the large volume of water within Chicopit Bay's tidal prism, will flush in and out through the FIC. The water velocities in the channel are expected to be sufficient to prevent shoaling within the channel.

7. In accordance with the Corps Engineering Circular (EC) 1165-2-211 on sea level change, the study performed an analysis of three Sea Level Rise rates, a baseline estimate representing the minimum expected sea level change, an intermediate estimate, and a high estimate representing the maximum expected sea level change. Projecting the three rates of change provides a predicted low level rise of 0.12 meters (m) or approximately 0.39 ft, an intermediate level rise of 0.25 m or approximately 0.81 ft, and a high level rise of 0.66 m or approximately 2.17 ft. The impact of the low and intermediate level increases of 0.39 ft and 0.81 ft, respectively, would be inconsequential to the performance of the structure and the high level increase of 2.17 ft would only affect the performance of the structure during low probability events that exceeded the Mean Higher High Water (MHHW) level by more than 0.33 ft. Even during such low probability events, the structure will perform its intended purpose to train the river currents with the exception of that very small portion of the water column above the structure's crest. In addition, if over time the actual measured changes in relative sea level are closer to the Scenario III amounts or greater, then the structure's performance can easily be brought back to an optimal level by increasing the crest elevation by up to a foot without major expense. The salt marsh restoration design at Great Marsh Island is based on existing conditions, or current sea level, in order to achieve requisite elevations that would support low and high salt marsh as well as intertidal oyster beds. The restoration of these habitats cannot be performed using projected future sea level as the target species for these habitats would not be able to survive at current water levels. As an adaptive management measure to address future sea level rise, additional dredged material could be used when appropriate to increase the elevation of the Great Marsh Island restoration site and maintain salt marsh and other habitats.

8. In accordance with the Corps EC 1165-2-209 on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included District Quality Control, Agency Technical Review, Policy and Legal Compliance Review, Cost Engineering Directory of Expertise Review and Certification, and Model Review and Approval. Given the nature of the project, an exclusion from the requirement to conduct a Type I Independent External Peer Review was granted on 23 September 2011.

9. Washington level review indicates the plan recommended by the reporting officers is technically sound, environmentally and socially acceptable, and on the basis of congressional

directives, economically justified. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies. The recommended plan complies with other administration and legislative policies and guidelines. The views of interested parties, including federal, state and local agencies, have been considered. State and agency comments received during review of the final report/environmental assessment included concerns raised by the National Park Service related to channel realignment, unrecorded archaeological sites, cultural resources, and water quality within the Timucuan Ecological and Historical Preserve. These concerns were addressed through coordination and a multi-agency meeting and ultimately resolved in a Jacksonville District, USACE response dated February 27, 2012.

10. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that navigation improvements for Jacksonville Harbor Mile Point be authorized in accordance with the reporting officer's recommended plan at an estimated cost of $35,999,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of federal and State laws and policies, including Section 101 of WRDA 1986, as amended. This recommendation is subject to the non-federal sponsor agreeing to comply with all applicable federal laws and policies including that the non-federal sponsor must agree with the following requirements prior to project implementation.

a. Provide 10 percent of the total cost of construction of the GNFs attributable to dredging to a depth not in excess of 20 ft; plus 25 percent of the total cost of construction of the GNFs attributable to dredging to a depth in excess of 20 ft but not in excess of 45 ft; plus 50 percent of the total cost of construction of the GNFs attributable to dredging to a depth in excess of 45 ft as further specified below:

(1) Provide the non-federal share of design costs allocated by the Government to commercial navigation in accordance with the terms of a design agreement entered into prior to commencement of design work for the project.

(2) Provide, during construction, any additional funds necessary to make its total contribution for commercial navigation equal to 10 percent of the total cost of construction of the GNFs attributable to dredging to a depth not in excess of 20 ft; plus 25 percent of the total cost of construction of the GNFs attributable to dredging to a depth in excess of 20 ft but not in excess of 45 ft; plus 50 percent of the total cost of construction of the GNFs attributable to dredging to a depth in excess of 45 ft.

b. Provide all LERRs, including those necessary for the borrowing of material and the disposal of dredged or excavated material, and perform or assure the performance of all relocations, including utility relocations, all as determined by the federal government to be necessary for the construction or operation and maintenance of the GNFs.

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c. Pay with interest, over a period not to exceed 30 years following completion of the period of construction of the GNFs, an additional amount equal to 10 percent of the total cost of construction of the GNFs less the amount of credit afforded by the Government for the value of the LERR is provided by the sponsor for the GNFs. If the amount of credit afforded by the Government for the value of LERR, and relocations, including utility relocations, provided by the sponsor equals or exceeds 10 percent of the total cost of construction of the GNFs, the sponsor shall not be required to make any contribution under this paragraph, nor shall it be entitled to any refund for the value of LERR and relocations, including utility relocations, in excess of 10 percent of the total cost of construction of the GNFs.

d. Provide, operate, and maintain, at no cost to the Government, the local service facilities in a manner compatible with the project's authorized purposes and in accordance with applicable federal and state laws and regulations and any specific directions prescribed by the federal government;

e. Provide 50 percent of the excess cost of operation and maintenance of the project over that cost which the federal government determines would be incurred for operation and maintenance if the project had a depth of 45 ft.

f. Accomplish all removals determined necessary by the federal Government other than those removals specifically assigned to the federal Government;

g. Give the federal government a right to enter, at reasonable times and in a reasonable manner, upon property that the Sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating and maintaining the GNFs.

h. Hold and save the United States free from all damages arising from the construction or operation and maintenance of the project, any betterment, and the local service facilities, except for damages due to the fault or negligence of the United States or its contractors.

i. Keep, and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents, and other evidence are required, to the extent and in such detail as will properly reflect total cost of the project, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and local governments at 32 Code of federal Regulation (CFR), Section 33.20.

j. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 United States Code 9601–9675, that may exist in, on, or under lands, easements,

right-of-ways, relocations and disposal areas (LERRD) that the federal government determines to be necessary for the construction or operation and maintenance of the GNFs. However, for lands, easements, or rights-of-way that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigations unless the federal government provides the sponsor with prior specific written direction, in which case the sponsor shall perform such investigations in accordance with such written direction.

k. Assume complete financial responsibility, as between the federal government and the sponsor, for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under LERRD that the federal government determines to be necessary for the construction or operation and maintenance of the project;

l. Agree, as between the federal Government and the non-federal sponsor, that the non-federal sponsor shall be considered the operator of the local service facilities for the purpose of CERCLA liability.

m. To the maximum extent practicable, perform its obligations in a manner that will not cause liability to arise under CERCLA.

n. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended, (42 U.S.C. 1962d-5b) and Section 101(e) of the WRDA 86, Public Law 99-662, as amended, (33 U.S.C. 2211(e)) which provide that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element.

o. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended, (42 U.S.C. 4601-4655) and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way necessary for construction, operation, and maintenance of the project including those necessary for relocations, the borrowing of material, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

p. Comply with all applicable federal and state laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act

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(formerly 40 U.S.C. 327 et seq.), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c));

q. Provide the non-federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation, that are in excess of 1 percent of the total amount authorized to be appropriated for the project.

r. Not use funds from other federal programs, including any non-federal contribution required as a matching share therefore, to meet any of the sponsor's obligations for the project unless the federal agency providing the federal portion of such funds verifies in writing that such funds are authorized to be used to carry out the project.

11. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to the Congress, the State of Florida, the Jacksonville Port Authority (the non-federal sponsor), interested federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

MERDITH W.B. TEMPLE
Major General, USA
Acting Commander

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CECW-PC (1105-2-10a) AUG 17 2012

SUBJECT: Savannah Harbor Expansion Project, Georgia and South Carolina

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on the Savannah Harbor Expansion Project, Georgia and South Carolina, which describes navigation improvements to the existing Savannah Harbor Navigation Project. It is accompanied by the report of the district and division engineers. The General Re-Evaluation Report and Final Environmental Impact Statement (GRR/FEIS) evaluate the advisability of increasing the channel depth, providing environmental mitigation to offset project impacts and making other improvements to Savannah Harbor in the interest of navigation and related purposes. Both the GRR and the FEIS are in response to Section 101(b)(9) of the Water Resources Development Act (WRDA) of 1999. This provision authorized construction substantially in accordance with a Chief's Report to be completed no later than December 31, 1999. The required Chief's Report was signed on October 21, 1999. Section 101(b)(9) also mandated that before the project could be carried out, the Secretary, in consultation with affected State and Federal agencies, formulate an analysis of the impacts of project depth alternatives ranging from -42 feet to -48 feet, along with a recommended plan for navigation and an associated mitigation plan, to be approved jointly with the Department of the Interior, the Department of Commerce and the Environmental Protection Agency (EPA). This report is submitted in fulfillment of these conditions, so that the project may be carried out in accordance with the WRDA 1999 authorization, subject to the requested statutory modification to increase the authorized total project cost, as described in paragraph 10 below.

2. The report recommends implementation of a project that will contribute to the economic efficiency of commercial navigation. Savannah Harbor is a deep draft navigation harbor located on the South Atlantic U.S. coast, 75 statute miles south of Charleston Harbor, South Carolina, and 120 miles north of Jacksonville Harbor, Florida. The Harbor comprises the lower 21.3 miles of the Savannah River (which, with certain of its tributaries, forms the boundary between Georgia and South Carolina along its entire length of 313 miles) and 11.4 miles of channel across the bar to the Atlantic Ocean. Improvements were considered from deep water in the ocean upstream to the area of the Garden City Terminal operated by the Georgia Ports Authority. The recommended plan will result in transportation cost savings by allowing the larger Post-Panamax vessels to operate more efficiently and experience fewer tidal and transit delays. The Georgia Department of Transportation is the non-Federal cost sharing sponsor.

3. The reporting officers recommend construction of a -47 foot Mean Lower Low Water (MLLW) depth alternative plan to modify the existing Savannah Harbor Navigation Project. The selected plan would require dredging and subsequent placement of 24 million cubic yards of new work sediments. Approximately 54% of this sediment would be deposited in existing upland

dredged material containment areas (DMCAs) and about 46% would be deposited in the US Environmental Protection Agency-approved Ocean Dredged Material Disposal Site (ODMDS) or an existing DMCA. The required Site Management and Monitoring Plan for the Savannah ODMDS must be completed and signed by the EPA and the Corps before the EPA can issue a concurrence for disposal of material from the SHEP into the Savannah ODMDS. Any portion of this material that does not meet the Ocean Dumping Criteria must be placed within an upland Confined Disposal Facility (CDF) that has sufficient capacity for the volume of proposed dredged material that does not meet the Ocean Dumping Criteria. The selected plan for navigation improvements consists primarily of the following:

a. Extending the existing entrance channel 7.1 miles from Stations -60+000B to -97+680B and deepening to -49 feet MLLW from the new ocean terminus to Station -14B+000B, then deepening to -47 feet MLLW from Station –14B+000B to Station 0+000 and, deepening the inner harbor to -47 feet MLLW from Station 0+000 to 103+000;

b. Widening bends on the entrance channel at one location (Stations -23+000B to -14+000B) and in the inner harbor channel at two locations; (Stations 27+700 to 31+500, and Stations 52+250 to 55+000);

c. Constructing two meeting areas (Stations 14+000 to 22+000 and Stations 55+000 to 59+000);

d. Deepening and enlarging the Kings Island Turning Basin to a width of 1,600-feet;

e. Restoring dredged material volumetric capacity in existing DMCAs; and

f. A mitigation plan which includes the features described below.

Other prior authorized features of the existing Savannah Harbor Navigation Project located beyond the limits described above in paragraph 3 would remain unchanged by the selected plan of improvement and would remain components of the Savannah Harbor Navigation Project.

4. The mitigation plan includes the following features:

a. Construction of a fish bypass around the New Savannah Bluff Lock and Dam in Augusta, Georgia. Construction of this feature would compensate for loss of shortnose and Atlantic sturgeon habitat in the estuary, by allowing the endangered shortnose sturgeon and the endangered Atlantic sturgeon access to historic spawning grounds at the Augusta Shoals that are currently inaccessible;

b. To minimize impacts to ecologically unique tidal freshwater wetlands in the estuary, construction of a series of flow re-routing features in the estuary to include a diversion structure, cut closures, removal of a tidegate structure, and construction of a rock sill and submerged sediment berm;

c. Acquisition and preservation of 2,245 acres of wetlands;

d. Restoration of approximately 28.75 acres of tidal brackish marsh;

e. Installation of an oxygen injection system, to compensate for adverse effects on dissolved oxygen levels in the Savannah River estuary;

f. Construction of a raw water storage impoundment for the City of Savannah's industrial and domestic water treatment facility, to offset increased chloride levels at the intake on Abercorn Creek during periods of low flow and high tide;

g. Construction of a boat ramp on Hutchinson Island to restore access to areas in Back River made inaccessible due to construction of the flow re-routing features;

h. One-time payment to Georgia Department of Natural Resources (GA DNR) for a Striped bass stocking program, to compensate for loss of Striped bass habitat;

i. Recover, document, and curate the items of historic significance of a Civil War ironclad (*CSS Georgia)*, listed on the National Register of Historic Places;

j. Monitoring to ensure that (1) the impacts described in the FEIS are not exceeded, and (2) the dissolved oxygen and wetland mitigation features function as intended. Monitoring will occur pre-construction, during construction, and up to 10 years post-construction; and

k. Adaptive management be implemented as outlined in the FEIS to (1) review the results of dissolved oxygen (DO) monitoring as well as the success of wetlands mitigation, and (2) modify features if necessary. In accordance with the FEIS, an Adaptive Management Team will be established, with the active participation of the cooperating agencies, for the purpose of effectively implementing the monitoring and adaptive management plan related to DO levels in the system and wetlands mitigation, and to ensure that the wetlands mitigation requirements and DO levels are met in the system.

5. The Project Cost Breakdown based on October 2011 Prices is estimated as follows:

a. Project First Cost. The estimated project first cost is $652,000,000, which includes the cost of constructing the General Navigation Features (GNFs) and the value of lands, easements, rights of-way and relocations estimated as follows: $257,000,000 for channel modification and dredged material placement; $311,000,000 for environmental and other mitigation; $84,000,000 for pre-engineering and design and construction management; and $163,000 for the value of lands, easements, rights-of-way, and relocations (except utility relocations) provided by the non-Federal sponsor. Included within the environmental mitigation costs is $35,600,000 for monitoring and $24,600,000 for adaptive management. To the extent appropriated by Congress, monitoring and adaptive management will be implemented as outlined in the FEIS, including the Corps commitments for the dissolved oxygen mitigation system and wetlands mitigation.

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b. Estimated Federal and Non-Federal Shares. The estimated Federal and non-Federal shares of the project first cost are $454,000,000 and $198,000,000, respectively, as apportioned in accordance with the cost sharing provisions of Section 101(a)(1) of WRDA 1986, as amended (33 U.S.C. 2211(a)(1)), as follows:

(1) The costs for the deepening of the GNFs from -42 to -45 feet MLLW will be shared at the rate of 75 percent by the Government and 25 percent by the non-Federal sponsor. Accordingly, the Federal and non-Federal shares of the estimated $509,000,000 cost in this zone are estimated to be $383,000,000 and $126,000,000, respectively.

(2) The costs for the deepening of the GNFs from -45 to -47 feet MLLW will be shared at the rate of 50 percent by the Government and 50 percent by the non-Federal sponsor. Accordingly, the Federal and non-Federal shares of the estimated $143,000,000 cost in this zone are estimated to be $71,500,000 and $71,500,000, respectively.

(3) As a condition of issuance of the Section 401 Water Quality Certification by the South Carolina Department of Health and Environmental Control (DHEC), the potential non-Federal sponsor, the Georgia Ports Authority (GPA), agreed to provide financial assurance, in a manner acceptable to DHEC, that it will fund operation and maintenance of the Dissolved Oxygen system in any year that sufficient federal funds for the operation and maintenance of the system are not made available. This obligation extends for the life of the project. The GPA intends to place its full share of funds for adaptive management in an escrow account during project construction.

(4) The Savannah Harbor Expansion Project complies with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations, dated February 11, 1994. By letter dated July 10, 2012, the GPA has indicated that it intends to establish, with the assistance of the EPA, a community advisory group that meets periodically to identify and address community concerns or recommendations that may arise associated with ongoing port activities. GPA will also facilitate sustainability by pursuing electrification of port infrastructure, reduced idling at distribution centers, and fleet upgrades under the SmartWay Port Drayage Truck program. In addition, in consultation with EPA Region 4 and the Georgia Environmental Protection Division, the GPA intends to conduct an air monitoring study not to exceed one year at no more than four monitoring sites, to evaluate any potential impacts on surrounding communities. This study would occur once the project is complete and GPA is serving Post-Panamax ships in normal operations. These efforts by the GPA are not included in the project costs. In cooperation with this effort, the Corps will provide technical assistance to the community to help explain scientific data or findings related to ongoing port activities and studies. The federal technical assistance is included in the estimated project costs.

c. In addition to payment by the non-Federal sponsor of its share of costs as estimated and addressed in sub-paragraphs b.(1) and (2), the estimated non-Federal share of $198,000,000 includes $163,000 for the estimated value of lands, easements, rights-of-way, and relocations

(except utility relocations) that it must provide pursuant to Section 101(a)(3) of WRDA 1986, as amended (33 U.S.C. 2211(a)(3)).

d. Additional 10 Percent Payment. In addition to the non-Federal sponsor's estimated share of the project first cost determined in b. above, pursuant to Section 101(a)(2) of WRDA 1986, as amended (33 U.S.C. 2211(a)(2)), the non-Federal sponsor must pay an additional 10 percent of the cost of the GNFs of the project in cash over a period not to exceed 30 years, with interest. The additional 10 percent payment is estimated to be $65,000,000 before interest is applied. The value of lands, easements, rights-of-way, and relocations, estimated at $163,000, provided by the non-Federal sponsor under Section 101(a)(3) of WRDA 1986, as amended (33 U.S.C. 2211(a)(3)), and the costs of utility relocations borne by the non-Federal sponsor under Section 101(a)(4) of WRDA 1986, as amended (33 U.S.C. 2211(a)(4)), will be credited toward payment of this amount.

e. Operation and Maintenance Costs. The additional annual cost of operation and maintenance for this recommended plan is estimated to be $5,100,000. In accordance with Section 101(b)(1) of WRDA 1986, as amended (33 U.S.C. 2211(b)(1)), the non-Federal sponsor will be responsible for an amount equal to 50 percent of the excess of the cost of the operation and maintenance of the project over the cost which would be incurred for operation and maintenance of the project if the project had a depth of -45 feet MLLW. The incremental increase in annual cost attributable to operation and maintenance for the depth in excess of -45 feet MLLW is $303,000 with the non-Federal sponsor responsible for $152,000. As specified in the 1999 Report of the Chief of Engineers, the costs of operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the modified City of Savannah water system will remain a City of Savannah responsibility and will not be operated and maintained as a project General Navigation Feature. Similarly, the boat ramp on Hutchinson Island will be transferred to a local entity upon completion of construction. The local entity will be responsible for the OMRR&R. Lands acquired for wetland preservation would be transferred to the Savannah National Wildlife Refuge and the OMRR&R costs would be borne by the US Fish and Wildlife Service. The project will also make a one-time payment to the existing GA DNR Striped bass Stocking Program. This action has no associated OMRR&R costs. Other project mitigation features to address the adverse impacts of the project will be operated and maintained in the same manner as other GNF are operated and maintained.

f. Associated Costs. Estimated associated costs of $7,700,000 include $2,600,000 in non-Federal costs associated with development of local service facilities (including dredging of berthing areas); and $5,100,000 for navigation aids (a U.S. Coast Guard expense).

g. Authorized Project Cost and Section 902 Calculation. The project first cost, for the purposes of calculating the maximum cost of the project pursuant to Section 902 of WRDA 1986, as amended, includes the cost of constructing the GNFs and the value of lands, easements, and rights-of-way. Accordingly, as set forth in paragraph a, above, based on October 2011 prices, the estimated project first cost for these purposes is $652,000,000 with an estimated Federal share of $454,000,000 and an estimated non-Federal share of $198,000,000.

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6. Based on October 2011 price levels, a 4-percent discount rate, and a 50-year period of analysis, the total equivalent average annual costs of the -47 foot depth project are estimated to be $38,900,000. The average annual equivalent benefits are estimated to be $213,100,000. The average annual net benefits are $174,200,000. The benefit-to-cost ratio for the recommended plan is 5.5:1.

7. Section 119 of the Energy and Water Development Appropriations (EWDA), 2003, Division D of Public Law 108-7, authorizes the Secretary of the Army, acting through the Chief of Engineers, to credit toward the non-Federal share of the cost of the Savannah Harbor Expansion Project, authorized by Section 101(b)(9) of WRDA 1999, an amount equal to the Federal share of the costs incurred by the non-Federal interests subsequent to project authorization to the extent that the Secretary determines such costs were necessary to ensure compliance with the conditions of the project authorization. Of the project total costs, an estimated $23,000,000 is included for the creditable work. The non-Federal sponsor will receive credit in accordance with cost sharing for Navigation projects as provided for in WRDA 1986.

8. Risk and Uncertainty. Uncertainties were evaluated for economic benefits, costs, environmental impacts, mitigation effect, and sea-level change. The economic sensitivity analysis concluded that a Jasper County terminal would not have a significant effect on the recommendation. In addition, sensitivities to commodity forecasts, vessel availability and loadings confirmed that the improvements to Savannah Harbor are economically beneficial. Consideration was given to uncertainties that exist in the ability to predict the impacts from the proposed harbor deepening alternatives. In accordance with the Corps Engineering Circular EC 1165-2-212 on sea level change, the study performed an analysis of three Sea Level Rise (SLR) rates. The baseline estimate representing the minimum expected sea level change is 0.5-feet. The intermediate estimate is 0.9-feet and the high estimate representing the maximum expected sea level change is 2.3-feet. No impact from sea-level rise uncertainty is expected regarding the dredging, because dredging depths are relative to the Mean Lower Low Water datum, which changes with sea level. Structural features also carry minimal risk from sea-level rise as they are designed to function over a wide range of stages. Sea-level rise has a minor risk of the project over-mitigating from chloride impacts. Other uncertainties, examined in regards to environmental mitigations (dissolved oxygen, biological response), showed little risk.

9. In accordance with the Corps Engineering Circular EC 1165-2-209 on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included District Quality Control (DQC), Agency Technical Review (ATR), Policy and Legal Compliance Review, Cost Engineering Directory of Expertise (DX) Review and Certification, Model Review and Approva and Type I Independent External Peer Review (IEPR). Concerns expressed by the ATR team have been addressed and incorporated into the final report. The IEPR was completed by Battelle Memorial Institute. A total of 24 comments on the report and one comment on the responses to agency and public comments were documented. The IEPR panel considered eight of the comments of medium significance and the others as low significance. The comments were related to plan formulation, commodity forecasts, modeling, beneficial uses, impacts, risks and uncertainties, contingency, and sea-level rise. In response, sections in the main report and EIS

were expanded to include additional information. The final IEPR Report was completed in February 2011.

10. The project was authorized in Section 101(b)(9) of WRDA 1999 to be carried out at a total cost of $230,174,000. When escalated to October 2011 price levels in accordance with the procedure set out in ER 1105-2-100, Appendix G, implementing Section 902 of WRDA 1986, the authorized total project cost amounts to $469,000,000. The current estimated first cost of $652,000,000 exceeds that amount by more than 20 percent, necessitating a statutory modification to the project to increase its authorized total cost.

11. Washington level review indicates that the plan recommended by the reporting officers is technically sound, environmentally and socially acceptable, and on the basis of Congressional directives, economically justified. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies. The recommended plan complies with other administration and legislative policies and guidelines. The views of interested parties, including Federal, State and local agencies, have been considered. State and agency comments received during review of the final report/environmental assessment included concerns raised by the National Marine Fisheries Service, the United States Environmental Protection Agency and the Department of Interior which ranged from funding concerns, to the recent listing of the Atlantic sturgeon and the possible presence of hard bottoms in or near the project footprint to real estate transfer information. These concerns were addressed through coordination and USACE responses dated July 11, 2012. Comments were also received from state of Georgia which were generally in support of the project and recognized that earlier comments had been addressed in the final document. Two entities from the state of South Carolina provided comments expressing their preference for the -45 foot alternative and their concerns regarding the environmental effects. Reponses were provided re-iterating the considerations during the planning process and the extensive coordination that occurred regarding environmental effects and mitigation with the natural resource agencies. In compliance with Section 101(b)(9) of WRDA 1999, representatives of the Secretary of the Interior, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency approve the selected plan and have determined that the associated mitigation plan adequately addresses the potential environmental impacts of the project.

12. I concur with the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan to improve navigation in the Savannah Harbor be authorized in accordance with the reporting officers' selected plan at an estimated cost of $652,000,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including WRDA 1986, as amended (33 U.S.C. 2211). The non-Federal sponsor would provide the non-Federal cost share and all lands, easements, and rights-of-way, including those necessary for the borrowing of material and the disposal of dredged or excavated material, and would perform or assure the performance of all relocations, including utility relocations. This recommendation is subject to the non-Federal sponsor's agreeing in a Project Partnership Agreement, prior to project implementation, to

comply with all applicable Federal laws and policies, including but not limited to the following requirements:

a. Provide, during construction, funds necessary to make its total contribution for commercial navigation, when added to the non-Federal contribution that may be afforded credit pursuant to Section 119 of the EWDA, 2003, equal to:

(1) 25 percent of the cost of construction of the GNFs attributable to dredging to a depth in excess of -20 feet MLLW but not in excess of -45 feet MLLW, plus

(2) 50 percent of the costs attributable to dredging to a depth over -45 feet MLLW;

b. Place the estimated non-Federal sponsor's share of the monitoring and adaptive management costs (paragraph 4, j and k) in an escrow account at the time the Project Partnership Agreement is executed.

c. Provide all lands, easements, and rights-of-way (LER), including those necessary for the borrowing of material and the disposal of dredged or excavated material, and perform or assure the performance of all relocations, including utility relocations, all as determined by the Federal Government to be necessary for the construction or operation and maintenance of the GNFs;

d. Pay with interest, over a period not to exceed 30 years following completion of the period of construction of the project, an additional amount equal to 10 percent of the total cost of construction of the GNFs less the amount of credit afforded by the Government for the value of the LER and relocations, including utility relocations, provided by the non-Federal sponsor for the GNFs. If the amount of credit afforded by the Government for the value of the LER and relocations, including utility relocations, provided by the non-Federal sponsor equals or exceeds 10 percent of the total cost of construction of the GNFs, the non-Federal sponsor shall not be required to make any contribution under this paragraph, nor shall it be entitled to any refund for the value of the LER and relocations, including utility relocations, in excess of 10 percent of the total cost of construction of the GNFs;

e. Provide, operate, and maintain, at no cost to the Government, the local service facilities, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

f. In the case of project features greater than -45 feet MLLW in depth, provide 50 percent of the excess cost of operation and maintenance of the project over that cost which the Secretary determines would be incurred for operation and maintenance if the project had a depth of -45 feet MLLW;

g. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating and maintaining the GNFs;

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h. Hold and save the United States free from all damages arising from the construction, operation and maintenance of the project, any betterments, and the local service facilities, except for damages due to the fault or negligence of the United States or its contractors;

i. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of three years after completion of the accounting for which such books, records, documents, and other evidence are required, to the extent and in such detail as will properly reflect total cost of the project, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 CFR Section 33.20;

j. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601-9675, that may exist in, on, or under the LER that the Federal Government determines to be necessary for the construction or operation and maintenance of the GNFs. However, for lands that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigation unless the Federal Government provides the non-Federal sponsor with prior specific written direction, in which case the non-Federal sponsor shall perform such investigations in accordance with such written direction;

k. Assume complete financial responsibility, as between the Federal Government and the non-Federal sponsor, for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under the LER that the Federal Government determines to be necessary for the construction or operation and maintenance of the project;

l. To the maximum extent practicable, perform its obligations in a manner that will not cause liability to arise under CERCLA;

m. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b) and Section 101(e) of WRDA 1986, Public Law 99-662, as amended (33 U.S.C. 2211(e)) which provide that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element;

n. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655) and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way necessary for construction, operation, and maintenance of the project including those necessary for relocations, the borrowing of material, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said act;

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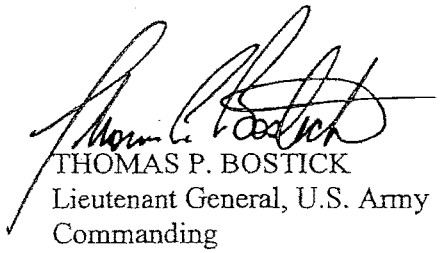
o. Comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c));

p. Provide the non-Federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation, that are in excess of 1 percent of the total amount authorized to be appropriated for the project; and

q. Not use funds from other Federal programs, including any non-Federal contribution required as a matching share, therefore, to meet any of the non-Federal sponsor's obligations for the project unless the Federal agency providing the Federal portion of such funds verifies in writing such funds are authorized to be used to carry out the project.

13. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to Congress as a proposal for implementation funding. However, prior to transmittal to Congress, the sponsor, the State, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.



THOMAS P. BOSTICK
Lieutenant General, U.S. Army
Commanding

DEPARTMENT OF THE ARMY
CHIEF OF ENGINEERS
2600 ARMY PENTAGON
WASHINGTON, DC 20310-2600

JAN 7 2013

DAEN

SUBJECT: Freeport Harbor Channel Improvement Project, Brazoria County, Texas

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on navigation improvements for the Freeport Harbor Channel Improvement Project (FHCIP). It is accompanied by the report of the Galveston District Engineer and the Southwestern Division Engineer. The feasibility study was conducted under the authority of Section 216 of the Flood Control Act of 1970, which authorizes review of completed Corps of Engineers navigation projects when significant changes in physical or economic conditions have occurred, and the submission of a report to Congress on the advisability of modifying the project in the overall public interest. Pre-construction engineering and design activities for this proposed project, if funded, would be continued under the authority provided by the section cited above. The existing Freeport Harbor Channel was authorized by the River and Harbor Acts of May 1950 and July 1958.

2. The report recommends a project that will contribute significantly to the economic efficiency of commercial navigation in the region. The FHCIP is an improvement of the existing Freeport Harbor Channel that provides for a deep-draft waterway from the Gulf of Mexico to the City of Freeport through the original mouth of the Brazos River. A diversion dam about 7.5 miles above the original river mouth, and a diversion channel rerouting the Brazos River from the dam to an outlet into the Gulf about 6.5 miles southwest of the original mouth, now separate the Freeport Harbor Channel from the river system and make the harbor and channels an entirely tidal system. The study evaluated navigation and environmental problems and opportunities for a 70-square mile study area. The study area includes the cities of Freeport, Surfside Beach and Quintana, the Freeport Harbor Channel, the Brazos River Diversion Channel, a portion of the Gulf Intracoastal Waterway, the Gulf of Mexico shoreline on both sides of the Freeport Harbor Channel, and the offshore channel and placement areas 10 miles into the Gulf of Mexico. The entire study area is located within Brazoria County, Texas and adjacent state waters in the Gulf of Mexico.

3. The reporting officers recommend the Locally Preferred Plan (LPP) to modify the existing Freeport Harbor Channel. The LPP consists of the following improvements:

a. Deepen the Outer Bar Channel into the Gulf of Mexico to -58 feet mean lower low water (MLLW);

b. Deepen from the end of the jetties in the Gulf of Mexico to the Lower Turning Basin to -56 feet MLLW;

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c. Deepen from the Lower Turning Basin to Station 132+66 near the Brazosport Turning Basin to -56 feet MLLW;

d. Deepen from Station 132+66, above the Brazosport Turning Basin, through the Upper Turning Basin to -51 feet MLLW;

e. Deepen and widen the lower 3,700 feet of the Stauffer Channel to -51 feet MLLW and 300 feet wide;

f. Dredge the remainder of the Stauffer Channel to -26 feet MLLW (its previously authorized depth was -30 feet).

Dredged material placement for this project will be provided in accordance with the Dredged Material Management Plan developed during the study. Deepening of the Freeport Harbor Channel would generate approximately 17.3 million cubic yards of new work material and approximately 176 million cubic yards of maintenance over the 50-year period of economic evaluation. Material from the Channel Extension, Outer Bar Channel, and Jetty Channel would be placed offshore in the existing New Work and Maintenance Material Ocean Dredged Material Disposal Sites (ODMDSs). Material from the inland Freeport Harbor channels and basins would be placed in one existing confined upland Placement Area (PA 1), and two new Placement Areas (PA 8 and PA 9).

Mitigation features will consist of the preservation of approximately 131 acres of riparian forest under a permanent conservation easement and the improvement of its habitat value by establishing 11 acres of riparian forest in place of 11 acres of invasive tree species; the creation of three acres of wetlands and an associated one acre of riparian forest; and required monitoring of mitigation performance and impacts to wetlands and riparian forest for corrective action, if needed.

4. The recommended navigation plan is not the National Economic Development (NED) plan. The recommended LPP is shallower and will be less costly than the NED plan in the main channel portion of the FHCIP. The LPP is supported by the non-Federal, cost sharing sponsor (Port Freeport).

5. Project Cost Breakdown based on October 2012 prices.

a. Project First Cost. The estimated project first cost of constructing the FHCIP is $237,474,000 which includes the cost of constructing General Navigation Featrures (GNF) and the value of lands, easements, rights-of-way and relocations estimated as follows: $208,079,000 for channel modification and dredged material placement; $165,000 for fish and wildlife mitigation; $1,691,000 for lands, easements, and rights-of-way provided by the

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non-Federal sponsor; $18,135,000 for planning, engineering and design efforts; and $9,404,000 for construction management.

b. Estimated Federal and Non-Federal Shares: The estimated Federal and non-Federal shares of the project first cost are $121,132,000 and $116,342,000, respectively, as apportioned in accordance with the cost sharing provisions of Section 101(a) of the Water Resources Development Act (WRDA) of 1986, as amended (33 U.S.C. 2211(a)), as follows:

(1) The costs for deepening the Upper Stauffer Channel will be shared at the rate of 90 percent by the Government and 10 percent by the non-Federal sponsor for dredging depths between 18 and 20 feet and 75 percent by the Government and 25 percent by the non-Federal Sponsor for dredging between 20 and 26 feet. The total cost for this reach is $3,607,000 with $2,782,000 in Federal costs and $825,000 in non-Federal costs.

(2) The cost for deepening the Lower Stauffer Channel will be shared at the rate of 90 percent by the Government and 10 percent by the non-Federal sponsor for dredging depths between 18 and 20 feet and 75 percent by the Government and 25 percent by the non-Federal sponsor for dredging depths between 20 and 45 feet. Dredging depths deeper than 45 feet will be shared at the rate of 50 percent by the Government and 50 percent by the non-Federal sponsor. Costs for deepening this reach total $10,869,000 with $7,693,000 being paid by the Government and $3,176,000 being paid by the non-Federal sponsor.

(3) The costs for the deepening of the Freeport Harbor channels from the existing 46-foot depth to 56 feet (58 feet offshore) will be shared at the rate of 50 percent by the Government and 50 percent by the non-Federal sponsor. Accordingly, the Federal and non-Federal shares of the estimated $221,040,000 cost in this zone will be approximately $110,520,000 being paid by the Government and $110,520,000 being paid by the non-Federal sponsor.

(4) The costs for environmental mitigation will be shared at the prorated share rate of 51.4% by the Government and 48.6% by the non-Federal sponsor. Costs for mitigation total $267,000 with $137,000 being paid by the Government and $130,000 being paid by the non-Federal sponsor.

(5) In addition to payment by the non-Federal sponsor of its share of costs as estimated and described in sub-paragraphs b(1), b(2), b(3) and b(4) above, the estimated non-Federal share of $116,342,000 includes $1,691,000 for the estimated value of lands, easement, and rights-of-way that it must provide pursuant to Section 101(a)(3) of WRDA 1986, as amended (33 U.S.C.2211(a)(3)).

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c. Additional 10 Percent Payment. In addition to payment by the non-Federal sponsor of its share of the project first costs determined in sub-paragraphs b(1), b(2) and b(3) above, pursuant to Section 101(a)(2) of WRDA 1986, as amended (33 U.S.C. 2211(a)(2)), the non-Federal sponsor must pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period not to exceed 30 years, with interest. The additional 10% payment without interest is estimated to be $23,578,000. The value of lands, easements, rights-of-way, and relocations, estimated as $1,691,000, provided by the non-Federal sponsor under Section 101(a)(3) of WRDA 1986, as amended, will be credited toward payment of this amount.

d. Operations and Maintenance Costs. The additional annual cost of operation and maintenance for this recommended plan is estimated at $11,371,000. In accordance with Section 101(b) of WRDA 1986, as amended (33 U.S.C. 2211(b)), the non-Federal sponsor will be responsible for an amount equal to 50 percent of the excess of the cost of the operation and maintenance of the project over the cost which would be incurred for operation and maintenance of the project if the project had a depth of 45 feet. The Federal Government would be responsible for $6,254,000 of the incremental operations and maintenance costs and the non-Federal sponsor would be responsible for the remaining $5,117,000.

e. Associated Costs. Estimated associated costs of $58,881,000 include $39,695,000 in non-Federal costs associated with bulkhead modifications, $18,803,000 for dredging of non-Federal berthing areas adjacent to the Federal channel and $1,383,000 for aids to navigation (a U.S. Coast Guard expense).

f. Authorized Project Cost and Section 902 Calculation. The project first cost for the purpose of calculating the maximum cost of the project pursuant to Section 902 of WRDA 1986, as amended, includes the cost of constructing the GNFs and the value of lands, easements, and rights-of-way. Accordingly, as set forth in paragraph 5.a, above,based on October 2012 prices, the total estimated project first cost for these purposes is $237,474,000 with an estimated federal share of $121,132,000 and an estimated non-Federal share of $116,342,000. Based on October 2012 price levels, a discount rate of 3.75 percent, and a 50-year period of economic analysis, the project average annual benefits and costs for the FHCIP are estimated at $48,042,000 and $25,449,000, respectively, with resulting net excess benefits of $22,593,000 and a benefit-to-cost ratio of 1.9 to 1.

7. The goals and objectives included in the Campaign Plan of the Corps have been fully integrated into the Freeport Harbor Channel study process. The recommended plan was

developed in coordination and consultation with various Federal, State and local agencies using a systematic and regional approach to formulating solutions and evaluating the benefits and impacts that would result. The feasibility study evaluated navigation and environmental problems and opportunities for the entire study area of about 70 square-miles. Risk and uncertainty were addressed during the study by sensitivity analyses that evaluated the potential impacts of sea level change and economic assumptions as well as cost risk analysis.

8. In accordance with the Corps Engineering Circular on review of decision documents, all technical, engineering, and scientific work underwent an open, dynamic, and vigorous review process to ensure technical quality. This included an Agency Technical Review (ATR), an Independent External Peer Review (IEPR), and a Corps Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the final report. An IEPR was completed by Battelle Memorial Institute in August 2008. A total of 22 comments were documented. The comments were related to plan formulation, vessel fleet analysis, benefits, water quality, and sensitivity analyses. An IEPR back-check was completed in June 2011, which resulted in follow-up comments related to the original 22 comments. In response, sections in the main report and EIS were expanded to include additional information. The IEPR responses were reviewed by the Deep Draft Navigation Planning Center of Expertise in June 2011 with all comments satisfactorily addressed.

9. Washington level review indicates that the plan recommended by the reporting officers is technically sound, environmentally and socially acceptable, and economically justified. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies. The recommended plan complies with other administration and legislative policies and guidelines. The views of interested parties, including Federal, State and local agencies, have been considered. A Biological Opinion has been received from the National Marine Fisheries Service (NMFS) for potential incidental take of sea turtles during construction. The Biological Opinion has been reviewed and found acceptable.

State and agency comments received during review of the final report/environmental impact statement included comments by the U.S. Coast Guard (USCG) and the U.S. Environmental Protection Agency (USEPA). The USCG requested Corps assistance in obtaining funds for the necessary navigation aid modifications and the Corps response stated that the district would coordinate to request the necessary USCG funding in conjunction with project construction funds. The USEPA expressed concerns on a variety of topics in a letter dated October 5, 2012. The Corps response stated that expanded explanations were provided in the

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report and FEIS on the rationale for plan formulation and selection, planned air pollution prevention/reduction measures during construction, dredged material placement procedures at ocean sites, and analyses of socio-economic/health and safety effects based on additional modeling and analyses. The Corps also committed to further USEPA review of sediment data collected during the pre-construction engineering and design phase and continued coordination as needed, depending upon the testing results.

10. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that navigation improvements for the Freeport Harbor Channel be authorized in accordance with the reporting officer's recommended plan at an estimated cost of $237,474,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 101 of WRDA 1986, as amended. This recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and policies including that the non-Federal sponsor must agree with the following requirements prior to project implementation.

a. Provide 10 percent of the total cost of construction of the general navigation features (GNF) attributable to dredging to a depth not in excess of 20 feet; plus 25 percent of the total cost of construction of the GNFs attributable to dredging to a depth in excess of 20 feet but not in excess of 45 feet; plus 50 percent of the total cost of construction of the GNFs attributable to dredging to a depth in excess of 45 feet as further specified below:

(1) Provide 25 percent of design costs allocated by the Government to commercial navigation in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

(2) Provide, during the first year of construction, any additional funds necessary to pay the full non-Federal share of design costs allocated by the Government to commercial navigation;

(3) Provide, during construction, any additional funds necessary to make its total contribution for commercial navigation equal to 10 percent of the total cost of construction of the GNFs attributable to dredging to a depth not in excess of 20 feet; plus 25 percent of the total cost of construction of the GNFs attributable to dredging to a depth in excess of 20 feet but not in excess of 45 feet; plus 50 percent of the total cost of construction of the GNFs attributable to dredging to a depth in excess of 45 feet;

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b. Provide all lands, easement, and rights-of-way (LER), including those necessary for the borrowing of material and placement of dredged or excavated material, and perform or assure performance of all relocations, including utility relocations, all as determined by the Government to be necessary for the construction or operation and maintenance of the GNFs;

c. Pay with interest, over a period not to exceed 30 years following completion of the period of construction of the GNFs, an additional amount equal to 10 percent of the total cost of construction of GNFs less the amount of credit afforded by the Government for the value of the LER and relocations, including utility relocations, provided by the non-Federal sponsor for the GNFs. If the amount of credit afforded by the Government for the value of LER, and relocations, including utility relocations, provided by the non-Federal sponsor equals or exceeds 10 percent of the total cost of construction of the GNFs, the non-Federal sponsor shall not be required to make any contribution under this paragraph, nor shall it be entitled to any refund for the value of LER and relocations, including utility relocations, in excess of 10 percent of the total costs of construction of the GNFs;

d. Provide, operate, and maintain, at no cost to the Government, the local service facilities in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Government;

e. Provide 50 percent of the excess cost of operation and maintenance of the project over that cost which the Government determines would be incurred for operation and maintenance if the project had a depth of 45 feet;

f. Give the Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating and maintaining the GNFs;

g. Hold and save the United States free from all damages arising from the construction or operation and maintenance of the project, any betterments, and the local service facilities, except for damages due to the fault or negligence of the United States or its contractors;

h. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents, and other evidence is required, to the extent and in such detail as will properly reflect total cost of construction of the project, and in accordance with the standards for financial management systems set forth in the

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Uniform Administrative Requirements for Grants and Cooperative Agreements to State and local governments at 32 CFR, Section 33.20;

i. Perform, or ensure performance of, any investigations for hazardous substances as are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601–9675, that may exist in, on, or under LER that the Government determines to be necessary for the construction or operation and maintenance of the GNFs. However, for lands, easements, or rights-of-way that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigation unless the Government provides the non-Federal sponsor with prior specific written direction, in which case the non-Federal sponsor shall perform such investigations in accordance with such written direction;

j. Assume complete financial responsibility, as between the Government and the non-Federal sponsor, for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under LER that the Government determines to be necessary for the construction or operation and maintenance of the project;

k. To the maximum extent practicable, perform its obligations in a manner that will not cause liability to arise under CERCLA;

l. Comply with Section 221 of PL 91-611, Flood Control Act of 1970, as amended, (42 U.S.C. 1962d-5b) and Section 101(e) of the WRDA 86, Public Law99-662, as amended, (33 U.S.C. 2211(e)) which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element;

m. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, PL 91-646, as amended, (42 U.S.C. 4601-4655) and the Uniform Regulations contained in 49 CFR 24, in acquiring lands, easements, and rights-of-way, necessary for construction, operation and maintenance of the project including those necessary for relocations, the borrowing of material, or the placement of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said act;

n. Comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, PL 88-352 (42 USC 2000d), and

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Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive changes the provision of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c);

o. Provide the non-Federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation that are in excess of 1 percent of the total amount authorized to be appropriated for the project;

p. Not use funds from other Federal programs, including any non-Federal contribution required as a matching share therefore, to meet any of the non-Federal sponsor's obligations for the project costs unless the Federal agency providing the Federal portion of such funds verifies in writing that such funds are authorized to be used to carry out the project; and

q. Complete the first phase of the Velasco Container Terminal (800-foot berth and 35 acres of supporting backland) on the Stauffer Channel prior to the initiation of construction of the Stauffer Channel portion of the project.

11. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the Executive Branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to the Congress, the State of Texas, Port Freeport (the non-Federal sponsor), interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

THOMAS P. BOSTICK
Lieutenant General, USA
Chief of Engineers

DEPARTMENT OF THE ARMY
CHIEF OF ENGINEERS
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SUBJECT: Canaveral Harbor Section 203 (WRDA 1986) Navigation Study, Brevard County, Florida

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress the final feasibility report and environmental assessment on navigation improvements for Canaveral Harbor, Brevard County, Florida. It is accompanied by the reports of the Canaveral Port Authority (CPA), and the endorsements of the Jacksonville District Engineer and the South Atlantic Division Engineer. These reports were prepared by the CPA under the authority granted by Section 203 of Water Resources Development Act (WRDA) of 1986 (P.L. 99-662), which allows non-Federal interests, such as the CPA, to undertake feasibility studies of proposed harbor projects and submit them to the Secretary of the Army. This report constitutes the final report submitted to the Secretary as described in Section 203 of WRDA 1986.

2. The report recommends authorizing a project that will contribute to the economic efficiency of commercial navigation, provide greater safety for the operations of commercial and naval vessels, and increase the operational effectiveness of the national defense missions of the U.S. Army, U.S. Navy, and U.S. Air Force. The recommended plan increases the nominal depth of the federal channel to -44 feet mean lower low water (mllw) for the inner channel and -46 feet mllw for the outer channel (middle and outer reach), widens the federal channel to a width of 500 feet, increases the diameters of two turning circles, and widens the bend widener in the entrance channel. Widening the federal channel requires removal of 8 acres of U. S. Air Force property. The U. S. Air Force concurs with this action. Environmental impacts of the recommended plan are minor, short-term impacts, which, in coordination with the appropriate resource agencies, do not require mitigation. Effects on Threatened and Endangered species have been addressed through special measures and conditions. A portion of the material excavated for the project will be beneficially used as fill or for containment dike improvements. The remaining dredged material is suitable for placement in the U. S. Environmental Protection Agency designated Canaveral Ocean Dredged Material Disposal Site (ODMDS).

3. The reporting officers recommend the most economical plan analyzed, which is the plan that has the greatest net economic benefits of all plans considered. At the request of the non-Federal sponsor, plans greater in depth and width were not analyzed due to financial and logistical constraints[1]. The recommended plan is described in terms of outer, middle, and inner reaches, the Middle Turning Basin and west access channels, and the West Turning Basin. The outer reach is oriented on roughly a northwest-southeast alignment. The remainder of the channels is oriented in a generally east-west alignment. Various cuts comprise the outer, middle, and inner reaches. The recommended plan consists of widening the main ship channel from the harbor entrance inland to the West Turning Basin and West Access Channel, from its current authorized

[1] This plan is recommended under the Categorical Exemption to the NED Plan provision of ER 1105-2-100 (Paragraph 3-2.b.(10)).

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width of 400 feet to 500 feet. In addition to widening, deepening of the existing Federal project and expansion of turning basins is recommended in the following reaches (all depths mllw):

a. Outer Reach, Cut 1A: deepen from -44' to -46' for a length of 11,000';

b. Outer Reach, Cut1B: deepen from -44' to -46' depth for a length of 5,500';

c. Outer Reach, Cut 1: deepen from -44' to -46' for the 5,300' long portion of Cut 1 that is seaward of buoys 7/8 (Station 0+00 to Station 53+00). The remainder of Cut 1 from buoys 7/8 to the apex of the channel turn, a length of 7,200', would also be deepened from -44' to -46';

d. New 203 Turn Widener: deepen to -46' X 23.1 acres (irregular shaped area) bounded to the north and northeast by the Civil Turn Widener and Outer Reach, Cut1;

e. US Navy Turn Widener: deepen from -44' to -46' X 7.7 acres (triangular shaped area) bounded by outer and middle reaches to the north and northeast and the Civil Turn Widener to the southwest;

f. Civil Turn Widener: deepen from -41' to -46' X 15.6 acres (irregular shaped area) bounded to the north and northeast by the middle reach and the US Navy Turn Widener;

g. Middle Reach: deepen from -44' to -46' for a length of 5,658'. The middle reach extends from the apex of the channel turn westward to the western boundary of the Trident access channel;

h. Inner Reach, Cut 2 and Cut 3: deepen from -40' to -44' for a length of 3,344';

i. Middle Turning Basin: expand and deepen to encompass 68.9 acres to a project depth of -43' and a turning circle diameter of 1422';

j. West Access Channel (east of Station 260+00): deepen from -39' to -43' for a length of 1,840'; and

k. West Turning Basin and West Access Channel (west of Station 260+00): expand the turning circle diameter from 1,400' to 1,725' X 141 acres at a depth of -35'.

4. Project Cost Breakdown Based on October 2012 Prices.

a. Project First Cost. The estimated project first cost is $40,240,000, which includes the cost of constructing the general navigation features and the value of lands, easements, rights-of-way and relocations (LERR) estimated as follows: $40,136,000 for channel modifications and

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dredged material placement and $104,000 for the administrative costs of obtaining LERRs. There is no environmental mitigation required due to short term impacts.

b. Estimated Federal and non-Federal Shares. The estimated Federal and non-Federal shares of the project first cost are $28,652,000 and $11,588,000, respectively, as apportioned in accordance with the cost sharing provisions of Section 101 of WRDA 1986, as amended (33 U.S.C. 2211), as follows:

(1) The cost for dredging to a depth in excess of 20 feet, but not in excess of 45 feet will be shared at a rate of 75 percent by the Government and 25 percent by the non-Federal sponsor. Accordingly, the Federal and non-Federal shares of the costs in this zone are estimated to be $25,783,000 and $8,615,000, respectively. The cost for dredging in excess of 45 feet will be shared at a rate of 50 percent by the Government and 50 percent by the non-Federal sponsor. Accordingly, the Federal and non-Federal shares of the costs in this zone are estimated to be $2,870,000 and $2,870,000, respectively.

(2) In addition to the costs outlined in sub-paragraph (1) above, the project first cost includes administrative costs for LERR estimated at $104,000. The administrative costs include project real estate planning, review, and incidental costs between the U.S. Air Force and the U.S. Army Corps of Engineers (USACE). This cost will be a non-Federal cost. Credit is given for the incidental costs borne by the non-federal sponsor for LERR per Section 101 of WRDA 1986.

c. Additional 10 Percent Payment. In addition to the non-Federal sponsor's estimated share of the total first cost of constructing the project in the amount of $11,588,000, pursuant to Section 101(a)(2) of WRDA 1986, as amended, the non-Federal sponsor must pay an additional 10% of the costs of general navigation features of the project, $4,013,700, in cash over a period not to exceed 30 years, with interest. The value of the administrative costs for lands, easements, rights-of-way and relocations provided by the Federal sponsor under Section 101(a)(3) of WRDA 1986 as amended ($103,300) will be credited toward this payment, which results in a net 10% General Navigation Features (GNF) requirement of $3,910,400.

d. Operations and Maintenance Costs. Additional costs of operation and maintenance for this recommended plan, over and above the costs to operate and maintain the existing Federal project, are estimated to be $633,000 annually. In accordance with Section 101(b)(1) of WRDA 1986, as amended (33 U.S.C. 2211(b)(1))), the non-Federal sponsor will be responsible for an amount equal to 50 percent of the excess of the cost of operation and maintenance of the project over the cost of which would be incurred for operation and maintenance for the depth in excess of 45 feet. The excess annual cost attributable to operation and maintenance for the depth in excess of 45 feet is $364,000, with the non-Federal sponsor responsible for $182,000. Therefore the Federal share of the incremental annual maintenance cost is estimated to be $451,000.

e. Associated Costs. Estimated associated costs of $3,251,000 include $364,000 in non-Federal costs associated with development of local service facilities (including dredging of berthing areas) and $2,886,000 for navigation aids (a U.S. Coast Guard expense).

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f. Authorized Project Cost and Section 902 Calculation. The project first cost, for the purposes of authorization and calculating the maximum cost of the project pursuant to Section 902 of WRDA 1986, as amended, includes the cost of constructing the (GNF) construction costs and the value of LERRs provided under Section 101(a)(3) of WRDA 1986, as amended (33 U.S.C. 221(A)(3)). Accordingly, as set forth in paragraph 4.a. above, based on October 2012 prices, the estimated project first cost for these purposes is $40,240,000 with a Federal share of $28,652,000 and a non-Federal share of $11,588,000.

5. Based on October 2012 price levels, a 3.75-percent discount rate, and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $2,647,000. The average annual equivalent benefits are estimated to be $5,393,000. The average annual net benefits are $2,747,000. The benefit-to-cost ratio for the recommended plan is 2.0.

6. In accordance with the Corps Engineering Circular EC 1165-2-212 on sea level change, the study performed an analysis of three Sea Level Rise (SLR) rates, a baseline estimate representing the minimum expected sea level change, an intermediate estimate, and a high estimate representing the maximum expected sea level change. The results of calculations from the project completion in 2014 through 2064 indicate that sea-level change estimates over a 50-year life of the project range from 0.120 meters (0.39 ft) for the low rate of change scenario, to 0.245 m (0.80 ft) for the intermediate rate scenario, and 0.653 m (2.14 ft) for the high rate scenario. Sea-level rise at these rates will have little or no impacts related to the proposed navigation improvements.

In accordance with the Corps Engineering Circular EC 1165-2-209 on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included District Quality Control (DQC), Agency Technical Review (ATR), Policy and Legal Compliance Review, Cost Engineering Directory of Expertise (DX) Review and Certification, and Model Review and Approval. Given the project uses standard economic analyses, has a cost estimate of less than $45 million; does not represent a threat to health and safety; is not controversial; and has not had a request for Independent External Peer Review (IEPR) from a Governor or the head of a Federal or State agency, I have granted an exclusion from the requirement to conduct a Type I IEPR.

7. Washington level review indicates that the plan recommended by the reporting officers is technically sound, environmentally and socially acceptable, and on the basis of congressional directives, economically justified. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies. The recommended plan complies with other administration and legislative policies and guidelines. The views of interested parties, including Federal, State and local agencies, have been considered.

8. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that navigation improvements for Canaveral Harbor be authorized in

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accordance with the reporting officer's recommended plan at an estimated cost of $40,240,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 101 of WRDA 1986, as amended. This recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and policies including that the non-Federal sponsor must agree with the following requirements prior to project implementation.

The CPA will:

a. Provide 25 percent of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

b. Provide, during the first year of construction, any additional funds necessary to pay the full non-Federal share of design costs;

c. Provide, during the period of construction, a cash contribution equal to the following percentages of the total cost of construction of the general navigation features:

i. Twenty-five percent of the costs attributable to dredging to a depth in excess of 20 feet, but not in excess of 45 feet; plus

ii. Fifty percent of the costs attributable to dredging to a depth in excess of 45 feet;

d. Provide 50 percent of the excess cost of operation and maintenance of the project over that cost which the Federal Government determines would be incurred for operation and maintenance for depths deeper than 45 feet;

e. Pay with interest, over a period not to exceed 30 years following completion of the period of construction of the project, up to an additional 10 percent of the total cost of construction of GNFs. The value of LERRs and deep-draft utility relocations provided by the Sponsor for the GNFs, described below, may be credited toward this required payment. The value of deep-draft utility relocations for which credit may be afforded shall be that portion borne by the Sponsor, but not to exceed 50 percent, of deep-draft utility relocation costs;

f. If the amount of credit equals or exceeds 10 percent of the total cost of construction of the general navigation features, the Sponsor shall not be required to make any contribution under this paragraph, nor shall it be entitled to any refund for the value of LERRs and deep-draft utility relocations in excess of 10 percent of the total cost of construction of the general navigation features;

g. Provide all LERRs and perform or ensure the performance of all relocations and deep-draft utility relocations determined by the Federal Government to be necessary for the construction, operation, maintenance, repair, replacement, and rehabilitation of the general

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navigation features (including all LERRs, and deep-draft utility relocations necessary for the dredged material disposal facilities);

h. Provide, operate, maintain, repair, replace, and rehabilitate, at its own expense, the local service facilities in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

i. Accomplish all removals determined necessary by the Federal Government other than those removals specifically assigned to the Federal Government;

j. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the Sponsor owns or controls for access to the project for the purpose of operating, maintaining, repairing, replacing, and rehabilitating the general navigation features;

k. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, replacement, and rehabilitation of the project, any betterments, and the local service facilities, except for damages due to the fault or negligence of the United States or its contractors;

l. Keep, and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents, and other evidence is required, to the extent and in such detail as will properly reflect total cost of construction of the general navigation features, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and local governments at 32 CFR, Section 33.20;

m. Perform, or cause to be performed, any investigations for hazardous substances as are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601-9675, that may exist in, on, or under lands, easements, or rights of way that the Federal Government determines to be necessary for construction, operation, maintenance, repair, replacement, or rehabilitation of the general navigation features. However, for lands that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigation unless the Federal Government provides the Sponsor with prior specific written direction, in which case, the Sponsor shall perform such investigations in accordance with such written direction;

n. Assume complete financial responsibility, as between the Federal Government and the Sponsor, for all necessary cleanup and response costs of any CERCLA regulated materials located in, on, or under lands, easements, or rights of way that the Federal Government determines to be necessary for the construction, operation, maintenance, repair, replacement, and rehabilitation of the project;

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o. To the maximum extent practicable, perform its obligations in a manner that will not cause liability to arise under CERCLA;

p. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended, and Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended, which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the Sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element;

q. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights of way, required for construction, operation, maintenance, repair, replacement, and rehabilitation of the general navigation features, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act;

r. Comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army." The State is also required to comply with all applicable Federal labor standards requirements including, but not limited to, the Davis-Bacon Act (40 USC 3144 et seq.), the Contract Work Hours and Safety Standards Act (40 USC 3701 et seq.), and the Copeland Anti-Kickback Act (40 USC 3145 et seq.);

s. Provide the non-Federal share that portion of the costs of mitigation and data recovery activities associated with historic preservation, that are in excess of 1 percent of the total amount authorized to be appropriated for the project, in accordance with the cost sharing provisions of the agreement;

t. Prevent obstructions of or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) which might reduce the ecosystem restoration, hinder its operation and maintenance, or interfere with its proper function, such as any new development on project lands or the addition of facilities which would degrade the benefits of the project;

u. Do not use Federal funds to meet the Sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds in authorized;

v. Provide a cash contribution equal to the non-Federal cost share of the project's total historic preservation mitigation and data recovery costs attributable to commercial navigation

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that are in excess of 1 percent of the total amount authorized to be appropriated for commercial navigation; and

w. In the case of a deep-draft harbor, provide 50 percent of the excess cost of operation and maintenance of the project over that cost which the Secretary determines would be incurred for operation and maintenance if the project had a depth of 45 feet.

9. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to the Congress, the State of Florida, the CPA (the non-Federal sponsor), interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

THOMAS P. BOSTICK
Lieutenant General, USA
Chief of Engineers

DEPARTMENT OF THE ARMY
CHIEF OF ENGINEERS
2600 ARMY PENTAGON
WASHINGTON, DC 20310-2600

DAEN

SEP 3 0 2013

SUBJECT: Boston Harbor Navigation Improvement Project, Massachusetts

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on navigation improvements for Boston Harbor, Massachusetts. It is accompanied by the reports of the New England District Engineer and the North Atlantic Division Engineer. These reports were prepared in response to a study authority contained in a Senate Subcommittee on Public Works Resolution dated September 11, 1969, which directed the Secretary of the Army to conduct a study to determine whether any modifications of the recommendations contained in the report of the Chief of Engineers on Boston Harbor, Massachusetts, published as House Document Numbered 733, Seventy-ninth Congress, and other pertinent reports, are advisable at this time, with particular reference to modifying the project dimensions of the Main Ship Channel from deep water in Broad Sound to the upstream limit of the federal project in the Mystic River. Further, the Energy and Water Development Appropriations Act for Fiscal Year 2000 provided funds to initiate the study with language requesting an evaluation of the deepening of the Main Ship, Reserved and Entrance Channels to Boston Harbor. Preconstruction, engineering and design activities for the Boston Harbor Navigation Improvement Project will continue under the authorities cited above.

2. The reporting officers recommend authorization of a project that will contribute significantly to the economic efficiency of commercial navigation in the New England region. Boston Harbor is located on the North Atlantic U.S. coast about 240 miles northeast of New York City and is New England's largest port. The harbor consists of entrance channels extending about three miles from Massachusetts Bay to President Roads, the main ship channel connecting the Roads to the inner harbor, anchorage areas in the Roads and lower inner harbor, and three principal deep-draft industrial tributaries in the Reserved Channel, Mystic River and Chelsea River. Improvements were considered from deep water in Massachusetts Bay to the heads of deep draft navigation on the three tributaries. The recommended plan will result in transportation cost savings by allowing cargo to shift from overland transport to ship transport and allowing the larger Post-Panamax vessels to operate more efficiently and experience fewer tidal and transit delays. The Massachusetts Port Authority (Massport) is the non-federal cost-sharing partner.

3. The reporting officers identified a plan for navigation improvements to four separable segments of the existing project which will contribute significantly to the economic efficiency of commercial navigation in the region. The recommended plan is the National Economic Development (NED) Plan and is supported by the non-federal sponsor.

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a. Main Channels Improvement Plan: The first improvement would provide deeper access from Massachusetts Bay to Massport's Conley Terminal on the Reserved Channel in South Boston. A depth of -51 feet at mean lower low water (MLLW) would be provided in the present 40-foot deep lane of the Broad Sound North Entrance Channel from the Bay to the Outer Confluence (approximately 3.4 miles), with the channel widened in the bend opposite Finn's Ledge. A depth of -47 feet MLLW would be provided in the Main Ship Channel between the Outer Confluence and the Reserved Channel, the President Roads Anchorage, the lower Reserved Channel along the Conley Terminal, and the Reserved Channel Turning Area (approximately 4.5 miles). The Main Ship Channel above the Roads would be widened to 900 feet downstream of Castle Island and 800 feet upstream of Castle Island to the turning area (approximately 1.7 miles), with additional width provided in the channel bends. The Reserved Channel Turning Area would be widened to1500 by1600 feet, and further widened in its transition to the Reserved Channel (approximately 0.5 miles).

b. Main Ship Channel Deepening Extension to Massport Marine Terminal: The second improvement would extend the deepening of the Main Ship Channel upstream of the Reserved Channel Turning Area to the Massport Marine Terminal (approximately 0.5 miles), at a depth of -45 feet MLLW and width of 600 feet. Massport would provide a depth of at least -45 feet MLLW in the berth at the Marine Terminal.

c. Mystic River Channel at Medford Street Terminal: The third improvement would deepen an approximately nine acre area (1350 feet by 575 feet) of the existing -35-foot MLLW lane of the Mystic River Channel to -40 MLLW feet to improve access to Massport's Medford Street Terminal in Charlestown. Massport has already deepened the berth at this terminal to -40 feet MLLW and would maintain that depth in the future.

d. Chelsea River Channel: The fourth improvement would deepen the existing -38-foot MLLW Chelsea River Channel to -40 feet MLLW (approximately 1.9 miles). The channel would be widened by about 50 feet along the East Boston shore in the bend immediately upstream (approximately 0.3 miles) of the McArdle Bridge and in the bend downstream of the Chelsea Street Bridge (approximately 0.3 miles). This recommended improvement is contingent on agreement of the five principal terminals to deepen their berths to at least -40 feet MLLW.

4. The project would require the removal of approximately 11 million cubic yards of dredged material and one million cubic yards of rock. The U.S. Environmental Protection Agency (EPA) has concurred in the determination that the improvement project dredged materials are parent materials (material below the authorized depth and not previously disturbed) of largely glacial origin and acceptable for unconfined ocean water placement. The recommended plan requires placement of all dredged material and rock at the Massachusetts Bay Disposal Site. However, it is the policy of the U.S. Army Corps of Engineers to use dredged material, where practicable, for beneficial use. Potential beneficial uses for the rock and other dredged materials were considered by the reporting officers. Use of the rock for offshore reef creation and shore

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protection projects will be investigated in partnership with the state during project design. The feasibility of a concept from EPA to use the other dredged materials to cap the former Industrial Waste Site in Massachusetts Bay will also be investigated in partnership with that agency and others during project design to finalize plans. None of these potential beneficial uses are expected to add to the cost of the project and will be done within budgeted authorized amount.

5. Project costs are allocated to the commercial navigation purpose and are based on July 2011 price levels escalated to October 2012.

a. Project First Cost. The estimated project first cost of construction is $304,695,000 which includes the cost of constructing General Navigation Features (GNF) and the value of lands, easements, rights-of-way (LER) and relocations estimated as follows: $286,971,000 for channel modification and dredged material placement; $169,000 for LER provided by the non-federal sponsor; $6,525,000 for planning, engineering and design efforts; and $11,030,000 for construction management.

b. Estimated federal and non-federal shares: The estimated federal and non-federal shares of the project first cost are $212,084,000 and $92,611,000, respectively, as apportioned in accordance with the cost sharing provisions of Section 101(a) of the Water Resources Development Act (WRDA) of 1986, as amended (33 U.S.C. 2211(a)), as follows:

(1) The cost for deepening GNF under the Main Channels Improvement Plan to -47 feet (-51 feet in the entrance channel) to access the Conley Container Terminal will be shared as follows:

(a) The cost of $207,825,000 for deepening the GNF to -45 feet MLLW (49 feet in the entrance channel) will be shared at the rate of 75 percent by the government and 25 percent by the non-federal sponsor. Accordingly, the federal and non-federal shares of this zone of deepening are estimated to be $155,869,000 and $51,956,000, respectively.

(b) The cost of $65,241,000 for deepening the GNF from -45 feet to -47 feet feet MLLW (from -49 feet to -51 feet in the entrance channel) will be shared at the rate of 50 percent by the government and 50 percent by the non-federal sponsor. Accordingly, the federal and non-federal shares of this zone of deepening are estimated to be $32,620,500 and $32,620,500, respectively.

(2) The costs of for deepening GNF under the Main Ship Channel Deepening Extension to Massport Marine Terminal segment to 45 feet will be shared at the rate of 75 percent by the government and 25 percent by the non-federal sponsor for depths up to 45 feet. The total cost for GNF in this reach is $17,308,000 with $12,981,000 in federal costs and $4,327,000 in non-federal costs. A Limited Re-evaluation Report (LRR) is anticipated for this project segment during project design to confirm anticipated benefits and depth optimization.

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(3) The costs for the deepening GNF under Mystic River Channel at Medford Street Terminal segment to 40 feet will be shared at the rate of 75 percent by the government and 25 percent by the non-federal sponsor. The total cost for GNF in this reach is $2,419,000 with $1,814,000 in federal costs and $605,000 in non-federal costs. A LRR will be prepared for this project segment during project design to confirm anticipated benefits and depth optimization.

(4) The costs for the deepening GNF under Chelsea River Channel segment to 40 feet will be shared at the rate of 75 percent by the Government and 25 percent by the non-federal Sponsor. The total cost for GNF in this reach is $11,734,000 with $8,801,000 in federal costs and $2,933,000 in non-federal costs.

(5) In addition to payment by the non-federal sponsor of its share of costs as estimated and described in sub-paragraphs b(1), b(2), b(3) and b(4) above, the estimated non-federal share of $92,611,000 includes $169,000 for the estimated value of LER that it must provide pursuant to Section 101(a)(3) of WRDA 1986, as amended (33 U.S.C.2211(a)(3)).

c. Additional 10 Percent Payment. In addition to payment by the non-federal sponsor of its share of the project first costs determined in sub-paragraphs b(1), b(2), b(3), and b(4) above, pursuant to Section 101(a)(2) of WRDA 1986, as amended (33 U.S.C. 2211(a)(2)), the non-federal sponsor must pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period not to exceed 30 years, with interest. The additional 10 percent payment without interest is estimated to be $30,453,000. The value of LER and relocations, estimated as $169,000, provided by the non-federal sponsor under Section 101(a)(3) of WRDA 1986, as amended, will be credited toward payment of this amount.

d. Operations and Maintenance Costs. Due to lack of sediment sources the existing maintenance frequency at Boston Harbor ranges between 16 and 41 years depending on the project segment. The additional annual cost of operation and maintenance for this recommended plan is estimated at $338,000. In accordance with Section 101(b) of WRDA 1986, as amended (33 U.S.C. 2211(b)), the non-federal sponsor will be responsible for an amount equal to 50 percent of the excess of the cost of the operation and maintenance of the project over the cost which would be incurred for operation and maintenance of the project if the project had a depth of 45 feet. The federal government would be responsible for $322,000 of the incremental annual operations and maintenance costs and the non-federal sponsor would be responsible for the remaining $16,000.

e. Associated Costs. Estimated associated costs of $3,679,000 include $3,405,000 for dredging of non-federal berthing areas adjacent to the federal channel (non-federal expense) and $274,000 for aids to navigation (U.S. Coast Guard expense).

f. Authorized Project Cost and Section 902 Calculation. The project first cost for the purpose of calculating the maximum cost of the project pursuant to Section 902 of WRDA 1986, as amended, includes the cost of constructing the GNFs and the value of LER. Accordingly, as

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set forth in paragraph 5.a, above, based on July 2011 price levels escalated to October 2012, the total estimated project first cost for these purposes is $304,695,000 with an estimated federal share of $212,084,000 and an estimated non-federal share of $92,611,000. Based on a discount rate of 3.75 percent, and a 50-year period of economic analysis, the project average annual benefits and costs are estimated at $103,469,000 and $14,305,000, respectively, with resulting net excess benefits of $89,191,000 and a benefit-to-cost ratio of 7.2 to 1.

6. The goals and objectives included in the Campaign Plan of the Corps have been fully integrated into the Boston Harbor planning process. The recommended plan was developed in coordination and consultation with various federal, state and local agencies using a systematic and regional approach to formulating solutions and evaluating the benefits and impacts. The project supports the President's National Export Initiative (Executive Order 13534) by improving the private sector's ability to export products at the Boston Harbor.

7. Risk and uncertainty were evaluated for economic benefits, costs, and sea level rise. Economic sensitivities examined the effects of reducing or increasing the number of carrier services calling on Boston, confidence limits on container volume shifts and growth, use of different vessel loading factors, limits on vessel drafts, and changes in sizes of vessels in service. In accordance with the Corps Engineering Circular on sea level change the study analyzed four sea level rise rates. Historic, baseline, mid-level and maximum expected sea level rise were estimated at 0.4, 0.9, 1.6 and 2.3 feet, respectively, over the 50-year project life. The study concluded that no impact would result from sea level rise with respect to dredging and channel use, and that terminal facilities would continue to operate under all conditions.

8. In accordance with the Corps Engineering Circular on review of decision documents, all technical, engineering, and scientific work underwent an open, dynamic, and vigorous review process to ensure technical quality. This included District Quality Control, Agency Technical Review (ATR), Policy and Legal Compliance Review, Cost Engineering Directory of Expertise (DX) Review and Certification, Model Review and Approval, and Independent External Peer Review (IEPR). All concerns of the ATR have been addressed and incorporated into the final report. The IEPR was completed by Battelle Memorial Institute in June 2008. The panel had 14 comments, five of which they considered significant. The comments pertained to transportation cost savings documentation, port fees, vessel fleet analysis, impacts to water quality and air quality, blasting impacts, beneficial use of rock, and design analyses. In response to economic comments by both the IEPR and Corps Headquarters, more extensive analysis of the project's economic assumptions and benefits evaluation was conducted from 2009 to 2012. A revised economic analysis was conducted which resulted in a project depth of -47 feet MLLW that reasonably maximizes net benefits in the inner harbor segments of the Main Channels Improvement Plan. In response, the final Feasibility Report and Final Supplemental Environmetal Imapct Statement were expanded to include additional information and the revised recommendation.

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9. Washington level review indicates that the plan recommended by the reporting officers is technically sound, environmentally and socially acceptable, and economically justified. The plan complies with all essential elements of the U.S. Water Resources Council's 1983 Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies. Further the recommended plan complies with other administration and legislative policies and guidelines. The views of interested parties, including federal, state and local agencies, have been considered. State and agency comments received during review of the final report and environmental assessment were addressed. Concerns expressed by the National Ocean and Atmospheric Administration's National Marine Fisheries Service included dredging effects, potential blasting effects, the capping of the industrial waste site, Essential Fisheries Habitat impacts, Fish and Wildlife Coordination Act, and Endangered Species Act effects. The EPA expressed concerns regarding the beneficial use of both ordinary dredged material and rock, removal of rock from the project area by blasting, and air quality impacts. The Federal Aviation Administration expressed concerns that birds will be attracted to the exposed dredged material during the dredging process in the flight path for Boston Logan International Airport.

10. I concur with the findings, conclusions, and recommendation of the reporting officers. Accordingly, I recommend that navigation improvements for Boston Harbor be authorized in accordance with the reporting officers' recommended plan at an estimated cost of $304,695,000, with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of federal and state laws and policies, including Section 101 of WRDA 1986, as amended (33 U.S.C. 2211). The non-federal sponsor would provide the non-federal cost share and all lands, easements, and rights-of-way, including those necessary for the borrowing of material and the disposal of dredged or excavated material, and would perform or assure the performance of all relocations, including utility relocations. This recommendation is subject to the non-federal sponsor agreeing, in a Design Phase Agreement prior to initiating project design, and in a Project Partnership Agreement prior to project implementation, to comply with all applicable federal laws and policies, including but not limited to the following requirements:

a. Provide, during the periods of design and construction, funds necessary to make its total contribution for commercial navigation equal to:

(1) 25 percent of the cost of design and construction of the GNFs attributable to dredging to a depth in excess of -20 feet MLLW but not in excess of -45 feet MLLW, plus

(2) 50 percent of the costs attributable to dredging to a depth over -45 feet MLLW;

b. Provide all LER, including those necessary for the borrowing of material and placement of dredged or excavated material, and perform or assure performance of all relocations, including utility relocations, all as determined by the government to be necessary for the construction or operation and maintenance of the GNFs;

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c. Pay with interest, over a period not to exceed 30 years following completion of the period of construction of the GNFs, an additional amount equal to 10 percent of the total cost of construction of GNFs less the amount of credit afforded by the government for the value of the LER and relocations, including utility relocations, provided by the non-federal sponsor for the GNFs. If the amount of credit afforded by the government for the value of LER, and relocations, including utility relocations, provided by the non-federal sponsor equals or exceeds 10 percent of the total cost of construction of the GNFs, the non-federal sponsor shall not be required to make any contribution under this paragraph, nor shall it be entitled to any refund for the value of LER and relocations, including utility relocations, in excess of 10 percent of the total costs of construction of the GNFs;

d. Provide, operate, and maintain, at no cost to the government, the local service facilities in a manner compatible with the project's authorized purposes and in accordance with applicable federal and state laws and regulations and any specific directions prescribed by the government, including but not limited to the following;

(1) Providing depths in at least two berths at elevations at least three feet deeper than that provided by the federal channels accessing the Conley Terminal.

(2) For the Main Ship Channel Extension to the Massport Marine Terminal provide a berth depth equal to the depth provided by the adjacent reach of the federal Main Ship Channel.

(3) For the Medford Street Terminal on the Mystic River, provide a berth depth at least equal to that provided by the adjacent improved portion of the federal Mystic River Channel.

(4) For the Chelsea River Channel, provide berths at the Eastern Minerals, Sunoco-Logistics, Gulf, Irving and Global Terminals at least equal in depth to the federal Chelsea River Channel and Turning Basin.

e. In the case of project features greater than -45 feet MLLW in depth, provide 50 percent of the excess cost of operation and maintenance of the project over that cost which the government determines would be incurred for operation and maintenance if the project had a depth of 45 feet;

f. Give the government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating and maintaining the GNFs;

g. Hold and save the United States free from all damages arising from the construction or operation and maintenance of the project, any betterments, and the local service facilities, except for damages due to the fault or negligence of the United States or its contractors;

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h. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of three years after completion of the accounting for which such books, records, documents, and other evidence is required, to the extent and in such detail as will properly reflect total cost of the project, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to state and local governments at 32 CFR, Section 33.20;

i. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601-9675, that may exist in, on, or under LER that the federal government determines to be necessary for the construction or operation and maintenance of the GNFs. However, for LER that the federal government determines to be subject to the navigation servitude, only the federal government shall perform such investigation unless the federal government provides the non-federal sponsor with prior specific written direction, in which case the non-federal sponsor shall perform such investigations in accordance with such written direction;

j. Assume complete financial responsibility, as between the federal government and the non-federal sponsor, for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under LER that the federal government determines to be necessary for the construction or operation and maintenance of the project;

k. To the maximum extent practicable, perform its obligations in a manner that will not cause liability to arise under CERCLA;

l. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended, (42 U.S.C. 1962d-5b) and Section 101(e) of the WRDA 1986, Public Law 99-662, as amended, (33 U.S.C. 2211(e)) which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element;

m. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, PL 91-646, as amended, (42 U.S.C. 4601-4655) and the Uniform Regulations contained in 49 CFR 24, in acquiring LER, necessary for construction, operation and maintenance of the project including those necessary for relocations, the borrowing of material, or the placement of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said act;

n. Comply with all applicable federal and state laws and regulations, including, but not

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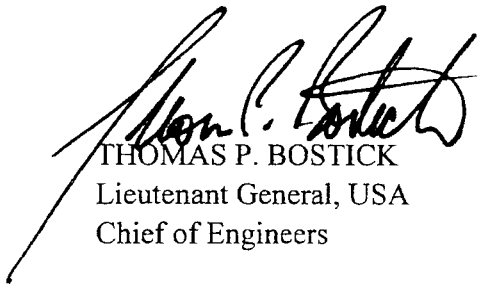
limited to, Section 601 of the Civil Rights Act of 1964, PL 88-352 (42 USC 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive changes the provision of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c);

o. Provide the non-federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation that are in excess of one percent of the total amount authorized to be appropriated for the project; and

p. Not use funds from other federal programs, including any non-federal contribution required as a matching share therefore, to meet any of the non-federal sponsor's obligations for the project costs unless the federal agency providing the federal portion of such funds verifies in writing that such funds are authorized to be used to carry out the project.

11. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the Executive Branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the Commonwealth of Massachusetts, Massport (the non-federal sponsor), interested federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.



THOMAS P. BOSTICK
Lieutenant General, USA
Chief of Engineers

DEPARTMENT OF THE ARMY
CHIEF OF ENGINEERS
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WASHINGTON, DC 20310-2600

DAEN

16 APR 2014

SUBJECT: Lake Worth Inlet, Palm Beach Harbor, Navigation Improvements Project, Palm Beach County, Florida

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on navigation improvements for Lake Worth Inlet, Palm Beach Harbor, Palm Beach County, Florida. It is accompanied by the reports of the district and division engineers. These reports were prepared as an interim response to a resolution by the House Committee on Transportation and Infrastructure dated 25 June 1998 which requested the Secretary of the Army to review the report of the Chief of Engineers on the Palm Beach Harbor, Florida, published as House Document 283, 86th Congress, 1st Session, and other pertinent reports, with a view of determining if the authorized project should be modified in any way at this time, with particular reference to widening the existing interior channel through Lake Worth Inlet. Preconstruction engineering and design (PED) activities for the Lake Worth Inlet, Palm Beach Harbor, Palm Beach County, Florida Navigation Project will continue under the authority cited above.

2. The reporting officers recommend authorization of a project that will contribute significantly to the economic efficiency and increased safety of commercial navigation in Palm Beach Harbor. The harbor entrance (also known as Lake Worth Inlet) is an artificial cut through the barrier island and limestone formation connecting Palm Beach Harbor to the Atlantic Ocean. The closest major ports to the Port of Palm Beach are Port Everglades, in Ft. Lauderdale, and Miami Harbor, approximately 40 miles and 65 miles to the south, respectively. Palm Beach Harbor is the 4th busiest container port in Florida and the eighteenth busiest in the continental United States. The port is a major center for the shipment of bulk sugar, molasses, cement, utility fuels, produce, break bulk and specialized items, and container shipments to the Caribbean. Lake Worth Inlet, serving as the entrance channel to the port, is inadequate both in width and depth, negatively impacting future port potential and creating economic inefficiencies with the current fleet of vessels. Based on existing fleet sizes, the port is operating with insufficient channel width and depth. As a result of these deficiencies, the local harbor pilots in conjunction with the U.S. Coast Guard have placed restrictions on vessel transit to ensure safety, resulting in economic inefficiencies and increased costs to the nation. The Port of Palm Beach is the non-federal cost-sharing sponsor.

3. The reporting officers identified a plan for improvements to the existing Lake Worth Inlet federal navigation project which will contribute significantly to the economic efficiency of commercial navigation in the region. The recommended plan is the National Economic

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Development (NED) Plan and is supported by the non-federal sponsor. The recommended plan includes channel deepening, widening, improvements to the main turning basin, and an advanced maintenance plan to reduce the costs of future operations and maintenance:

a. Main Channels Improvement Plan: The project would deepen the inner channel from the -33 feet mean lower low water (MLLW) to a project depth of -39 feet MLLW and the entrance channel from -35 feet MLLW to -41 feet MLLW. The channel widening footprint includes the addition of a new channel flare on the south side of the outer portion of the entrance channel, widening of the entrance channel from 400 feet to between 440-460 feet, and widening the inner channel from 300-450 feet.

b. Turning Basins: The Main Turning Basin would be deepened from -33 feet MLLW to -39 feet MLLW and extend the southern boundary of the turning basin an additional 150 feet south. The project would also remove a notch south of Peanut Island on the north side of the turning basin. No additional navigational improvements are being recommended for the smaller North Turning Basin with depths remaining at -25 feet MLLW.

c. Advanced Maintenance Plan: Several settling basins critical to the advanced maintenence plan would be dredged to depths ranging from -26 feet MLLW to -51 feet MLLW just north of the entrance channel to catch sediment before it enters the entrance channel. A 1,700 linear foot section of the entrance channel would be deepened for advanced maintenance to depths of -51 feet MLLW in the more easterly half of the entrance channel and -44 feet MLLW in the westerly section. Due to the additional deepening of the entrance channel for advanced maintenance, the project also includes the cost of stabilizing the north jetty with a 600 linear-feet sheet pile wall installed along the oceanward length of the jetty to a depth of -60 feet MLLW. The advance maintenance plan will reduce the frequency of operation and maintenance (O&M) dredging to once every two years (currently once per year), resulting in an annual savings of $850,000 to the O&M program.

4. The project would require the removal of approximately 1.4 million cubic yards of rock that will be placed at the designated Palm Beach Ocean Dredged Material Disposal Site (ODMDS) located about 5 miles east of the project. The U.S. Army Corps of Engineers (Corps), in coordination with the U.S. Environmental Protection Agency, will complete a study during PED to increase the allowable disposal limit per dredging event in the ODMDS over and above the current limit of 500,000 cubic yards per dredging event. It is the policy of the Corps to beneficially use dredged material where practical. Approximately 450,000 cubic yards of sand dredged from the channels will be placed in the near shore zone below the mean high water line out to the -17 feet MLLW contour along an approximate 3,000 feet reach of coast south of the inlet.

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5. Impacts caused by the navigational improvements include the losses of 4.5 acres of seagrass habitat and 4.9 acres of low relief hardbottom habitat, for which mitigation will be required. To mitigate for the impacts to seagrasses the project includes a mitigation plan that proposes filling existing borrow areas in Lake Worth Lagoon with approximately 125,000 cubic yards of dredged material to an elevation consistent with adjacent seagrass beds. Subsequent colonization of the restored substrate is anticipated by natural recruitment. The mitigation plan for the loss of hardbottom habitat is the creation of artificial reefs using limestone excavated from the entrance channel or quarried native limestone. The artificial reef construction would use about 25,100 cubic yards of rock to create mounds approximately 20 feet by 40 feet in size with a vertical relief of 3 to 4 feet. The exact locations of the mitigation sites and actual mitigation amounts will be determined after a more detailed resource survey and functional assessment conducted during PED. The current estimate of 11.25 acres of mitigation for both seagrasses and hardbottom is recommended based on the evaluation of comparable mitigation efforts from similar projects in the region. Monitoring of seagrass mitigation sites will be conducted on a monthly basis for the first year, then twice a year for years two and three, and once a year for years four and five. The monitoring program for the mitigation of hardbottoms will consist of physical monitoring to assess the degree of settling of the hardbottom materials after the first year, and biological monitoring to compare populations of algae, invertebrates and fish with natural hardbottom areas.

6. Project costs are allocated to the commercial navigation purpose and are based on October 2013 prices.

a. Project First Cost. The estimated project first cost is $88,531,000, which includes the cost of constructing the general navigation features (GNFs) and the lands, easements, rights-of-way, and relocations (LERR) estimated as follows: $87,209,000 for channel modifications and advanced maintenance settling basins, turbidity and endangered species monitoring, environmental mitigation, and dredged material placement; $1,290,000 for post construction mitigation monitoring; and $32,000 for real estate administrative costs.

b. Estimated Federal and Non-federal Shares. The estimated federal and non-federal shares of the project first cost are $57,556,000 and $30,975,000 respectively, as apportioned in accordance with the cost sharing provisions of Section 101 of Water Resources Development Act (WRDA) 1986, as amended (33 U.S.C. 2211), as follows:

(1) The cost for the GNFs from greater than 20 feet to 45 feet will be shared at a rate of 75 percent by the government and 25 percent by the non-federal sponsor, plus;

(2) In addition to the costs outlined in sub-paragraph (1) above, the project first cost includes federal administrative costs for lands, easements, rights of way and relocations

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estimated at $32,000. The federal portion of these costs is $19,000. The non-federal portion is $13,000, all of which is eligible for LERR credit.

c. Additional 10 Percent Payment. In addition to the non-federal sponsor's estimated share of the total first cost of constructing the project in the amount of $21,125,000 pursuant to Section 101(a)(2) of WRDA 1986, as amended, the non-federal sponsor must pay an additional 10% of the costs of GNFs of the project, $8,849,900, in cash over a period not to exceed 30 years, with interest. The value of the LERR provided by the federal sponsor under Section 101(a)(3) of WRDA 1986 as amended will be credited toward this payment.

d. Operations and Maintenance Costs. The project results in a minor increase in the annual federal maintenance dredging from 117,500 to 120,000 cubic yards. However, the advanced maintenance plan will result in an average annual equivalent savings to the operation and maintenance program in the amount of $850,000 in comparison to the annual operations and maintenance costs of about $3,794,000 for the existing project.

e. Associated Costs. Estimated associated costs include $25,000 for aids to navigation (a U.S. Coast Guard expense).

f. Authorized Project Cost and Section 902 Calculation. The project first cost, for the purposes of authorization and calculating the maximum cost of the project pursuant to Section 902 of WRDA 1986, as amended, should include estimates for general navigation features (GNF) construction costs, the value of lands, easements, and rights-of-way and the value of relocations provided under Section 101(a)(3) of WRDA 1986, as amended. Accordingly, as set forth in paragraph 4.a. above, based on Price Level Fiscal Year (FY) 2014, the estimated project first cost for these purposes are $88,531,000. Based on FY 2014 price levels, a 3.5-percent discount rate, and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $3,960,000. The equivalent average annual benefits are estimated to be $7,940,000. The average annual net benefits are $3,980,000. The benefit-to-cost ratio for the recommended plan is 2.0.

7. The recommended plan was developed in coordination and consultation with various federal, state and local agencies using a systematic and regional approach to formulating solutions and evaluating the benefits and impacts. Risk and uncertainty were evaluated for economic benefits, costs and sea level rise. Economic sensitivities examined the effects of various commodity forecasts which included no growth, lower growth rates or capping the growth earlier in the period of analysis. These sensitivities showed that even with significantly reduced commodity throughput, the project would still be justified. In addition a cost and schedule risk analysis was completed. In accordance with the Corps Engineering Circular on sea level change the study analyzed three sea level rise rates. Historic (baseline), mid-level, and maximum rates were

estimated to be 0.39 feet, 0.89 feet, and 2.47 feet, respectively, over the 50-year project life. The study concluded that no impact would result from sea level rise with respect to dredging and channel use, and that the terminal facilities would continue to operate under all conditions.

8. In accordance with the Corps Engineering Circular on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included District Quality Control (DQC), Agency Technical Review (ATR), Policy and Legal Compliance Review, Cost Engineering Center of Expertise Review and Certification, Model Review and Approval, and Independent External Peer Review (IEPR). All concerns of the ATR have been addressed and incorporated into the final report. The IEPR was completed by Battelle Memorial Institute in July 2013 and a revised Comment Response Record was issued by the IEPR panel on 10 January 2014 indicating that all comments were satisfactorily addressed. The panel had seven comments, two of which they considered significant, two were medium significance and three were low significance. The most significant finding by the panel related to the commodity forecast and vessel costing documentation. While the 2017-2067 commodity growth forecast appeared reasonable, the assumed growth between 2013 and 2017 was not adequately supported by the report documentation which raised questions about the reliability of the benefit estimates. The panel also commented that documentation on vessel operations and costing was insufficient. Other comments raised by the panel included capacity of the ODMDS, long-term management of dredged material, role of the existing sand bypassing north of the project, air quality, and shoaling rates. In summary, the panel felt that the engineering, economics and environmental analysis were adequate and the additional sensitivity analysis and clarifications needed to be properly documented in the final report. The final report was revised accordingly.

9. The plan recommended by the reporting officers is technically sound, environmentally and socially acceptable, and economically justified. The views of interested parties, including federal, state and local agencies have been considered. The U.S. Coast Guard requested information on the relocation of the aids to navigation, including the cost and schedule which were not fully described in the final report. The requested information has been provided to the Coast Guard. The USEPA submitted a number of comments during State and Agency review concerning seagrass mitigation, potential for effects to groundwater resources, air quality analysis, induced storm surge increases, railroad alternatives to harbor deepening and purpose and need for harbor deepening. The Corps has determined that the existing report adequately addresses effects to groundwater resources, railroad alternatives to harbor deepening, and purpose and need for the recommended improvements. In regards to possible storm surge increases, the Corps does not anticipate any negative flooding effects to be caused by the project due to the insignificant amount of possible increase (0-4 inches), infrequency of the flooding event (1% flood) that could lead to an increase, and much greater effects anticipated due to sea

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level rise. The following actions will be implemented as part of this project to address USEPA concerns:

a. Seagrass Mitigation. The Corps will conduct a survey prior to construction to confirm the extent of seagrasses at the site. The Corps will also continue to coordinate with Palm Beach County Department of Environmental Resources concerning siting of the seagrass mitigation areas. Lastly, the dredged material that would be used in the seagrass mitigation areas would be tested for contaminants prior to use.

b. Air Quality Analysis. The Corps has developed an errata sheet for the final feasibility report and EIS that clarifies that the air pollutants of concern are expressed in units of tons/year.

10. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that navigation improvements for Lake Worth Inlet be authorized in accordance with the reporting officers' recommended plan at an estimated cost of $88,531,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of federal and state laws and policies, including Section 101 of WRDA 1986, as amended. This recommendation is subject to the non-federal sponsor agreeing to comply with all applicable federal laws and policies including that the non-federal sponsor must agree with the following requirements prior to project implementation.

a. Provide, during the periods of design and construction, funds necessary to make its total contribution for commercial navigation equal to 25 percent of the cost of design and construction of the GNFs attributable to dredging to a depth in excess of -20 feet MLLW but not in excess of -45 feet MLLW.

b. Provide all lands, easement, and rights-of-way (LER), including those necessary for the borrowing of material and placement of dredged or excavated material, and perform or assure performance of all relocations, including utility relocations, all as determined by the government to be necessary for the construction or operation and maintenance of the GNFs.

c. Pay with interest, over a period not to exceed 30 years following completion of the period of construction of the GNFs, an additional amount equal to 10 percent of the total cost of construction of GNFs less the amount of credit afforded by the government for the value of the LER and relocations, including utility relocations, provided by the non-federal sponsor for the GNFs. If the amount of credit afforded by the government for the value of LER, and relocations, including utility relocations, provided by the non-federal sponsor equals or exceeds 10 percent of the total cost of construction of the GNFs, the non-federal sponsor shall not be required to make any contribution under this paragraph, nor shall it be entitled to any refund for the value of LER

and relocations, including utility relocations, in excess of 10 percent of the total costs of construction of the GNFs.

d. Provide, operate, and maintain, at no cost to the government, the local service facilities in a manner compatible with the project's authorized purposes and in accordance with applicable federal and state laws and regulations and any specific directions prescribed by the government.

e. In the case of project features greater than -45 feet MLLW in depth, provide 50 percent of the excess cost of operation and maintenance of the project over that cost which the government determines would be incurred for O&M if the project had a depth of -45 feet MLLW.

f. Give the government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating and maintaining the GNFs.

g. Hold and save the United States free from all damages arising from the construction or operation and maintenance of the project, any betterments, and the local service facilities, except for damages due to the fault or negligence of the United States or its contractors.

h. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601–9675 that may exist in, on, or under LER that the federal government determines to be necessary for the construction or operation and maintenance of the GNFs. However, for lands, easements, or rights-of-way that the federal government determines to be subject to the navigation servitude, only the federal government shall perform such investigation unless the federal government provides the non-federal sponsor with prior specific written direction, in which case the non-federal sponsor shall perform such investigations in accordance with such written direction.

i. Assume complete financial responsibility, as between the federal government and the non-federal sponsor, for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under LER that the federal government determines to be necessary for the construction or operation and maintenance of the project.

j. To the maximum extent practicable, perform its obligations in a manner that will not cause liability to arise under CERCLA.

k. Accomplish all removals determined necessary by the federal government other than those removals specifically assigned to the federal government.

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l. Mitigation monitoring during construction and post construction shall be cost shared between the federal government and non-federal sponsor, 75 percent and 25 percent, respectively.

11. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to the Congress, the State of Florida, the Port of Palm Beach (the non-Federal sponsor), interested federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

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16 APR 2014

DAEN (1105-2-10a)

SUBJECT: Jacksonville Harbor Navigation Study Final Integrated General Reevaluation Report II and Supplemental Environmental Impact Statement, Duval County, Florida

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress the final integrated feasibility report and environmental impact statement on navigation improvements for Jacksonville Harbor, Duval County, Florida, located on the St. Johns River. It is accompanied by the report of the district and division engineer. This report was prepared as an interim response to a resolution from the Committee on Public Works and Transportation, United States House of Representatives, dated February 5, 1992. Preconstruction engineering and design activities for the Jacksonville Harbor, Duval County, Florida Navigation Project will continue under the authority provided by the resolution cited. The Port of Jacksonville is designated as a Strategic Port supporting the 832nd Transportation Battalion, as well as the Marines and Navy. It is also included in the President's "We Can't Wait" Initiative; Executive Order 13604 of March 22, 2012.

2. The reporting officers recommend a project that will contribute to the economic efficiency of commercial navigation. Based on an evaluation of alternative plan costs and economic benefits, the national economic development (NED) plan includes a channel depth of 45 feet with associated channel widening and turning basins. The non-federal sponsor, the Jacksonville Port Authority (JAXPORT), subsequently requested a locally preferred plan (LPP) of 47 feet deep with associated channel widening and turning basins. The LPP has positive net benefits and is economically justified. In accordance with U.S. Army Corps of Engineers (USACE) policy, the LPP was submitted for consideration to the Assistant Secretary of the Army for Civil Works (ASA-CW) and approved for consideration as the recommended plan on May 17, 2013. The recommended plan is the LPP and consists of the following improvements:

a) The project would be deepened from the existing 40-foot mean lower low water (MLLW) channel depth of the St. John's River to 47 feet MLLW from the entrance channel to approximately River Mile (RM) 13;

b) The following areas of widening are included as part of the new channel footprint for the LPP: Mile Point: Widen to the north by 200 feet for Cuts 8-13 (~(RM) 3-5), Training Wall Reach: widen to the south 100 feet for Cuts 14-16 (~RM 5-6) transitioning to 250 feet for Cut 17 (~RM 6) and back to 100 feet for Cuts 18-19 (~RM 6), and the St. Johns Bluff Reach: widen both sides of the channel varying amounts up to 300 feet for Cuts 40-41 (~RM 7-8);

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c) The following turning basin areas are included in the recommended plan based on the ship simulation results: Blount Island: ~2,700 feet long by 1,500 feet wide located in Cut-42 (~RM 10) and Brills Cut: ~2,500 feet long by 1,500 feet wide located in Cut-45 (~RM 13).

d) Construction of the recommended plan involves dredging of approximately 18 million cubic yards of material. Fracturing (confined blasting) of consolidated sediments and underlying rock may be required prior to dredging. Based on analysis of the historical operation and maintenance (O&M) requirements and the proposed project expansion features, it is estimated that there will be an average annual increase of 137,000 cubic yards (CY) of shoal material to be dredged each year from the new project. All material dredged for construction is assumed to go to the ocean dredged material disposal site (ODMDS).

e) The following areas of advanced maintenance were identified; Area 1 (Entrance Channel to ~ River Mile 2) = Bar Cut-3 from Station 217+00 to Station 270+00 (Full Channel) plus Bar Cut-3 Station 270+00 to end/Station 300+00 (South side of channel or Range 0 to Range 380) plus Cut-4 entire length (South side of channel or Range 0 to Range 430) plus Cut-5 entire length (South side of channel or Range 0 to Range 455) plus Cut-6 entire length (South side of channel or Range 0 to Range 455); Area 2 (~River Mile 8) = Cut-41 Station 12+30 to Station 28+10 (North side of channel to include proposed widening or Range 0 to Range -500); Area 3 (~River Mile 9 to 11) = Cut-42 Station 19+79.05 to Station 135+00 (Full Channel); Area 4 (Adjacent to Cut-42) (~River Mile 10) = Entire Southern portion of Blount Island Turning Basin (Range -237.50 to Range -862.50); and Area 5 (~River Mile 13) = Entire Brills Cut Turning Basin (this covers the project channel by default from Cut-45 Station 3+18.43 to Station 28+18.43). Area 5 is the breakpoint where the project is going from the shallower and narrower 40-foot project depth to the new project depth of 47 feet which is deeper and will be wider with the incorporation of the Brill's Cut Turning Basin. It is expected that more shoaling will occur in this area as we have experienced historical increases in the Talleyrand area of the Terminal Channel where the depth goes from 34 feet to 40 feet. These areas represent similar surface areas to the previous advanced maintenance areas presented in the 2002 General Reevaluation Report (GRR) and also represent similar quantities of dredging. These items have been considered to maintain the lessened frequency of dredging in these areas.

f) An interagency assessment team was assembled to assist in conducting a Uniform Mitigation Assessment Method (UMAM) assessment for potential impacts and associated mitigation for the proposed deepening of Jacksonville Harbor. The team is composed of representatives from the following agencies: U.S. Environmental Protection Agency, USACE, Florida Department of Environmental Protection, Florida Fish and Wildlife Conservation Commission, National Marine Fisheries Service, and U.S. Fish and Wildlife Service. Numerous meetings and site visits were conducted to observe and discuss the characterization of the wetland areas/submerged aquatic vegetation (SAV), potential effects related to the proposed project and proposed compensatory mitigation. The effects assessment determined that the base

mitigation plan would offset impacts to wetlands (394.57 acres) and SAV (180.5 acres). On a functional value scale of 0-1, these resources would experience a functional loss of 0.1, which results in 39.46 units of compensatory mitigation for wetlands and 18.05 units of compensatory mitigation for SAV. Mitigation is required for wetlands and submerged aquatic vegetation affected by the deepening. A base mitigation plan, consisting of conservation land purchase of 638 acres of freshwater wetlands, uplands, river shoreline, and salt marsh wetlands has been proposed. The base mitigation plan total cost is $2,900,000. The USACE has determined that this plan would be sufficient to offset any minor effects that may occur as a result of the proposed project. As there were no discernible differences in the modeling results of impacts for the NED plan versus the recommended plan (LPP), there is no anticipated increase in mitigation needed for the LPP plan as compared to the NED plan. This total includes mitigation for fisheries effects.

g) Projected environmental impacts warrant initial mitigation (i.e. conservation land purchase) and monitoring during construction plus 1 year post construction. Although not required for the federal project, the non-federal sponsor has agreed to conduct additional monitoring and modeling efforts post construction at their cost. If based on the post construction monitoring the USACE determines that additional monitoring as part of the federal project is warranted, the USACE could share in the cost of the additional monitoring.

3. Project Cost Breakdown based on October 2013 Prices.

a) Project First Cost: The estimated project first cost is $600,900,000, which includes the cost of constructing the General Navigation Features (GNFs) and the lands, easements, rights of way, and relocations (LERR) estimated as follows: $600,200,000 for channel modifications, turbidity and endangered species monitoring, environmental mitigation, Planning Engineering and Design (PED), and Construction Management; and $700,000 for real estate administrative costs. The Jacksonville Port Authority is the non-federal cost-sharing sponsor for all features.

b) Estimated Federal and Non-federal Cost Shares: The estimated federal and non-federal shares of the project first cost are $362,000,000 and $238,900,000 respectively, as apportioned in accordance with the cost sharing provisions of Section 101 of WRDA 1986, as amended (33 U.S.C. 2211), as follows:

(1) The cost for the GNFs from greater than 20 feet to 45 feet MLLW will be shared at a rate of 75 percent by the government and 25 percent by the non-federal sponsor, plus

(2) 100 percent of the costs attributable to dredging to a depth below -45 feet MLLW;

(3) In addition to the costs outlined in sub-paragraph (1) above, the project first cost includes federal administrative costs for lands, easements, rights of way and relocations

estimated at $700,000. The non-federal portion of this cost is 25% of the administrative costs,

(4) $200,000, all of which is eligible for LERR credit.

c) Additional 10 Percent Payment. In addition to the non-federal sponsor's estimated share of the total first cost of constructing the project in the amount of $238,900,000 pursuant to Section 101(a)(2) of WRDA 1986, as amended, the non-federal sponsor must pay an additional 10% of the costs for NED GNFs of the project, $50,500,000, in cash over a period not to exceed 30 years, with interest. The value of the lands, easements, rights-of-way and relocations provided by the non-federal sponsor under Section 101(a)(3) of WRDA 1986 as amended will be credited toward this payment.

d) Operations and Maintenance Costs. It is estimated that there will be an average annual increase of 137,000 cubic yards (CY) of shoal material to be dredged each year from the new project with an added annual O&M cost of $1,100,000. Much of the increase is due to the construction of two new turning basins that will be needed to accommodate the post-panamax container ships. With the incorporation of advanced maintenance zones into these turning basins, it may be possible to reduce the frequency of dredging required and thus reduce contract costs and equipment mobilization costs.

e) Associated Costs. Estimated associated federal costs of $1,300,000 include navigation aids, (a U.S. Coast Guard expense).

f) Local Service Facilities. The associated cost for local service facilities is approximately $82 million and is primarily for upgrading the bulkheads and berths at facilities which benefit from the deeper channel. These costs are 100% non-federal and are not included in the first total cost of the recommended plan.

g) Authorized Project Cost and Section 902 Calculation. The project first cost, for the purposes of authorization and calculating the maximum cost of the project pursuant to Section 902 of WRDA 1986, as amended, should include estimates for GNFs construction costs, the value of lands, easements, and rights-of-way and the value of relocations provided under Section 101(a)(3) of WRDA 1986, as amended. Accordingly, as set forth in paragraph 4.a. above, based on Price Level FY 2014, the estimated project first cost for these purposes is $600,900,000 with a federal share of $362,000,000 and a non-federal share of $238,900,000.

5. Based on October 2013 (FY2014) price levels, a 3.5-percent discount rate, and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $33,700,000. The average annual equivalent benefits are estimated to be $89,700,000. The average annual net benefits are $56,000,000. The benefit-to-cost ratio for the recommended plan is 2.7.

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6. The federal government would be responsible for operation and maintenance of the navigation improvements proposed in this report upon completion of the construction contract.

The federal government currently maintains the existing project. The contractor would be responsible for all maintenance during the construction contract.

7. Risk and uncertainty were evaluated for economic benefits, costs and sea level rise. Economic sensitivities examined the effects of commodity forecasts which had lower growth rates or capped the growth earlier in the period of analysis. In accordance with the Corps Engineering Circular on sea level change the study analyzed four sea level rise rates; historic (baseline), intermediate, and high. The historic sea level rise rate was determined to be 0.0078 ft/year. The baseline, intermediate, and high sea level rise values at the end of the 50-year period of analysis were projected to be 0.39 ft, 0.87 ft, and 2.4 ft, respectively. In general, regional sea level rise (baseline, intermediate, and high) will not affect the function of the project alternatives or the overall safety of the design vessel. There is expected to be a minor impact to non-federal structures or berths that the non-federal sponsor would manage without effects to the project. The majority of salinity changes will occur due to sea level change; with only minor impacts attributable to the project.

8. In accordance with the Corps Engineering Circular on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included District Quality Control (DQC), Agency Technical Review (ATR), Policy and Legal Compliance Review, Cost Engineering Directory of Expertise (DX) Review and Certification, Independent External Peer Review (IEPR), and Model Review and Approval. The IEPR was completed by Battelle Memorial Institute. A total of 13 comments were documented. The IEPR comments identified concerns in areas of the explanation of the economics, hydraulic analysis, and environmental analyses. This resulted in expanded narratives throughout the report to support the decision-making process and justify the recommended plan. All comments from the above referenced reviews have been addressed and incorporated into the final documents. Overall the reviews resulted in improvements to the technical quality of the report.

9. Washington level review indicates that the plan recommended by the reporting officers is technically sound, environmentally and socially acceptable, and on the basis of congressional directives, economically justified. The plan complies with all essential elements of the 1983 U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies. The recommended plan complies with other administration and legislative policies and guidelines. The views of interested parties, including federal, state and local agencies have been considered. The US Environmental Protection Agency (USEPA) submitted a comment regarding potential impacts of the project to

the existing source water supply, and the consequences for the Jacksonville water utility should the 8.45 million gallons per day (MGD) currently being withdrawn from the surficial aquifer have to be supplied by the Floridan aquifer. The Corps has determined that the existing report adequately addresses the effects to the existing water supply. This conclusion is based on the results of a USGS study that determined that the project will not significantly increase the surficial aquifer salinity exept at the boundary of the river channel where the surficial aquifer is likely already impacted from exposure to the high river salinity. The current consumptive use permit for the water utility permits a maximum base allocation of 142 MGD by the year 2021, thus, should an additional 8.45 MGD be required, additional pumping capacity would be available under the existing permit. Additionally, the USEPA, US Department of the Interior (USDOI), and Florida Department of Environmental Protection (FLDEP) requested that 10 years of post construction monitoring be done, and asked to be included as part of a Corrective Action Team (CAT) that would analyze monitoring results and advise the USACE on future potential actions related to monitoring and mitigation. The USACE will include these agencies as part of the CAT. The USACE has committed to cost share in monitoring efforts during the period of construction and one year post construction. In addition, the Port of Jacksonville has committed to funding on their own additional monitoring efforts up to 10 years post construction. The USACE will potentially cost share in the additional monitoring if we determine it is warranted based on the initial post construction monitoring results.

10. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that navigation improvements for Jacksonville Harbor be authorized in accordance with the reporting officers' recommended plan at an estimated first cost of $600,900,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of federal and state laws and policies, including Section 101 of WRDA 1986, as amended. This recommendation is subject to the non-federal sponsor agreeing to comply with all applicable federal laws and policies including that the non-federal sponsor must agree with the following requirements prior to project implementation.

a) Provide, during the periods of design and construction, funds necessary to make its total contribution for commercial navigation equal to:

(1) 25 percent of the cost of design and construction of the GNFs attributable to dredging to a depth in excess of -20 feet MLLW but not in excess of -45 feet MLLW, plus

(2) 100 percent of the costs attributable to dredging to a depth below -45 feet MLLW.

b) Provide all lands, easement, and rights-of-way (LER), including those necessary for the borrowing of material and placement of dredged or excavated material, and perform or assure performance of all relocations, including utility relocations, all as determined by the Government

to be necessary for the construction or operation and maintenance of the GNFs. Provide and maintain during the authorized life of the project the mitigation lands (approximately 638 acres) determined to be required for mitigation for impacts for the project.

c) Pay with interest, over a period not to exceed 30 years following completion of the period of construction of the GNFs, an additional amount equal to 10 percent of the total cost of

construction of the NED GNFs less the amount of credit afforded by the government for the value of the LER and relocations, including utility relocations, provided by the non-federal sponsor for the GNFs. If the amount of credit afforded by the government for the value of LER, and relocations, including utility relocations, provided by the non-federal sponsor equals or exceeds 10 percent of the total cost of construction of the GNFs, the non-federal sponsor shall not be required to make any contribution under this paragraph, nor shall it be entitled to any refund for the value of LER and relocations, including utility relocations, in excess of 10 percent of the total costs of construction of the GNFs.

d) Provide, operate, and maintain, at no cost to the government, the local service facilities in a manner compatible with the project's authorized purposes and in accordance with applicable federal and state laws and regulations and any specific directions prescribed by the government.

e) In the case of project features greater than -45 feet MLLW in depth, provide 100 percent of the excess cost of operation and maintenance of the project over that cost which the government determines would be incurred for operation and maintenance if the project had a depth of 45 feet.

f) Accomplish all removals determined necessary by the federal government other than those removals specifically assigned to the federal government.

g) Hold and save the United States free from all damages arising from the construction or operation and maintenance of the project, any betterments, and the local service facilities, except for damages due to the fault or negligence of the United States or its contractors.

h) Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601–9675, that may exist in, on, or under LER that the Government determines to be necessary for the construction or operation and maintenance of the GNFs. However, for lands, easements, or rights-of-way that the government determines to be subject to the navigation servitude, only the government shall perform such investigation unless the government provides the non-federal sponsor with prior specific written direction, in which case

the non-federal sponsor shall perform such investigations in accordance with such written direction.

i) Assume complete financial responsibility, as between the government and the non-federal sponsor, for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under LER that the government determines to be necessary for the construction or operation and maintenance of the project.

j) To the maximum extent practicable, perform its obligations in a manner that will not cause liability to arise under CERCLA.

11. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to the Congress, the State of Florida, the Jacksonville Port Authority (the non-federal sponsor), interested federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

THOMAS P. BOSTICK
Lieutenant General, USA
Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

CECW-PC (1105-2-10a)

AUG 24 2009

SUBJECT: Topeka Flood Risk Management Project, Topeka, Kansas

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on flood risk management improvements on the Kansas River in the vicinity of Topeka, Kansas. It is accompanied by the report of the district and division engineer. These reports are submitted pursuant to Section 216 of the Flood Control Act of 1970, authorizing me to determine whether any modifications to the local flood risk management projects are advisable in order to improve the reliability and performance of the existing levee system. The existing units were originally authorized by the Flood Control Acts of 1936 and 1954. Project construction of the levee system was completed in 1974. The study was requested by the local sponsors and the Congress of the United States. Preconstruction engineering and design activities, if funded, would be continued under the authority provided by the act cited above.

2. The reporting officers recommend authorizing a plan to reduce flood damages by construction of modifications to significantly improve reliability and performance of the levee system in the vicinity of Topeka, Kansas. The recommendation is supported by the non-Federal Sponsors, the City of Topeka, Kansas, and the North Topeka Drainage District. The recommended plan is the National Economic Development (NED) plan. All features are located in the State of Kansas. The plan includes recommendations for modifications to four existing levee units within the Topeka Flood Risk Management Project: the South Topeka Unit, the Oakland Unit, the North Topeka Unit, and the Waterworks Unit.

a. South Topeka Unit. Levee under-seepage concerns will be addressed by installation of a control berm. Structural strength and uplift concerns will be improved by modifications of the Kansas Avenue Pump Station and three manholes. Approximately 2,000 linear feet of existing concrete floodwall on timber-pile foundations will be removed and replaced with a new floodwall on concrete piles following the same alignment and to the same height as the existing floodwall. The work in this unit will result in the removal of 7.5 acres of woodland habitat and appropriate mitigation measures are included in the Recommended Plan.

b. Oakland Unit. An area of under-seepage concern will be controlled with a berm and a stability berm will be installed to improve the stability factor of safety of the existing floodwall. Structural modification of the East Oakland Pump Station will be implemented to address uplift failure concerns.

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c. North Topeka Unit: Two areas of low under-seepage reliability will be improved by installation of an under-seepage control berm and a series of pumped relief wells, respectively. One pump station that is no longer required, and currently poses an uplift failure risk, will be removed.

d. Waterworks Unit: Landside stability berms will be installed to increase the reliability of an existing concrete floodwall protecting the primary water source for the City of Topeka and surrounding communities.

3. Project costs are allocated to the Flood Risk Management purpose. Based on the October 2008 price levels, the estimated first cost to the plan is $21,157,000. In accordance with the cost sharing provisions of Section 103 of the Water Resources Development Act (WRDA) of 1986, as amended by Section 202 of WRDA 1996, the Federal share of the total project cost would be $13,752,000 (65 percent) and the non-Federal share would be $7,405,000. The non-Federal costs include the costs of lands, easements, rights-of-way, relocations, and dredged (LERRD) or excavated material disposal areas, estimated at $1,279,000.

4. Based on a 4.625 percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project, including operation, maintenance, repair, replacement, and rehabilitation (OMRR&R), are estimated to be $1,168,000. The selected plan is estimated to be approximately 95 percent reliable in protecting the study area from the flood with a one percent chance of occurrence in any year (formerly referred to as the "100-year flood"). The selected plan would reduce average annual flood damages by about 67 percent and would leave average annual residual damages estimated at $7,438,000. Annual average economic benefits are estimated to be $15,428,000; net average annual benefits are $14,260,000. The system-wide benefit-to-cost ratio is 13.2 to 1. The selected plan is composed of three separable elements: South Topeka/Oakland, North Topeka, and Waterworks Units. Although South Topeka and Oakland are separate units, they are linked hydrologically and therefore combine to form a single, separable element. The South Topeka/Oakland Units would provide $4,014,000 in annual benefits with an annual cost of $996,000 for a benefit-to-cost ratio of 4.0. The North Topeka Unit would provide $11,408,000 in annual benefits with an annual cost of $169,000 for a benefit-to-cost ratio of 67.4. The Waterworks Unit would provide $6,000 in annual benefits with an annual cost of $3,000 for a benefit-to-cost ratio of 2.0.

5. The goals and objectives included in the Campaign Plan of the U.S. Army Corps of Engineers have been full integrated into the study process. The project effectively implements a comprehensive systems approach with full stakeholder participation. The project study has undergone rigorous quality control reviews in accordance with recent USACE guidance. These reviews included technical review of the engineering, economic, and environmental analyses by another USACE district. These reviews strengthened the recommendations of the reporting officers. The study report describes existing risks to the community, risks that will be reduced by the Recommended Plan, and residual risks that will remain from large, infrequent, flood events. In accordance with EC 1105-2-410, Appendix D, and future guidance that may be developed, a Safety Assurance Review (SAR) will be conducted prior to initiation of physical construction and periodically thereafter until construction activities are completed. The SAR

will be conducted by an independent (outside of the Corps of Engineers) panel. Establishment of the panel will be in accordance with applicable guidance at the time of project construction.

6. The levee system consist of six separately authorized units and is a component of a larger system of levees and reservoirs that provides flood damage reduction benefits to the Kansas River basin. There are no significant direct or cumulative environmental impacts associated with the recommended plan, primarily because it sustains the existing levee rather than encumbering additional resources for a "new" project. The long-term environmental and cultural consequences of plan implementation are positive as the increased reliability of the units act to guard the social and environmental fabric that has developed within the study area. The plan also contributes to regional economic development.

7. Washington level review indicates that the project recommended by the reporting officers is technically sound, environmentally and socially acceptable, and economically justified. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies and complies with other administration and legislative policies and guidelines. Also, the views of interested parties, including Federal, State, and local agencies have been considered. Agency Technical Review was conducted for the study and all issues were satisfactorily resolved. This study was not required to conduct an Independent External Peer Review (IEPR). A safety assurance review (TYPE II IEPR) will be conducted during the design phase of the project.

8. I generally concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan to reduce flood damages for Topeka, Kansas, is authorized in accordance with the reporting officers' recommended plan at an estimated cost of $21,157,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 103 of WRDA 1986, as amended, and in accordance with the following required items of cooperation that the non-Federal sponsor shall, prior to project implementation, agree to perform:

a. Provide a minimum of 35 percent, but not to exceed 50 percent of total project costs as further specified below:

    1. Provide 25 percent of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

    2. Provide, during the first year of construction, any additional funds necessary to pay the full non-Federal share of design costs;

    3. Provide, during construction, a contribution of funds equal to 5 percent of total project costs;

4. Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of the project;

5. Provide, during construction, any additional funds necessary to make its total contribution equal to at least 35 percent of total project costs;

b. Shall not use funds from other Federal programs, including any non-Federal contribution required as a matching share therefore, to meet any of the non-Federal obligations for the project unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is authorized;

c. Not less than once each year, inform affected interests of the extent of protection afforded by the project;

d. Agree to participate in and comply with applicable Federal floodplain management and flood insurance programs;

e. Comply with Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), which requires a non-Federal interest to prepare a floodplain management plan within one year after the date of signing a project cooperation agreement, and to implement such plan not later than one year after completion of construction of the project;

f. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with protection levels provided by the project;

g. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the level of protection the project affords, hinder operation and maintenance of the project, or interfere with the project's proper function;

h. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected

persons of applicable benefits, policies, and procedures in connection with said Act;

i. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, including any mitigation features, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

j. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project;

k. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, rehabilitation, and replacement of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors;

l. Keep and maintain books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations (CFR) Section 33.20;

m. Comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.*);

n. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations

unless the Federal Government provides the non-Federal sponsor with prior specific written direction, in which case the non-Federal sponsor shall perform such investigations in accordance with such written direction;

o. Assume, as between the Federal Government and the non-Federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project;

p. Agree, as between the Federal Government and the non-Federal sponsor, that the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA; and

q. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element.

9. The recommendation contained herein reflects the information available at this time and current Departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before they are transmitted to the Congress as proposals for authorization and implementation funding. However, prior to transmittal to the Congress, the sponsors, the State, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

R. L. VAN ANTWERP
Lieutenant General, US Army
Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, DC 20314-1000

REPLY TO
ATTENTION OF
CEMP-SPD (1105-2-10a)

DEC 30 2010

SUBJECT: American River Watershed (Common Features) Project, Natomas Basin, Sacramento and Sutter Counties, California

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on flood risk management for the Natomas Basin portion of the American River Watershed in the vicinity of Sacramento, California. It is accompanied by the report of the Sacramento District Engineer and the South Pacific Division Engineer. These reports supplement the 29 June 1992 and 27 June 1996 reports of the Chief of Engineers, and the March 2002 (revised July 2002) Post-Authorization Change Report, and were prepared as an interim general reevaluation study of the American River Common Features Project. The present study was conducted specifically to determine if there is a Federal interest in modifying the current authorized project features to address flood risk management issues related to levee seepage and stability in the Natomas Basin portion of the Common Features project area. The Common Features Project was authorized by Section 101(a)(1) of the Water Resources Development Act (WRDA) of 1996 (Public Law 104-303), as modified by Section 366 of WRDA 1999 (Public Law 106-53) and as further modified by Section 129 of the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137); and as amended by Section 130 the Energy and Water Development and Related Agencies Appropriations Act, 2008 (Division C of Public Law 110-161).

2. The reporting officers recommend modifying the authorized Common Features project to include a comprehensive plan to reduce the systemic risk associated with seepage and stability for the ring levee system surrounding the Natomas Basin. The recommendation is supported by the non-Federal sponsors, the State of California and the Sacramento Area Flood Control Agency. The principal features of the recommended modifications include widening of about 41.9 miles of existing levee, installation of about 34.8 miles of soil bentonite cutoff wall and about 8.3 miles of seepage berms, and bridge remediation at State Route 99. In addition, mitigation features pursuant to the Endangered Species Act are recommended, including creation of 75 acres of canal habitat and up to 200 acres of marsh habitat, creation of up to 60 acres of landside woodlands, creation of 1,600 linear feet of tree plantings, and establishment of a monitoring program for assessing mitigation performance.

3. Based on October 2010 price levels, the estimated first cost of the recommended modifications for the Natomas Basin is $1,111,600,000. Adding these improvements to the currently authorized Common Feature project cost of $277,900,000 increases the estimated first cost of the total Common Features project to $1,389,500,000. The Federal share of the total

project cost would be about $921,200,000 and the non-Federal share would be about $468,300,000. All project costs are allocated to the Flood Risk Management purpose.

4. In accordance with the cost sharing provisions of Section 103(a) of WRDA 1986 (Public Law 99-662), as amended by Section 202(a) of WRDA 1996, and of Section 366(c) of WRDA 1999, the Federal share of the first costs of the flood damage reduction features would be about $921,200,000 and the non-Federal share would be about $468,300,000. The cost of lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas is estimated at $352,200,000. The State of California would be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction, a cost currently estimated at about $5,300,000 per year.

5. Based on a 4.375-percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $82,500,000, including operation, maintenance, repair, replacement, and rehabilitation (OMRR&R). The selected plan is estimated to be 81 percent reliable in providing flood risk management for the study area from the one-percent flood event. The selected plan would reduce average annual flood damages by about 96 percent and would leave average annual residual damages estimated at $19,000,000. Average annual economic benefits are estimated to be $502,500,000; net average annual benefits are $420,000,000. The benefit-to-cost ratio is 6 to 1.

6. In accordance with the provisions of Section 104 of WRDA 1986, the reporting officers recommend the non-Federal sponsor receive credit for work carried out which is compatible with the plan recommended for authorization, an amount currently estimated to be $519,230,000. This credit eligibility was approved in concept by the Assistant Secretary of the Army for Civil Works on 19 July 2007, 7 April 2009, 4 May 2010, and 10 November 2010, contingent upon the determination of the actual elements of such non-Federal work requiring authorization as features of the new Federal improvements, and inclusion of these elements in the plan recommended by this reevaluation report. Section 104 credit does not relieve the non-Federal sponsor of the requirement to pay five percent of the project costs in cash during construction of the remainder of the project. No Section 104 credit is available for non-Federal work commenced after project authorization. The non-Federal features of the plan constructed or being constructed that are recommended under the above criteria include the following:

a. Strengthen approximately 5.5 miles of the Natomas Cross Canal south levee by flattening the landside levee slope and installing seepage cut-off walls.

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b. Strengthen approximately 4.9 miles of the Sacramento River east levee from Verona to Elverta Road by constructing a landside adjacent levee and installing seepage cut-off walls and landside seepage berms.

c. Strengthen approximately 4.0 miles of the Sacramento River east levee from Elverta Road past Interstate Highway 5 by constructing a landside adjacent levee and installing seepage cut-off walls and landside seepage berms.

d. Strengthen approximately 3.7 miles of the Sacramento River east levee from just downstream of Interstate Highway 5 to just past Powerline Road.

7. The goals and objectives included in the Campaign Plan of the U.S. Army Corps of Engineers (USACE) have been fully integrated into the Natomas Basin study process. The recommended plan was developed utilizing a systems approach in formulating flood risk management solutions and in evaluating the impacts and benefits of those solutions. The levee system was viewed in context with the overall Sacramento River Flood Control Project to ensure that the recommended plan complemented the goals of the larger system and did not induce any negative impacts to other system components. A collaborative approach to solving water resource problems was implemented that included engagement of the project sponsors throughout the feasibility process, integration of the recommended plan with the sponsors' Natomas Levee Improvement Program, coordination with State and Federal resource agencies during National Environmental Policy Act (NEPA) compliance document preparation, and incorporation of the agencies' draft report comments into the final report.

8. In accordance with the Corps Engineering Circular EC 1165-2-209 on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included an independent Agency Technical Review (ATR), an independent External Peer Review (IEPR), and a USACE Headquarters policy and legal review. The ATR resulted in comments on levee performance curves, the plan formulation process, appropriate cost sharing percentages, issues related to levee vegetation, and historic versus modeled flood damage comparison. Consensus and resolution was reached on all ATR comments. The IEPR was managed by an outside eligible organization (Battelle Memorial Institute) that assembled a panel of six experts with combined expertise in the fields of geotechnical, hydraulic engineering, economics, and environmental/NEPA. Ultimately, the panel identified and documented 35 comments. Six of the panel comments were classified as having high significance. These comments were related to the plan formulation process and the without project conditions, additional clarification of the discussion on induced floodplain development as related to Executive Order (EO) 11988, and clarification of including Native American residents in the discussion of EO 12898. An additional comment requested

clarification on the order of implementation for levee fixes. In response, sections in the main report and Economics Appendix were expanded to include additional information on the plan formulation and economic analysis process, including a reach-by-reach description of the problems and solutions that were considered in developing the system-wide alternatives. The rationale for the project not inducing growth was provided and the report was revised to clarify the discussion on EO 11988, and sections of the report were revised to indicate compliance with EO 12898 in that no Native American tribes currently reside in the project area as a distinct population group. Level II IEPR for Safety Assurance will be conducted in accordance with EC 1165-2-209 during the implementation of the Project Engineering and Design phase. The IEPR panel has concurred with all of the USACE responses and this process has led to improved report quality.

9. The USACE Headquarters review indicates that the project recommended by the reporting officers is technically sound, environmentally and socially acceptable, and economically justified. The goal to reduce loss of life is incorporated into this project but it is a shared responsibility that can never be completely mitigated by structural solutions. Discussion in the report states that residual risk will remain with this plan in place and emphasizes the roles of all partners in addressing and communicating residual risk, including the need for a well coordinated flood evacuation plan and implementation of local measures to mitigate residual risk through prudent land use planning. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources implementation studies and complies with other administrative and legislative policies and guidelines.

10. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the Common Features project be modified to reduce flood risk for the Natomas Basin portion of the American River Watershed in the vicinity of Sacramento, California, in accordance with the reporting officers' recommended plan, at an estimated cost of $1,389,500,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 103 of WRDA 1986, as amended, and in accordance with the required items of cooperation that the non-Federal sponsor shall agree to perform:

a. Provide a minimum of at least 25 percent of total project costs for the lower American River portion of the project and at least 35 percent for the Natomas Basin portion of the project but not to exceed 50 percent of total project costs as further specified below:

(1) Provide a cash contribution equal to five percent of total project costs;

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(2) Provide, during the first year of construction, any additional funds necessary to pay the full non-Federal share of design costs;

(3) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of the project;

(4) Provide, during construction, any additional funds necessary to make its total contribution equal to at least 25 percent of total project costs for the lower American River portion of the project and at least 35 percent for the Natomas Basin portion of the project;

b. Provide 100 percent of all costs for local betterments.

c. Shall not use funds from other Federal programs, including any non-Federal contribution required as a matching share therefore, to meet any of the non-Federal obligations for the project unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is authorized;

d. Not less than once each year, inform affected interests of the extent of flood risk management afforded by the project;

e. Agree to participate in and comply with applicable Federal floodplain management and flood insurance programs;

f. Comply with Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), which requires a non-Federal interest to prepare a floodplain management plan within one year after the date of signing a project cooperation agreement, and to implement such plan not later than one year after completion of construction of the project;

g. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with flood risk managment levels provided by the project;

h. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on

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project lands, easements, and rights-of-way or the addition of facilities which might reduce the level of flood risk managment the project affords, hinder operation and maintenance of the project, or interfere with the project's proper function;

i. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

j. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, including any mitigation features, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

k. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project;

l. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, rehabilitation, and replacement of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors;

m. Keep and maintain books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations (CFR) Section 33.20;

n. Comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 106 of the National Historic Preservation Act of 1966, Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination

on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c et seq.);

o. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal Government provides the non-Federal sponsor with prior specific written direction, in which case the non-Federal sponsor shall perform such investigations in accordance with such written direction;

p. Assume, as between the Federal Government and the non-Federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project;

q. Agree, as between the Federal Government and the non-Federal sponsor, that the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA; and

r. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element.

11. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works

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construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the sponsor, the State, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

R. L. VAN ANTWERP
Lieutenant General, US Army
Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF

CECW-MVD (1105-2-10a)

JAN 27 2011

SUBJECT: Cedar River, Cedar Rapids, Iowa

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on flood risk management along the Cedar River in Cedar Rapids, Iowa. It is accompanied by the report of the district and division engineers. These reports are in response to a House Resolution adopted April 5, 2006, by the Committee on Transportation and Infrastructure, and Senate Resolution adopted May 23, 2006, by the Committee on Environment and Public Works. Both resolutions "requested the review of past pertinent reports to determine whether any modifications to the recommendations are advisable in the interest of flood risk management, ecosystem restoration, recreation, and related purposes along the Cedar River in Cedar Rapids, Iowa." Preconstruction engineering and design activities for the Cedar River project will continue under the authority provided by the resolutions cited above.

2. The reporting officers recommend authorization of a plan to reduce flood risk along the east bank of the Cedar River in the City of Cedar Rapids. The recommended plan consists of 2.2 miles of floodwall and 0.8 miles of earthen levee with a height of approximately 14 feet, 15 closure structures, and six pumping stations constructed on the east bank of the Cedar River. Recreation or ecosystem restoration measures were found to be not justified and are therefore not part of the recommended plan. The project does not require any separable mitigation as the project has been design to offset any adverse impacts which may occur. The recommended plan is the National Economic Development (NED) plan.

3. Based on an October 2010 price level, the estimated total first cost of the recommended plan is $99,000,000. In accordance with the cost sharing provisions of the Section 103 of the Water Resources Development Act of 1986 (WRDA 1986), as amended by Section 202 of WRDA 1996, the Federal share of the total project cost is estimated at $64,350,000 (65 percent) and the non-Federal share is estimated at $34,650,000 (35 percent). The cost of lands, easements, rights-of-way, relocations, and excavated material disposal areas is estimated at $11,700,000. The City of Cedar Rapids, Iowa is the non-Federal cost sharing sponsor for the recommended plan. The City of Cedar Rapids would be responsible for the operation, maintenance, repair, replacement,

and rehabilitation (OMRR&R) of the project after construction, a cost currently estimated at $18,000 per year.

4. Based on a 4.125-percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project, including OMRR&R, are estimated to be $5,125,000. The equivalent average annual benefits are estimated to be $6,144,000 with net average annual benefits of $1,019,000. The benefit-cost ratio is approximately 1.2 to 1. The reporting officers estimate that the recommended plan has a 99.99 percent chance of containing a 1 percent flood event and a 91.24 percent chance of containing a 0.2 percent flood event. The recommended plan would reduce expected annual flood damages to the east bank area by about 84 percent.

5. The goals and objectives included in the Campaign Plan of the U.S. Army Corps of Engineers have been fully integrated into the Cedar Rapids study process. As part of an Integrated Water Resources Management Plan (IWRMP), the recommended plan was developed in coordination and consultation with various Federal, State and local agencies using a systems approach in formulating flood risk management solutions and in evaluating the impacts and benefits of those solutions. Study formulation looked at a wide range of non-structural and structural alternatives with only the downtown east bank being justified for structural flood risk reduction measures under Corps policy and guidelines. Alternative formulation optimized the costs and benefits of an array of design heights based on various flood event risks. Floodwall and levee components incorporate robust, sustainable designs like a T-wall atop a sheetpile curtain, and a clay levee with a 10-foot top width and 3 on 1 horizontal to vertical side slopes. In addition, the levee system was viewed in context with the sponsor's Preferred Flood Management System to ensure that the recommended plan complemented the goals of the larger system and did not induce any negative impacts to other system components. Since the record flood event in June 2008 flood (which exceeded the 0.2 percent flood), the District has participated in four meetings, multiple workshops and town halls hosted by the sponsor involving over 2,600 citizens. As part of the IWRMP, the non-Federal sponsor developed the locally Preferred Flood Management System in which providing a structural flood risk management alternative for both sides of the floodplain was viewed as critical. As the first phase of executing the IWRMP (which includes the Corps' east side plan), the non-Federal sponsor, Linn County, and private property owners are implementing non-structural measures using FEMA, HUD, and Local Option Sales Tax programs. This approach allows each agency's programs to provide funding targeted at reducing the risk to the west side floodplain and other areas within the City. Finally, the IWRMP includes the development of the overarching Iowa-Cedar River Comprehensive Plan which will work to formulate a comprehensive watershed plan and process for interagency collaboration to address water resource and related land resource problems and opportunities within the watershed. The development of this collaborative approach to solving water resource problems engaged the non-Federal sponsor throughout the feasibility process leading to the development of an overall

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Integrated Water Resources Management Plan through integration of the recommended plan with the non-Federal sponsor's Preferred Flood Management System.

6. The non-Federal sponsor wishes to perform design and construction of structural flood risk management measures that are elements of the recommended plan. The non-Federal sponsor intends to design and construct a segment of floodwall on the east side of the Cedar River upstream of Interstate 380, from approximately station 165+00 to approximately station 186+00. This approximately 2,100-foot segment of floodwall would effectively reduce flood risk for the 1% flood event to industrial properties in this area. Pursuant to Section 221 of the Flood Control Act of 1970 as amended, the non-Federal sponsor will be eligible to receive credit for the work, subject to a determination by the Secretary of the Army that the work is integral to the project and execution of an agreement covering the work that is executed by the Corps and the non-Federal sponsor prior to work being carried out.

7. In accordance with the Corps Engineering Circular on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included an independent Agency Technical Review (ATR), an Independent External Peer Review (IEPR), and a Corps Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the final report. The IEPR report was completed by Battelle Memorial Institute and provided to the Rock Island District in 2010. A total of 12 comments were received, of which two were deemed significant regarding (a) the potential for additional sponsor costs for the ongoing Phase 1 Archeological and Architectural Survey and (b) the potential for the 2008 flood event to create additional economic uncertainties related to the existing and future project damage estimates. In response, sections in the district's main report and Economics Appendix were expanded to include additional information. All comments from the above referenced reviews have been addressed and incorporated into the final project documents and recommendation as appropriate. Level II IEPR for Safety Assurance will be conducted in accordance with EC 1165-2-209 during the implementation of the Preconstruction Engineering and Design phase. Overall the reviews have resulted in the improvement in the technical quality of the report.

8. The Washington level review indicates that the plan recommended by the reporting officers is technically sound, economically justified, and environmentally and socially acceptable. As the report discusses, residual risk will remain with this plan in place and emphasizes the role of the non-Federal sponsor in addressing and communicating residual risk. The plan complies with essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies and complies with other administration and legislative policies and guidelines. Also, the views of interested parties, including Federal, State, and local agencies have been considered.

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9. I concur with the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the Cedar Rapids project be authorized in accordance with the reporting officer's recommended plan at a total estimated cost of $99,000,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 103 of WRDA 1986, as amended by Section 202 of WRDA 1996. Accordingly, the non-Federal sponsor must agree with the following requirements prior to project implementation.

a. Provide a minimum of 35 percent, but not to exceed 50 percent of total first costs further specified as follows:

(1) Provide 25 percent of design costs allocated by the Federal Government to flood risk management in accordance with the terms of a design agreement entered into prior to commencement of design work for the flood risk management features;

(2) Provide, during the first year of construction, any additional funds necessary to pay the full non-Federal share of design costs allocated by the Federal Government to flood risk management;

(3) Provide, during construction, a contribution of funds equal to 5 percent of total flood risk management costs;

(4) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Federal Government to be required or to be necessary for the construction, operation, and maintenance of the flood risk management features;

(5) Provide, during construction, any additional funds necessary to make its total contribution for flood risk management equal to at least 35 percent of total flood risk management costs;

b. Not use funds from other Federal programs, including any non-Federal contribution required as a matching share therefore, to meet any of the City obligations for the project unless the Federal agency providing the Federal portion of such funds verifies in writing that such funds are authorized to be used to carry out the project;

c. Not less than once each year, inform affected interests of the extent of flood damage reduction afforded by the flood risk management features;

d. Agree to participate in and comply with applicable Federal floodplain management and flood insurance programs;

e. Comply with Section 402 of the WRDA of 1986, as amended (33 U.S.C. 701b-12), which requires a non-Federal interest to prepare a floodplain management plan within one year after the date of signing a project cooperation agreement, and to implement such plan not later than one year after completion of construction of the flood risk management features;

f. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with degrees of flood risk management provided by the flood risk management features;

g. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the level of protection the flood risk management features afford, hinder operation and maintenance of the project, or interfere with the project's proper function;

h. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

i. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, including any mitigation features, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and state laws and regulations and any specific directions prescribed by the Federal Government;

j. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the City owns or controls for access to the project for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project;

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SUBJECT: Cedar River, Cedar Rapids, Iowa

k. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, rehabilitation, and replacement of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors;

l. Keep and maintain books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations Section 33.20;

m. Comply with all applicable Federal and state laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.*);

n. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under CERCLA, Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal Government provides the City with prior specific written direction, in which case the City shall perform such investigations in accordance with such written direction;

o. Assume, as between the Federal Government and the City, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project;

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p. Agree, as between the Federal Government and the City, that the City shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA; and

q. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the WRDA of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the City has entered into a written agreement to furnish its required cooperation for the project or separable element.

r. Provide the non-Federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation, that are in excess of one percent of the total amount authorized to be appropriated for the project.

s. Provide the non-Federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation, that are in excess of one percent of the total amount authorized to be appropriated for the project.

10. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the non-Federal sponsor, the State, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

R. L. VAN ANTWERP
Lieutenant General, US Army
Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF

CECW-MVD (1105-2-10a)

DEC 19 2011

SUBJECT: Fargo-Moorhead Metropolitan Area Flood Risk Management Project, North Dakota and Minnesota

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on flood risk management in the Fargo-Moorhead metropolitan area of North Dakota and Minnesota. It is accompanied by the report of the district and division engineers. These reports are in response to a resolution of the Senate Committee on Public Works, adopted 30 September 1974. The resolution requested the review of "reports on the Red River of the North Drainage Basin, Minnesota, South Dakota and North Dakota, submitted in House Document Numbered 185, 81st Congress, 1st Session, and prior reports, with a view to determining if the recommendations contained therein should be modified at this time, with particular reference to flood control, water supply, wastewater management and allied purposes." Preconstruction engineering and design activities will be continued under the authority provided by the resolution cited above.

2. The reporting officers recommend authorization of a plan to reduce flood risk in the Fargo-Moorhead metropolitan area by constructing a diversion channel within North Dakota combined with upstream floodwater staging and storage. The recommended plan consists of a 36 mile 20,000 cubic feet per second (cfs) diversion channel that would start approximately four miles south of the confluence of the Red and Wild Rice rivers and extend west and north around the North Dakota cities of Horace, Fargo, West Fargo and Harwood and ultimately re-enter the Red River of the North downstream of the confluence of the Red and Sheyenne rivers near Georgetown, Minnesota. The diversion channel would cross the Wild Rice, Sheyenne, Maple, Lower Rush and Rush rivers and incorporate the existing Horace to West Fargo Sheyenne River diversion channel. The main line of protection at the south end of the project includes the embankments adjacent to the diversion channel, floodwater Storage Area 1 embankments, and two tie-back levees. Project features would be located in both North Dakota and Minnesota. Unavoidable environmental impacts would be mitigated for with construction of fish passage structures along the Red and Wild Rice rivers; construction of additional fish passage projects in the Red River basin; stream restorations on tributaries near the project; conversion of floodplain agricultural land to floodplain forest; and creating wetlands within the diversion channel footprint. These mitigation features along with adaptive management would be monitored for up

to twenty years to ensure their performance. This would include pre- and post-project monitoring. The recommended plan is a deviation from the national economic development (NED) plan and is the locally preferred plan (LPP).

3. The currently identified NED Plan is a diversion channel located east of Moorhead, MN with a capacity of 40,000 cfs. The NED Plan diversion channel would be approximately 25 miles long with approximately 10 miles of tie-back levees and includes a large control structure on the Red River of the North. The NED Plan would reduce the stage from the 0.2 percent flood event from approximately 46.7 to 37.6 feet on the Fargo gage.

4. The recommended LPP (following an alignment in North Dakota) would reduce flood stages on the Red River to a lesser degree than the NED plan (following an alignment in Minnesota); the LPP would reduce the stage from the 0.2 percent flood event from approximately 46.7 to 40.0 on the Fargo gage. But the LPP would benefit a larger geographic area and address flooding on four tributaries to the Red River that are not addressed by the NED plan. The LPP provides approximately $6,000,000 less in average annual flood risk management benefits than the NED plan. Since the LPP provides fewer average annual benefits than the NED plan, a comparable smaller scale plan with similar outputs to the LPP was identified along the NED alignment to set the Federal cost share. This plan was identified as the Federally Comparable Plan (FCP) and serves as the basis to determine the project cost sharing apportionment. Federal investment in the flood risk management features of the LPP is capped at the investment that would have been made for the FCP. Based on October 2011 price levels, the estimated first cost of the FCP flood risk management features is $1,205,207,000. In accordance with the cost sharing provisions of Section 103 of the Water Resources Development Act (WRDA) of 1986, as amended, the Federal share of the first cost of the FCP flood risk management features is estimated at $783,384,000 (65 percent).

5. Based on October 2011 price levels, the estimated first cost of the recommended LPP is $1,781,348,000. The first cost of the recommended LPP includes approximately $1,745,033,000 for flood risk reduction and approximately $36,315,000 for recreation. In accordance with Section 103 of WRDA 1986, as amended, recreation features would be shared 50 percent Federal and 50 percent non-Federal. Federal cost sharing in the recommended LPP is limited to the Federal share of the FCP and the non-Federal sponsor would be required to provide 100 percent of the additional costs associated with design and construction of the LPP. The flood risk management features have an estimated first cost of $1,745,033,000, with the Federal and non-Federal shares estimated at $783,384,000 and $961,649,000, respectively. The recreation features have an estimated first cost of $36,315,000, with the Federal and non-Federal shares estimated at $18,157,500 and $18,157,500 respectively. Thus, the overall Federal share of the first costs of the LPP, including recreation, is estimated at $801,542,000, and the non-Federal share is estimated at $979,806,000. The cost includes $17,600,000 for environmental monitoring and adaptive management. The cities of Fargo, North Dakota and Moorhead, Minnesota are the

non-Federal cost sharing sponsors for the recommended plan. The cities of Fargo and Moorhead would be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction, a cost currently estimated at $3,631,000 per year. The OMRR&R estimate includes $527,135 for monitoring and adaptive management beyond the construction phase.

6. Based on a 4.0-percent discount rate, October 2011 price levels and a 50-year period of analysis, the total equivalent average annual costs of the recommended LPP, including OMRR&R, are estimated to be $99,952,000, including $98,098,000 for flood risk management and $1,854,000 for recreation. The recommended LPP would significantly reduce risk to the Fargo-Moorhead metropolitan area from a flood which has a 1-percent chance of occurrence in any year; the 1-percent chance stage would be reduced from approximately 42.4 feet to 30.6 feet on the Fargo gage, which would require only minimal emergency measures to pass safely. The recommended LPP would leave average annual residual damages estimated at $32,000,000. The equivalent average annual benefits are estimated to be $174,617,000 for flood risk management and $5,130,000 for recreation, respectively. The net average annual benefits would be $76,519,000 for flood risk management and $3,276,000 for recreation, respectively. The benefit-to-cost ratio for flood risk reduction is 1.78 to 1; and the benefit- to-cost ratio for recreation is 2.77 to 1; and the overall project benefit-to-cost ratio is 1.8 to 1.

7. The project would modify three existing Federal projects: the Rush River Channel Improvement project authorized by the Flood Control Acts of 1948 and 1950; the Lower Rush River Channel Improvement project authorized under provisions of Section 205 of the 1948 Flood Control Act; and the Sheyenne River project authorized by the 1986 Water Resources Development Act. The modifications to these projects will not impact the purposes for which they were authorized or the benefits they currently provide, and in some cases will curtail or eliminate the need for their continued operation and maintenance. All modifications will be carried out in a manner that fulfills the authorized purposes and provides the intended benefits of existing projects as well as the recommended plan. For example, approximately 2.1 miles of the Rush River project and 3.4 miles of the Lower Rush River project between the diversion channel and their respective confluences with the Sheyenne River, while no longer necessary to reduce flood risk in the same manner as when they were originally constructed, would continue to convey local drainage and need some measure of maintenance. The Horace to West Fargo portion of the existing Sheyenne River Diversion project would be incorporated into the LPP.

8. The recommended LPP was developed in coordination and consultation with various Federal, State and local agencies using a systems approach in formulating flood risk management solutions and in evaluating the impacts and benefits of those solutions. Study formulation looked at a wide range of structural and non-structural alternatives.

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SUBJECT: Fargo-Moorhead Metropolitan Area Flood Risk Management Project, North Dakota and Minnesota

9. The non-Federal sponsors wish to perform design and construction of structural flood risk management measures that are elements of the recommended plan. Pursuant to Section 221 of the Flood Control Act of 1970 as amended, and in accordance with existing guidance governing in-kind contribution credit, the non-Federal sponsors will be eligible to receive credit for the work, not to exceed their share, subject to a determination by the Secretary of the Army that the work is integral to the project. Prior to the work being carried out by the non-Federal sponsors, an In-Kind Memorandum of Understanding must be executed between the Corps and the non-Federal sponsors.

10. In accordance with the Engineering Circular on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and rigorous review process to ensure technical quality. This included an independent Agency Technical Review (ATR), an Independent External Peer Review (IEPR), and a Corps Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the report. The IEPR was conducted by the Battelle Memorial Institute. IEPR of the draft report was completed on July 6, 2010. A total of 23 comments were generated; all were resolved to the satisfaction of the IEPR panel. A second IEPR review began on April 21, 2011 to assess the Supplemental Draft Feasibility Report and EIS and supporting analyses. The IEPR report was completed in July 2011. A total of 16 comments were documented, one was flagged as high, eleven were flagged as medium, and four were flagged as low significance. The comment of high significance addressed the potential risks associated with the operation of the gates at the diversion control structures and the need for redundancy. In response, the Corps will conduct additional hydraulic modeling in the design phase to address the issue and ensure that all structures are designed to be safe and meet all Corps criteria. All other comments from this review have been addressed and incorporated into the final project documents and recommendation as appropriate. Type II IEPR for Safety Assurance will be conducted during the Preconstruction Engineering and Design phase and throughout implementation.

11. I concur with the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the Fargo-Moorhead project be authorized in accordance with the reporting officers' recommended plan at an estimated flood risk management cost of $1,745,033,000 and estimated recreation cost of $36,315,000 for an overall cost of $1,781,348,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 103 of WRDA 1986, as amended by Section 202 of WRDA 1996. Accordingly, the non-Federal sponsors must agree with the following requirements prior to project implementation.

a. Provide a minimum of 35 percent, but not to exceed 50 percent of total FCP flood risk management costs as further specified below:

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SUBJECT: Fargo-Moorhead Metropolitan Area Flood Risk Management Project, North Dakota and Minnesota

(1) Provide the non-Federal share of design costs allocated by the Government to flood risk management in accordance with the terms of a design agreement entered into prior to commencement of design work for the flood risk management features;

(2) Provide, during construction, a contribution of funds equal to 5 percent of total FCP flood risk management costs;

(3) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of the flood risk management features;

(4) Provide, during construction, any additional funds necessary to make its total contribution for flood risk management equal to at least 35 percent of total FCP flood risk management costs;

(5) Provide 100 percent of all incremental costs of the Locally Preferred Plan.

b. Provide 50 percent of total recreation costs as further specified below:

(1) Provide the non-Federal share of design costs allocated by the Government to recreation in accordance with the terms of a design agreement entered into prior to commencement of design work for the recreation features;

(2) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of the recreation features;

(3) Provide, during construction, any additional funds necessary to make its total contribution for recreation equal to 50 percent of total recreation costs;

(4) Provide, during construction, 100 percent of the total recreation costs that exceed an amount equal to 10 percent of the Federal share of total FCP flood risk management costs;

c. Shall not use funds from other Federal programs, including any non-Federal contribution required as a matching share therefore, to meet any of the non-federal obligations for the project

unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is authorized;

d. Not less than once each year, inform affected interests of the extent of protection afforded by the flood risk management features;

e. Agree to participate in and comply with applicable Federal floodplain management and flood insurance programs;

f. Comply with Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), which requires a non-Federal interest to prepare a floodplain management plan within one year after the date of signing a project cooperation agreement, and to implement such plan not later than one year after completion of construction of the flood risk management features;

g. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with protection levels provided by the flood risk management features;

h. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the level of protection the flood risk management features afford, hinder operation and maintenance of the project, or interfere with the project's proper function;

i. Keep the recreation features, and access roads, parking areas, and other associated public use facilities, open and available to all on equal terms;

j. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

k. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, including any mitigation features, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes

and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

l. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project;

m. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, rehabilitation, and replacement of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors;

n. Keep and maintain books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations (CFR) Section 33.20;

o. Comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.*);

p. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal Government provides the non-Federal

sponsors with prior specific written direction, in which case the non-Federal sponsors shall perform such investigations in accordance with such written direction;

q. Assume, as between the Federal Government and the non-Federal sponsors, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project;

r. Agree, as between the Federal Government and the non-Federal sponsors, that the non-federal sponsors shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA; and

s. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element.

12. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the sponsors, the States, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

MERDITH W. B. TEMPLE
Major General, U.S. Army
Acting Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF

CECW-LRD (1105-2-10a) MAY 16 2012

SUBJECT: Ohio River Shoreline, Paducah, Kentucky Reconstruction

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on flood risk management along the left bank of the Ohio River at Paducah, Kentucky. It is accompanied by the report of the district and division engineers. This report responds to Section 5077 of the Water Resources Development Act (WRDA) 2007 which directs the Secretary to complete a feasibility report for rehabilitation (reconstruction) of the existing flood damage reduction project at Paducah, Kentucky (Paducah, Kentucky Local Flood Protection Project) authorized by Section 4 of the Flood Control Act of June 28, 1938. Further, Section 5077 authorizes the Secretary to carry out the project, if determined feasible, at a total cost of $3,000,000. The reconstruction project, as currently proposed, exceeds the amount authorized by Section 5077. Preconstruction engineering and design activities for the Ohio River Shoreline, Paducah, Kentucky Reconstruction project will continue under the authority provided by Section 5077 of WRDA 2007.

2. The existing Paducah, Kentucky, Local Flood Protection Project is a 12.2 mile-long levee and floodwall system completed in 1949. The project consists of about 9.2 miles of earthen levee and 3 miles of floodwalls and includes 12 floodwater pumping stations, and other interior drainage facilities. There are 47 movable closure and service openings in the floodwall system that must be manually secured in advance of flooding.

3. The reporting officers recommend authorizing a flood risk management plan to significantly improve reliability and restore system performance of the more than 60 year-old project at Paducah, Kentucky, by reconstructing certain features of the project. The proposed reconstruction work will extend functionality of, and update to modern design and safety standards, deteriorated mechanical, electrical, and structural components that have exceeded their design service lives. Additionally, the proposed plan provides for construction of one new floodwater pumping plant to address changes in interior flooding. The addition of this new pump plant will increase project efficiency and bring the reconstructed project features up to current design standards. Reconstruction items will generally consist of the following:

(a) Recondition pumps, motors and motor control systems, major pump plant components and other miscellaneous items at each of the 12 existing pumping plants;
(b) Construct a new pumping plant at Station 111+67A;
(c) Slip-line 37 existing deteriorated corrugated metal pipes;

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(d) Stabilize diversion channel banks;
(e) Replace floodwall water stop joints;
(f) Plug and / or replace existing deteriorated toe drains;
(g) Replace existing drainage inlet structures (two new gatewell structures) at Bee Branch -at approximate stations 32+12C and 32+38C;
(h) Construct new gate well structures at stations 111+67A (at proposed pump plant #14) and 19+11 section B;
(i) Permanently close 8 existing floodwall closures and raise an existing closure sill;
(j) Install scour erosion control pad at Wall/Levee transitions; and
(k) Provide other miscellaneous items

The proposed project does not require separable mitigation. The report includes an Environmental Assessment and finding of no significant impact on the quality of the environment. The recommended plan is the national economic development (NED) plan.

4. The estimated total first cost of the recommended plan is $19,500,000 at the October 2011 price level. In accordance with the cost sharing provisions of the Section 103(a) of Public Law 99-662, as amended by Section 202 of WRDA 1996, the Federal share of the total cost of this project is estimated at $12,675,000 (65 percent) and the non-Federal share is estimated at $6,825,000 (35 percent), which includes $436,000 for the estimated value of lands, easements, rights-of-way, relocations, and disposal areas. The city of Paducah, Kentucky is the non-Federal cost sharing sponsor for the recommended plan. The city of Paducah would be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction, a cost currently estimated at $636,000 per year.

5. Based on a 4.0-percent discount rate and a 50-year period of economic analysis, the total equivalent average annual costs of the project, including OMRR&R, are estimated to be $1,599,000. The equivalent average annual benefits are estimated to be $7,349,000. Net average annual benefits are estimated as $5,750,000. The benefit-to-cost ratio is approximately 4.6 to 1.

6. Implementation of the proposed reconstruction project would reduce expected equivalent annual flood damages in the project area by about 85 percent, from $8,174,000 to $1,257,000. The reporting officers estimate that the recommended plan has a 99.9 percent probability of containing a flood that has a 1-percent chance of happening in any year and a 99.6-percent probability of containing a flood that has a 0.2-percent chance of occurring in any year.

7. In accordance with implementation guidance on the in-kind contribution provisions of Section 221 of the Flood Control Act of 1970, as amended by Section 2003 of WRDA 2007, the reporting officers recommend that the non-Federal sponsor receive credit, currently estimated to be $2,100,000, for completed reconstruction of drainage structures, including corrugated metal pipes, at the Paducah, Kentucky Local Flood Protection Project. Crediting is subject to the Secretary's determination that such work is integral to the proposed project. This credit

eligibility was approved in concept by the Assistant Secretary of the Army for Civil Works on November 14, 2008. Affording this credit would not relieve the non-Federal sponsor of the requirement to pay 5 percent of the total project costs in cash during construction of the remainder of the proposed project.

8. All technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included an independent Agency Technical Review (ATR) and a Headquarters, USACE policy and legal review. All concerns of the ATR and policy and legal reviews have been addressed and incorporated into the final report. Given the nature of reconstructing an existing project in the original project footprint, I have granted an exclusion from the requirement to conduct a Type I Independent External Peer Review.

9. I concur with the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the Ohio River Shoreline, Paducah, Kentucky Reconstruction project be authorized in accordance with the reporting officer's recommended plan with such modifications as may be advisable in the discretion of the Chief of Engineers. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 103 of WRDA 1986, as amended by Section 202 of WRDA 1996. Accordingly, the non-Federal sponsor must agree with the following requirements prior to project implementation:

a. Provide a minimum of 35 percent, but not to exceed 50 percent of total first costs further specified as follows:

(1) Provide 35 percent of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for project;

(2) Provide, during construction, a contribution of funds equal to 5 percent of total project costs;

(3) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Federal Government to be required or to be necessary for the construction, operation, and maintenance of the project;

(4) Provide, during construction, any additional funds necessary to make its total contribution equal to at least 35 percent of total project costs;

b. Not use funds from other Federal programs, including any non-Federal contribution required as a matching share for that other program, to meet any of its obligations for the project

unless the Federal agency providing the Federal portion of such funds verifies in writing that such funds are authorized to be used to carry out the project;

c. Not less than once each year, inform affected interests of the extent of flood damage reduction afforded by the flood risk management features;

d. Agree to participate in and comply with applicable Federal floodplain management and flood insurance programs;

e. Comply with Section 402 of WRDA 1986, as amended (33 U.S.C. 701b-12), which requires a non-Federal interest to prepare a floodplain management plan within one year after the date of signing a project cooperation agreement, and to implement such plan not later than one year after completion of construction of the flood risk management features;

f. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with degrees of flood risk management provided by the flood risk management features;

g. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the level of protection the flood risk management features afford, hinder operation and maintenance of the project, or interfere with the project's proper function;

h. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

i. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, including any mitigation features, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and state laws and regulations and any specific directions prescribed by the Federal Government;

j. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the City owns or controls for access to the project for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project;

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k. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, rehabilitation, and replacement of the project, except for damages due to the fault or negligence of the United States or its contractors;

l. Keep and maintain books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations Section 33.20;

m. Comply with all applicable Federal and state laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.),* the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.),* and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.);*

n. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under CERCLA, Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal Government provides the City with prior specific written direction, in which case the City shall perform such investigations in accordance with such written direction;

o. Assume, as between the Federal Government and the City, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project;

p. Agree, as between the Federal Government and the City, that the City shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent

practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA; and

q. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 1030) of WRDA 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the City has entered into a written agreement to furnish its required cooperation for the project or separable element.

r. Provide the non-Federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation, that are in excess of one percent of the total amount authorized to be appropriated for the project.

10. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the sponsor, the State, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

MERDITH W. B. TEMPLE
Major General, U.S. Army
Acting Commander

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

REPLY TO
ATTENTION OF

AUG 2 6 2013

Office of the Chief of Staff

Honorable Bill Shuster
Chairman, Committee on Transportation
and Infrastructure
House of Representatives
2165 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

As required by Section 2033 of P.L. 110-114, I am enclosing a copy of the final report of the Chief of Engineers on the Jordan Creek Flood Risk Management Project, Springfield, Missouri. Under separate letter, and in accordance with Executive Order 12322 dated September 17, 1981, the Assistant Secretary of the Army (Civil Works) will provide her report and the advice from the Office of Management and Budget on how the proposed project relates to the policy and programs of the President, the Economic, and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, and other applicable laws, regulations, and requirements relevant to the planning process.

I am sending an identical letter to the Honorable Barbara Boxer, Chairman of the Senate Committee on Environment and Public Works. Thank you for your interest in the Corps Civil Works Program.

Sincerely,

Richard M. Toy
Colonel, U.S. Army
Chief of Staff

Enclosure

DEPARTMENT OF THE ARMY
CHIEF OF ENGINEERS
2600 ARMY PENTAGON
WASHINGTON, D.C. 20310-2600

DAEN

AUG 26 2013

SUBJECT: Jordan Creek Flood Risk Management Study, Springfield Missouri

THE SECRETARY OF THE ARMY

1. I submit, for transmission to the Congress, my report on the study of flood risk management along Jordan Creek in Springfield, Missouri. It is accompanied by the report of the district and the division engineers. This report is an interim response to a resolution by the Committee on Public Works of the United States Senate, adopted 11 May 1962. This resolution requested "to review the reports on the White River and Tributaries, Missouri and Arkansas, printed in House Document Numbered 499, Eighty-third Congress, second session, and other reports, with a view to determining the advisability of modifying the existing project at the present time, with particular reference to developing a comprehensive plan of improvement for the basin in the interest of flood-control, navigation, hydro-electric power development, water supply, and other purposes, coordinated with related land resources." Preconstruction, engineering and design activities for the Jordan Creek Flood Risk Management project will continue under the authority provided by the resolution cited above.

2. The reporting officers recommend authorization of a plan for flood risk management along Jordan Creek in Springfield, Missouri. The recommended plan includes flood risk management features consisting of five regional detention basins and 2,100 feet of channel widening. Two detention basins are situated on the North Branch and three are located on the South Branch of Jordan Creek. Collectively, these basins provide 165 acre-feet of storage and a seven to eight percent decrease in flows through the downtown area. The channel work will occur south of downtown Springfield from Scenic Avenue on Wilsons Creek to approximately 350 feet north of the Bennett Street Bridge on Jordan Creek (area referred to as Reach 1). The channel widening includes the replacement of one Railroad Bridge and the addition of a flood diversion structure. The top width of the widened channel will vary from 100 feet to 360 feet. The recommended plan, the National Economic Development (NED) plan, will nearly eliminate flood damages along Jordan Creek in Reach 1 from a 1 in 500 annual chance exceedance (ACE) flood event (.2 percent chance of occurring in any given year). The channel improvements will also allow emergency flood fighting vehicles to respond to emergencies. The project will reduce expected annual flood damages along Jordan Creek by 65 percent, with the greatest reduction occurring in Reach 1. The project will also reduce traffic interruptions and disruptions to health and safety services.

3. The recommended plan is the NED plan. The estimated project first cost of the recommended plan, based on October 2012 price levels, is $20,500,000. In accordance with the cost sharing provision of Section 103 of the Water Resources Development Act (WRDA) 1986, as amended

DAEN
SUBJECT: Jordan Creek Flood Risk Management Study, Springfield, Missouri

by Section 202 of WRDA 1996, the federal share of the first costs of the flood damage reduction features will be $13,200,000 (64.6 percent) and the non-federal share will be $7,300,000 (35.4 percent). The cost of the lands, easements, rights-of-way, relocations and dredged or excavated material disposal areas is estimated to be $6,270,000. The minimum cash contribution of five percent is $1,030,000 to be provided by the sponsor. Specific project features were developed to minimize adverse impacts to natural resources. Since there are no remaining significant environmental impacts, compensatory mitigation is not required for this project. The City of Springfield is responsible for the operation, maintenance, repair, replacement and rehabilitation (OMRR&R) of the project after construction, a cost currently estimated to be about $230,000 annually. In addition to the above, the City of Springfield would be fully responsible for performing the investigation, cleanup and response of hazardous materials on the project site. The cost of hazardous material work is estimated to be no more than $340,000 and is solely the non-federal sponsor's responsibility. Based on a 3.75 percent discount rate, October 2012 price levels and a 50-year period of analysis, the total equivalent average annual cost of the project is estimated to be $1,170,000, including OMRR&R. The selected plan is not designed to any specific protection level. It will reduce average annual flood damages by 65 percent with the greatest reduction occurring in Reach 1. The selected plan will leave average annual residual damages in the watershed estimated at $1,730,000. The equivalent average annual benefit is estimated to be $3,130,000. The benefit-cost ratio is approximately 2.7 to 1.

4. The recommended plan was developed in coordination and consultation with various federal, state and local agencies using a systematic and regional approach to formulating solutions and evaluating the benefits and impacts that would result. The feasibility study evaluated flood risk management problems and opportunities for the entire study area of about 14 square-miles. Risk and uncertainty were addressed during the study by completing a cost risk analysis and a sensitivity analysis that evaluated the potential impacts of a change in economic assumptions. Flooding will still occur through the downtown area of Springfield, Missouri; however, there is minimal chance for a loss of life. The residual risks were explained to the sponsor and they understand and agree with this analysis.

5. In accordance with the Corps guidance on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and rigorous review process to ensure technical quality. This included an Agency Technical Review (ATR), an Independent External Peer Review (IEPR), and a Corps Headquarters policy and legal review. All concerns of the ATR were addressed and incorporated into the final report. An IEPR was completed by Battelle Memorial Institute in March 2013. A total of 15 comments were documented. In summary, the IEPR comments related to report inconsistencies and deficiencies in information. All comments were addressed by report revisions, and subsequently closed.

6. Washington level review indicated that the plan recommended by the reporting officers is technically sound, environmentally and socially acceptable, and economically justified. The plan complies with all essential elements of the 1983 U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation

DAEN
SUBJECT: Jordan Creek Flood Risk Management Study, Springfield, Missouri

Studies. The recommended plan complies with other administrative and legislative policies and guidelines. The views of interested parties, including federal, state and local agencies, were considered. Comments received from agencies during review of the draft feasibility report and environmental assessment indicated no adverse impacts from the selected plan. The U.S. Fish and Wildlife Service (USFWS) requested a low flow channel be added to the project to reduce potential scour. The USFWS comment was taken into consideration in the final report by adding a description of the low flow channel option. The suggested design change will be further examined during the pre-construction engineering and design phase. During state and agency review, comments were received from the Environmental Protection Agency (EPA) and the Missouri Department of Transportation (MoDOT). EPA was critical of the integration of the project report and NEPA document. MoDOT asked for continued coordination with them on technical issues as design and construction progresses.

7. I concur in the findings, conclusion and recommendations of the reporting officers. Accordingly, I recommend that improvements for flood risk management for the Jordan Creek Flood Risk Management Project be authorized generally in accordance with the reporting officer's recommended plan at an estimated project first cost of $20,500,000. My recommendation is subject to cost sharing, financing and other applicable requirements of ederal and state laws and policies, including Public Law 99-662, the Water Resources Development Act of 1986, as amended, and in accordance with the following required items of cooperation that the non-federal sponsor shall, prior to project implementation, agree to perform.

a. Provide a minimum of 35 percent, but not to exceed 50 percent, of the total flood risk management costs as further specified below:

(1) Provide the required non-federal share of design costs allocated by the government to flood risk management in accordance with the terms of a design agreement entered into prior to commencement of design work for the flood risk management features;

(2) Provide, during construction, a contribution of funds equal to 5 percent of the total flood risk management costs;

(3) Provide all lands, easements and rights-of-way, including those required for relocations, the borrowing of material and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the government to be required or to be necessary for the construction, operation and maintenance of the flood risk management features;

(4) Provide, during construction, any additional funds necessary to make its total contribution for flood risk management equal to at least 35 percent of the total flood risk management costs;

DAEN
SUBJECT: Jordan Creek Flood Risk Management Study, Springfield, Missouri

b. Not use funds from other federal programs, including any non-federal contribution required as a matching share, to meet any of the non-federal obligations for the project unless the federal agency providing the federal portion of such funds verifies in writing that such funds are authorized to be used to carry out the project;

c. Not less than once each year, inform affected interests of the extent of protection afforded by the flood risk management features;

d. Agree to participate in and comply with applicable federal floodplain management and flood insurance programs;

e. Comply with Section 402 of WRDA 1986, as amended (33 U.S.C. 701b-12), which requires a non-federal interest to prepare a floodplain management plan within one year of the date of signing a project cooperation agreement, and to implement such plan not later than one year after completion of construction of the flood risk management features;

f. Publicize floodplain information in the area concerned, and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development, and to ensure compatibility with protection levels provided by the flood risk management features;

g. Prevent obstructions or encroachments on the project (including prescription and enforcement of regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements or rights-of-way, or the addition of facilities that might reduce the level of protection of the flood risk management features, hinder operation and maintenance of the project or interfere with the project's proper function;

h. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements and rights-of-way required for construction, operation and maintenance of the project, including those necessary for relocations, the borrowing of materials or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies and procedures in connection with said Act;

i. For so long as the project remains authorized, OMRR&R the project, or functional portions of the project, including any mitigation features, at no cost to the federal government, in a manner compatible with the project's authorized purposes and in accordance with applicable federal and state laws and regulations and any specific directions prescribed by the federal government;

j. Give the federal government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-federal sponsor owns or controls for access to the project for

DAEN
SUBJECT: Jordan Creek Flood Risk Management Study, Springfield, Missouri

the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating or replacing the project;

k. Hold and save the United States free from all damages arising from the OMRR&R of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors;

l. Keep and maintain books, records, documents or other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents or other evidence are required, to the extent, and in such detail, as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to state and local governments at 32 Code of Federal Regulations (CFR) Section 33.20;

m. Comply with all applicable federal and state laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable federal labor standards requirements including, but not limited to, 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.*);

n. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on or under lands, easements or rights-of-way that the federal government determines to be required for construction, operation and maintenance of the project. However, for lands that the federal government determines to be subject to the navigation servitude, only the federal government shall perform such investigations, unless the federal government provides the non-federal sponsors with prior specific written direction, in which case, the non-Federal sponsors shall perform such investigations in accordance with such written direction;

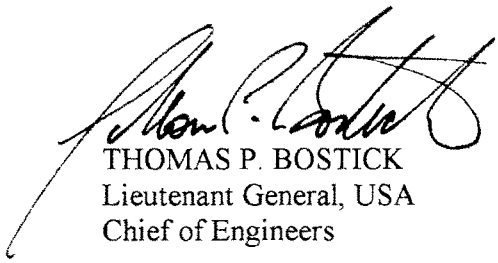
o. Assume, as between the federal government and the non-federal sponsors, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under the CERCLA that are located in, on or under lands, easements or rights-of-way that the federal government determines to be required for construction, operation and maintenance of the project;

DAEN
SUBJECT: Jordan Creek Flood Risk Management Study, Springfield, Missouri

p. Agree, as between the federal government and the non-federal sponsors, that the non-federal sponsors shall be considered the operators of the project for the purpose of CERCLA liability, and to the maximum extent practicable, OMRR&R the project in a manner that will not cause liability to arise under CERCLA; and

q. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the WRDA 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element.

8. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It neither reflects program and budgeting priorities inherent in the formulation of a national Civil Works construction program, nor the perspectives of higher review levels within the executive branch. Consequently, the recommendations may be modified before they are transmitted to the Congress as proposals for authorization and implementation funding. However, prior to transmittal to the Congress, the non-federal sponsor, the state, interested federal agencies and other parties will be advised of any modifications, and will be afforded an opportunity to comment further.



THOMAS P. BOSTICK
Lieutenant General, USA
Chief of Engineers

DEPARTMENT OF THE ARMY
CHIEF OF ENGINEERS
2600 ARMY PENTAGON
WASHINGTON, D.C. 20310-2600

SEP 25 2013

DAEN

SUBJECT: Orestimba Creek, West Stanislaus County, California

THE SECRETARY OF THE ARMY

1. I submit, for transmission to Congress, my report on the study of flood risk management along Orestimba Creek in the San Joaquin Basin near the City of Newman, California. It is accompanied by the report of the Sacramento District Engineer and the South Pacific Division Engineer. This report is a partial response to a Resolution by the Committee on Public Works of the House of Representatives, adopted 8 May 1964. This resolution requested a review of prior reports pertaining to the Sacramento-San Joaquin Basin, to determine whether any modifications of their recommendations are advisable, with particular reference to further coordinated development of water resources in the Basin. Preconstruction, engineering and design activities for the Orestimba Creek Flood Risk Management project will continue under the authority provided by the resolution cited above.

2. The reporting officers recommend authorization of a plan for flood risk management by construction of a levee along the City of Newman's northwestern perimeter, referred to as the Chevron Levee. The Chevron Levee maximizes benefits to the urban area by reducing flood damages associated with Orestimba Creek overflows. The north side of the Chevron Levee would be constructed along one mile of an unnamed farm road near Lundy Road about one mile north of town. The western segment would be about 4 miles of levee constructed along the eastern bank of an existing irrigation canal from the farm road south to the Newman Wasteway. The Chevron Levee would range in height from 5.5 to 10 feet, depending on the ground elevation changes along the levee alignment. The plan includes closure structures at four road crossings and one railroad crossing. Several non-structural features would be implemented by the non-federal sponsor to further reduce the consequences of flooding, manage the residual risk, and complement the recommended plan. These include development and implementation of an advanced warning system based on stream gauges at the points where the creek has historically overflowed its banks and placing informational warning signs along roads to alert drivers to the possibility of flooding in the area. This flood warning system would be combined with an emergency evacuation plan. A reverse 911 system would alert surrounding residents of the flood threat. The recommended plan is a Locally Preferred Plan (LPP) that includes the same elements as the National Economic Development (NED) Plan but raises the height of the Chevron Levee to include 3 feet of freeboard above the median 1/200 Average Chance Exceedance water surface elevation. This freeboard was requested by the non-federal sponsor in order to meet State of California requirements for an urban area which is identified as the 1/200 year median Water Surface Elevation plus 3 feet of freeboard. The estimated cost of the LPP is $45,333,000 which is $9,025,000 greater than the estimated cost of the NED Plan currently estimated to be $36,308,000.

DAEN
SUBJECT: Orestimba Creek, West Stanislaus County, California

3. The recommended LPP would reduce flood risk to the City of Newman. The proposed project would reduce Expected Annual Damages (EAD) within Newman by 94%, with a residual EAD of approximately $200,000. This residual EAD is a result of existing storm drainage flooding. Annual Exceedance Probabilities for flooding within Newman from Orestimba Creek, would be reduced from approximately 15% (1/15 chance of flooding in any given year) to less than 0.1%. The proposed project would have no significant long-term effects on environmental resources. In all cases, the potential adverse environmental effects would be reduced to a less than significant level through project design, construction practices, preconstruction surveys and analysis, regulatory requirements, and best management practices. No compensatory mitigation would be required. No jurisdictional wetlands were identified in the project footprint. Potential impacts to vegetation communities and special status species have been greatly reduced through feasibility level design. Direct impacts to nesting birds and other sensitive species would be avoided by implementing preconstruction surveys and scheduling of construction activities. The U.S. Fish & Wildlife Service has provided a biological opinion in which the agency had no recommendations for design refinement or mitigation. Impacts to agricultural land would be minimized by reducing the project footprint to the greatest extent practical.

4. Based on October 2013 price-levels, the estimated total first cost of the plan is $45,333,000. In accordance with the cost sharing provision of Section 103 of the Water Resources Development Act (WRDA) of 1986, as amended (33 U.S.C. 2213), the City of Newman as the non-federal cost-sharing sponsor is responsible for the additional cost of the LPP. The federal share of the estimated first cost of initial construction would remain the same for the NED Plan and the LPP, currently estimated at $23,681,750. The non-federal cost share increases from about $12,626,000 with the NED Plan to about $21,651,250 with the LPP. The cost of lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas is estimated at $10,159,000. The City of Newman, California, would be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction. Operation and maintenance is currently estimated at about $180,000 per year.

5. Based on a 3.75-percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $2,316,000, including OMRR&R. The selected plan is estimated to be 99.9 percent reliable in providing flood risk management for the City of Newman and vicinity, California, from a flood which has a one percent chance of occurrence in any year (100-year flood). The selected plan would reduce average annual flood damages by about 57 percent and would leave average annual residual damages estimated at $2,364,000. Average annual economic benefits are estimated to be $3,236,000; net average annual benefits are $920,000. The benefit-to-cost ratio is 1.4 to 1.

6. The goals and objectives included in the Campaign Plan of the U.S. Army Corps of Engineers have been fully integrated into the Orestimba Creek feasibility study process. The recommended plan has been designed to avoid or minimize environmental impacts, to reduce risk of loss of life which has occurred in recent floods and to reasonably maximize economic benefits to the community. The recommended plan allows for continued floodplain flooding while focusing the flood risk reduction on the established urban area. The Feasibility Study team organized and participated in stakeholder meetings and public workshops throughout the process and worked

DAEN
SUBJECT: Orestimba Creek, West Stanislaus County, California

with local groups to achieve a balance of project goals and public concerns. The study report fully describes flood risks associated with Orestimba Creek and risks that will not be reduced. The residual risks have been communicated to the City of Newman and they understand and agree with the analysis.

7. In accordance with the Corps guidance on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and rigorous review process to ensure technical quality. This included an Agency Technical Review (ATR), an Independent External Peer Review (IEPR) (Type I), and a Corps Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the final report. An IEPR was completed by Battelle Memorial Institute in October 2012. A total of fifteen (15) comments were documented. The IEPR comments identified significant concerns in areas of the plan formulation, engineering assumptions, and environmental analyses that needed improvements to support the decision-making process and plan selection. This resulted in expanded narratives throughout the report to support the decision-making process and justify the recommended plan. All comments from the above referenced reviews have been addressed and incorporated into the final documents. Overall the reviews resulted in improvements to the technical quality of the report. A safety assurance review (Type II IEPR) will be conducted during the design phase of the project.

8. Washington level review indicated that the project recommended by the reporting officers is technically sound, environmentally and socially acceptable, and economically justified. The plan complies with all essential elements of the 1983 U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies. The recommended plan complies with other administrative and legislative policies and guidelines. The views of interested parties, including federal, state and local agencies have been considered. No comments were received during state and agency review.

9. I concur with the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan to reduce flood damage along Orestimba Creek near the City of Newman, California, be authorized in accordance with the reporting officers' recommended plan at an estimated cost of $45,333,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of federal and state laws and policies, including Section 103 of WRDA 1986, as amended (33 U.S.C. 2213). The non-federal sponsor would provide the non-federal cost share and all Land, Easements, Rights-Of-Way, Relocation, and Disposal Areas (LERRD). Further, the non-federal sponsor would be responsible for all OMRR&R. This recommendation is subject to the non-federal sponsors agreeing to comply with all applicable federal laws and policies, including but not limited to:

a. Provide the non-federal share of total project costs, including a minimum of 35 percent but not to exceed 50 percent of total costs of the NED Plan, as further specified below:

1. Provide 35 percent of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

DAEN
SUBJECT: Orestimba Creek, West Stanislaus County, California

2. Provide, during construction, a contribution of funds equal to 5 percent of total costs of the NED Plan;

3. Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the government to be required or to be necessary for the construction, operation, and maintenance of the project;

4. Provide, during construction, any additional funds necessary to make its total contribution equal to at least 35 percent of total costs of the NED Plan;

b. Provide 100 percent of all incremental costs of the LPP.

c. Shall not use funds from other federal programs, including any non-federal contribution required as a matching share therefore, to meet any of the non-federal obligations for the project unless the federal agency providing the federal portion of such funds verifies in writing that expenditure of such funds for such purpose is authorized;

d. Not less than once each year, inform affected interests of the extent of protection afforded by the flood risk management features;

e. Agree to participate in and comply with applicable federal flood plain management and flood insurance programs;

f. Comply with Section 402 of WRDA 1986, as amended (33 U.S.C. 701b-12), which requires a non-federal interest to prepare a flood plain management plan within one year after the date of signing a project partnership agreement, and to implement such plan not later than one year after completion of construction of the project;

g. Publicize flood plain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with protection levels provided by the flood risk management features;

h. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the level of protection the project affords, hinder operation and maintenance of the project, or interfere with the project's proper function;

i. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

DAEN
SUBJECT: Orestimba Creek, West Stanislaus County, California

j. For so long as the project remains authorized, OMRR&R of the project, or functional portions of the project, including any mitigation features, at no cost to the federal government, in a manner compatible with the project's authorized purposes and in accordance with applicable federal and state laws and regulations and any specific directions prescribed by the federal government;

k. Give the federal government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project;

l. Hold and save the United States free from all damages arising from the construction, OMRR&R of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors;

m. Keep and maintain books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations (CFR) Section 33.20;

n. Comply with all applicable federal and state laws and regulations, including, but not limited to Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable federal labor standards requirements including, but not limited to, 40 U.S.C. 3141 - 3148 and 40 U.S.C. 3701 - 3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.*);

o. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the federal government determines to be required for construction, operation, and maintenance of the project. However, for lands that the federal government determines to be subject to the navigation servitude, only the federal government shall perform such investigations unless the federal government provides the non-federal sponsor with prior specific written direction, in which case the non-federal sponsor shall perform such investigations in accordance with such written direction;

p. Assume, as between the federal government and the non-federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that

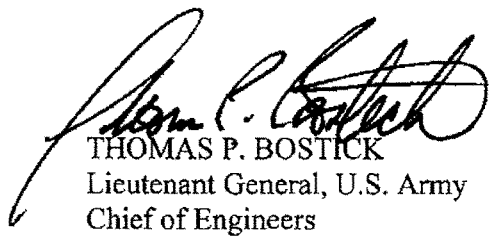
DAEN
SUBJECT: Orestimba Creek, West Stanislaus County, California

the federal government determines to be required for construction, operation, and maintenance of the project;

q. Agree, as between the federal government and the non-federal sponsor, that the non-federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, OMRR&R of the project in a manner that will not cause liability to arise under CERCLA; and

r. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the WRDA 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element.

10. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It neither reflects program and budgeting priorities inherent in the formulation of a national civil works construction program, nor the perspectives of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the sponsor, the state, interested federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.



THOMAS P. BOSTICK
Lieutenant General, U.S. Army
Chief of Engineers

DEPARTMENT OF THE ARMY
CHIEF OF ENGINEERS
2600 ARMY PENTAGON
WASHINGTON, DC 20310-2600

DAEN

MAR 12 2014

SUBJECT: Sutter Basin, California

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on flood risk management for the Sutter Basin, California. It is accompanied by the report of the district and the division engineers. This report was undertaken in partial response to the authority contained in Section 209 of the Flood Control Act of 1962, Public Law 87-874, 76 Stat. 1180, 1196, for the study of flood risk management and related water resources problems in the Sacramento River Basin, including the study area in Sutter and Butte Counties, California. The non-federal sponsors for this project are the state of California Department of Water Resources and the Sutter Butte Flood Control Agency. Pre-construction engineering and design activities for the Sutter Basin, California Flood Risk Management Project will continue under the authority cited above.

2. The reporting officers recommend authorizing a plan to reduce flood risk by strengthening approximately 41 miles of the existing Feather River West Levee from the Thermalito Afterbay to Laurel Avenue. The recommended plan would reduce adverse flooding effects, including risks to public and life safety, in the northern portion of the basin as well as in Yuba City. The primary method of strengthening the existing levee is the construction of soil-bentonite cutoff walls of various depths. Non-structural measures would be implemented in conjunction with the recommended plan. These measures include preparation of an emergency evacuation plan, identification of flood fight pre-staging areas, updates to the floodplain management plan, and flood risk awareness communication.

3. The recommended plan would reduce flood risk within the Sutter Basin. The proposed project would reduce Expected Annual Damages (EAD) within the Sutter Basin by 64 percent, with a residual EAD of approximately $50,000,000. This residual EAD is primarily a result of existing flooding from the lower end of the Feather River and the Sutter Bypass within the southern portion of the basin, which is largely agricultural land and rural homes. Residual flooding also exists for the entire basin in the form of Feather River levee overtopping from events less frequent than the 0.5 percent (1/200) Annual Chance Exceedance (ACE) event. Annual Exceedance Probabilities (AEP) for flooding within Sutter Basin's existing urban communities would be reduced from approximately 4 percent-8 percent (depending on location) to approximately 0.2 percent.

DAEN
SUBJECT: Sutter Basin, California

4. All consultations with the U.S. Fish and Wildlife Service and the U.S. National Marine Fisheries Service necessary for construction of the project have been completed, in order to mitigate for the detrimental effects of the flood risk management features of the recommended plan on fish and wildlife habitat. Environmental effects resulting from the construction of the recommended plan would cause some direct effects on riparian habitat and special status species habitats that cannot be avoided. The mitigation recommendations of the U.S. Fish and Wildlife Service (FWS) contained in the Final Fish and Wildlife Coordination Act Report are concurred in and are included in the recommended plan. The recommended plan includes a Fish and Wildlife Mitigation and Monitoring plan to compensate for adverse effects on fish and wildlife resources and to ensure the success of mitigation features. Other mitigation measures have been adopted to minimize the impact of construction on water quality, noise and vibration, and air quality. Endangered Species Act consultation with the FWS, in coordination with the non-federal sponsors, remains to be completed concerning the operations and maintenance of the project after construction, which is the responsibility of the non-federal sponsors under federal law. Cultural resource effects have been identified and coordinated with consideration of historical sites and structures in the Yuba City area and some prehistoric sites near the existing levee areas. The recommended plan would be in full compliance with the vegetation guidelines of Engineering Technical Letter 1110-2-571, Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams and Appurtenant Structures (Vegetation ETL) and maximum potential effects have been disclosed. During the preconstruction engineering and design (PED) phase, all options then available for compliance with the Vegetation ETL will be considered and consultation with resource agencies will be completed in coordination with the non-federal sponsors.

5. The first cost was estimated on the basis of October 2013 price levels and amounts to $688,930,000. Estimated average annual costs of $33,000,000 were based on a 3.50 percent discount rate, a period of analysis of 50 years, and construction ending in 2023. The cost of lands, easements, rights-of-way , relocations, and dredged or excavated material disposal areas (LERRD) is estimated at $141,005,000. The Sutter Butte Flood Control Agency would be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction, a cost currently estimated at about $454,000 per year, an increase of $22,000 over existing costs from existing OMRR&R commitments of the existing levee.

6. The recommended plan encompasses two separable elements: the National Economic Development (NED) Plan, which will be cost shared with the non-federal sponsors, and a Locally Preferred Plan (LPP) increment, which will be funded 100 percent by the non-federal sponsors. The cost of the NED Plan is estimated to be $391,840,000, with an estimated federal cost of $255,270,000 and an estimated non-federal cost of $136,570,000. The cost of the separable element constituting the LPP increment is estimated to be $297,090,000. Since the non-federal sponsors would be responsible for the extra cost of the LPP increment, the non-federal cost share will increase from an estimated $136,570,000 for the non-federal share of the

DAEN
SUBJECT: Sutter Basin, California

NED Plan to an estimated total non-federal cost of $433,660,000 for the entire recommended plan. The LPP increment reduces the vulnerability of a larger population that is economically disadvantaged including an elderly population with limited mobility that are subject to sudden and unpredictable failures with minimal warning time. The plan increment provides more evacuation routes relative to the NED Plan and improves the reliability of critical infrastructure exposed to the same flood risk while reducing substantial economic flood damages.

7. Local interests have completed construction of the Star Bend setback levee to replace a section of the right bank of the Feather River levee to address critical underseepage and flow constriction issues. Prior to initiation of construction, local interests requested and by letter dated June 10, 2009, the ASA(CW) approved Section 104 credit consideration for the levee construction. Construction of the setback levee was completed in 2010 at an estimated cost of $20,776,349. The locally constructed setback levee is compatible to the recommended plan as an acceptable substitute. The Section 104 approval will allow design and construction dollars invested by the local sponsor to be considered for use as credit towards meeting the non-federal cost-share requirements for the project recommended by this feasibility study, if authorized.

8. Based on a 3.50 percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $33,000,000, including OMRR&R and interest during construction. The selected plan is estimated to be 97 percent reliable in providing flood risk management from a flood which has a one percent chance of occurrence in any year (100-year flood) for the communities of Biggs, Gridley, Live Oak, Yuba City and rural Butte County while only 22 percent reliable in reducing those risks for rural Sutter County south of Yuba City. The recommended plan would reduce average annual flood damages by approximately 64 percent and would leave average annual residual damages estimated at $50,000,000. The population at risk within the 1 percent ACE floodplain for the No Action Alternative is 94,600. The recommended plan would reduce the population at risk to approximately 6,600. Average annual economic benefits are estimated to be $87,000,000; net average annual economic benefits are $54,000,000. The benefit-to-cost ratio is 2.6 to 1.

9. The recommended plan is similar to an alternative considered in the Final Environmental Impact Statement (FEIS), filed by U.S. Army Corps of Engineers (USACE) with the Environmental Protection Agency (EPA) on June 7, 2013, and Record of Decisions (dated July 19, 2013 and September 13, 2013) for Section 408 approval for the alteration of federal project levees under the Feather River West Levee Project (FRWLP). The Sutter Basin Flood Risk Management Project (SBFRMP) and FRWLP affect the same general area, have similar flood risk management objectives, and share potential measures and effects. As a consequence, National Environmental Policy Act compliance for the SBFRMP was accomplished by supplementation of the Section 408 FRWLP FEIS to address the environmental effects of the

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features of the SBFRMP that differ from the FRWLP. The Final Feasibility Report, Final Environmental Impact Statement, and Supplemental Environmental Impact Statement focuses on the additional effects that would result from the SBFRMP, incorporating by reference, where appropriate, information, analyses, and conclusions contained in the FRWLP FEIS.

10. The goals and objectives included in the Campaign Plan of the USACE have been fully integrated into the Sutter Basin Pilot Feasibility study process. The recommended plan has been designed to avoid or minimize environmental impacts while maximizing future safety and economic benefits to the community. The recommended plan uses environmentally sustainable design of fix-in-place levee construction that was in coordination with a local community coalition to integrate project objectives and public concerns.

11. In accordance with the Engineering Circular on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included an Agency Technical Review (ATR), an Independent External Peer Review (IEPR) (Type I), and USACE Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the final report. The IEPR was completed by Battelle Memorial Institute with all comments documented. The panel had 19 comments, one of which they considered significant, 15 were medium significance and 3 were low significance. The comments pertained to hydrology and hydraulic engineering, geotechnical engineering, civil engineering, economics and environmental concerns. In summary, the panel felt that the engineering, economics and environmental analysis were adequate and the additional sensitivity analysis and clarifications needed to be properly documented in the final report. The IEPR review comments resulted in no significant changes to the plan formulation, engineering assumptions, and environmental analyses that supported the decision-making process and plan selection. The final report/environmental impact statement also underwent state and agency review. The state and agency comments received during review of the final report/programmatic environmental impact statement provided no additional comments than those provided on the draft report that were incorporated into the final report. All comments from the above referenced reviews have been addressed and incorporated into the final documents as appropriate. Overall the reviews resulted in improvements to the technical quality of the report including the enhanced communication of risk and uncertainty. A safety assurance review (IEPR Type II) will be conducted during the design phase of the project.

12. Washington level review indicates that the project recommended by the reporting officers is technically sound, environmentally and socially acceptable, and economically justified. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land related resources implementation studies and complies with other administrative and legislative policies and guidelines. Also, the views of interested parties, including federal, state and local agencies have been considered.

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13. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan to reduce flood risk in the Sutter Basin area including Yuba City, California, be authorized in accordance with the reporting officers' recommended plan at an estimated cost of $688,930,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of federal and state laws and policies, including Section 103 of Water Resources Development Act of 1986, as amended (33 U.S.C. 2213). The non-federal sponsor would provide the non-federal cost share and all LERRDs. Further, the non-federal sponsor would be responsible for all OMRR&R. This recommendation is subject to the non-federal sponsors agreeing to comply with all applicable federal laws and policies, including but not limited to:

a. Provide the non-federal share of total project costs, including a minimum of 35 percent but not to exceed 50 percent of total costs of the NED Plan, as further specified below:

(1) Provide 35 percent of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

(2) Provide, during construction, a contribution of funds equal to 5 percent of total project costs;

(3) Provide all lands, easements, rights-of-way (LER), including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on LER to enable the disposal of dredged or excavated material all as determined by the government to be required or to be necessary for the construction, operation, and maintenance of the project;

(4) Provide, during construction, any additional funds necessary to make its total contribution equal to at least 35 percent of total costs of the NED Plan;

(5) Provide 100 percent of all costs of the LPP increment.

b. Shall not use funds from other federal programs, including any non-federal contribution required as a matching share, therefore, to meet any of the non-federal obligations for the project unless the federal agency providing the federal portion of such funds verifies in writing that expenditure of such funds for such purpose is authorized.

c. Not less than once each year, inform affected interests of the extent of protection afforded by the project.

d. Agree to participate in and comply with applicable federal flood plain management and flood insurance programs.

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e. Comply with Section 402 of the WRDA of 1986, as amended (33 U.S.C. 701b-12), which requires a non-federal interest to prepare a flood plain management plan within one year after the date of signing a project cooperation agreement, and to implement such plan not later than one year after completion of construction of the project.

f. Publicize flood plain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with protection levels provided by the project.

g. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project LER or the addition of facilities which might reduce the level of protection the project affords, hinder operation and maintenance of the project, or interfere with the project's proper function.

h. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 Code of Federal Regulations (CFR) Part 24, in acquiring LER required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

i. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, including any mitigation features, at no cost to the federal government, in a manner compatible with the project's authorized purposes and in accordance with applicable federal and state laws and regulations and any specific directions prescribed by the federal government.

j. Give the federal government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project.

k. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, rehabilitation, and replacement of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors.

l. Keep and maintain books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 CFR Section 33.20.

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m. Comply with all applicable federal and state laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable federal labor standards requirements including, but not limited to, 40 U.S.C. 3141 - 3148 and 40 U.S.C. 3701 - 3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.*).

n. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the federal government determines to be required for construction, operation, and maintenance of the project. However, for lands that the federal government determines to be subject to the navigation servitude, only the federal government shall perform such investigations unless the federal government provides the non-federal sponsor with prior specific written direction, in which case the non-federal sponsor shall perform such investigations in accordance with such written direction.

o. Assume, as between the federal government and the non-federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under LER that the federal government determines to be required for construction, operation, and maintenance of the project.

p. Agree, as between the federal government and the non-federal sponsor, that the non-federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA.

q. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the WRDA of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element.

14. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a

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proposal for authorization and implementation funding. However, prior to transmittal to Congress, the sponsor, the state, interested federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

THOMAS P. BOSTICK
Lieutenant General, USA
Chief of Engineers

DEPARTMENT OF THE ARMY
CHIEF OF ENGINEERS
2600 ARMYPENTAGON
WASHINGTON, D.C. 20310-2600

DAEN

11 APR 2014

SUBJECT: Truckee Meadows, Nevada

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on flood risk management for the Truckee Meadows area near the city of Reno, Nevada. It is accompanied by the report of the Sacramento District Engineer and the South Pacific Division Engineer. The Truckee Meadows Flood Control Project was authorized by Section 3(a) (10) of P.L. 100-676, the Water Resources Development Act (WRDA) of 1988. The Secretary of the Army received additional guidance regarding the preparation of the General Reevaluation Report (GRR) pursuant to the House Report 104-293 associated with P.L. 104-46, the Energy and Water Development Appropriations Act (EWDAA) of 1996, to consider additional flood protection along the Truckee River downstream of Reno as well as potential for environmental restoration along the Truckee River and tributaries in the Reno-Sparks area. Congress also gave direction as to the crediting of certain non-federal contributions in Section 113 of P.L. 109-103, the EWDAA of 2006.

2. The reporting officers recommend authorizing a plan to reduce flood risk by construction of floodwalls, levees, and floodplain terracing in the Truckee Meadows Reach and basic recreation features. The recommended plan includes approximately 9,650 linear feet of on-bank (6,500 feet) and in-channel (3,150 feet) floodwalls along the north bank and 31,000 linear feet of levees along the north and south banks in the Truckee Meadows Reach. The floodplain terracing feature involves excavating a benched area along portions of the south (right) bank of the Truckee River between Greg Street and McCarran Boulevard. Floodplain terracing would increase the flood flow channel capacity and thereby reduce water surface elevations in the Truckee Meadows area during a flood. The recommended plan for recreation consists of one small group picnic shelter; one medium group picnic shelter, with parking, playground, and restrooms; and 50 individual picnic areas located north of Mill Street between Greg Street and McCarran Boulevard. In addition, approximately 9,700 linear feet of paved trails and 8,900 linear feet of unpaved trails will be constructed linking the picnic areas with four kayak and canoe input areas and 13 fishing areas along the river. All recreation features would be located on lands required for flood risk management purposes. The estimated project first cost of the recommended plan is $280,820,000.

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3. The recommended plan would reduce flood risk to the Truckee Meadows area. The project would reduce Expected Annual Damages (EAD) within Truckee Meadows by approximately 40 percent ($24,880,000). The residual EAD ($36,601,000) would be caused by flooding from the Truckee River for infrequent flood events and flooding from small tributaries. Annual Exceedance Probabilities (AEP) for flooding within Truckee Meadows would be reduced from approximately 4-10 percent (depending on location) to approximately 1 percent. The project would increase the water surface elevations within the Truckee Meadows area along the downstream reaches of Steamboat Creek, Boynton Slough, and the North Truckee Drain by 4-8 inches for events between 2 percent and 1 percent Annual Chance Exceedance (ACE). The increased 1 percent ACE flood elevations would be inconsistent with National Flood Insurance Program (NFIP) regulatory requirements that prevent communities from allowing floodplain encroachments that would cause increased base flood elevations in areas with existing structures. Under U.S. Army Corps of Engineers (USACE) policy, compliance with the NFIP is a non-federal responsibility and compliance costs would be borne by non-federal interests. These estimated additional costs for NFIP regulatory compliance are identified as regulatory requirement costs which are not included as economic costs of the project. The recommended plan would cause temporary and permanent losses of riparian habitat from construction activities affecting about 28 acres of native riparian habitat. The recommended plan would convert about 66 acres of prime farmland for levee construction. The potential adverse environmental effects would be reduced to a less than significant level through project design, construction practices, preconstruction surveys and analysis, regulatory requirements, and best management practices. No compensatory mitigation would be required.

4. The project first cost was estimated on the basis of October 2013 price levels and amounts to $280,820,000. The federal portion of the estimated first cost is $181,652,000. The non-federal portion of the estimated first cost is $99,168,000 including $78,572, 000 for lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas (LERRD). The Truckee River Flood Management Authority would also be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project, a cost currently estimated at about $862,000 per year. The Authority is also responsible for the NFIP regulatory compliance requirements, currently estimated at $195,000,000. The NFIP regulatory compliance costs are not included in project first cost.

5. Based on a 3.5 percent discount rate and a 50-year period of analysis, the total equivalent average annual economic costs of the project (including OMRR&R) are estimated to be $11,823,000 ($11,211,000 for flood risk management and $612,000 for recreation). The recommended plan is estimated to be 95-99 percent reliable (depending on location) in providing flood risk management for the Truckee Meadows area, from a 2 percent ACE flood event. Total average annual economic benefits are estimated to be $25,505,000 ($24,880,000 for flood risk management and $625,000 for recreation); net average annual economic benefits are $13,682,000 ($13,669,000 for flood risk management and $13,000 for recreation). The overall benefit-to-cost ratio is 2.2 to 1 (1.0-to-1 for recreation).

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6. The goals and objectives included in the Campaign Plan of the USACE have been fully integrated into the Truckee Meadows study process. The recommended plan has been designed to avoid or minimize environmental impacts while maximizing future safety and economic benefits to the community. The recommended plan uses environmentally sustainable design including revegetation of floodplain terraces with native species. Environmental experts were consulted during the planning process, and coordination was conducted with a local community coalition to integrate project goals and public concerns.

7. An earlier USACE project, designated as the Truckee River and Tributaries Project, was authorized and constructed in this area pursuant to Section 203 of P.L. 83-780, the Flood Control Act (FCA) of 1954, and Section 203 of P.L. 87-874, the FCA of 1962. The reporting officers have recommended that the part of the existing Truckee River and Tributaries Project between Glendale Avenue and Vista be modified in accordance with the recommended plan for the Truckee Meadows Flood Control Project within that same reach. The Truckee River and Tributaries Project involved improvements at various reaches of the Truckee River between Lake Tahoe and Pyramid Lake. In the Truckee Meadows reach, maintained by the State of Nevada, the first project involved channel straightening and enlargement to provide a channel capacity of 6,000 cubic feet per second (cfs) of flow for flood risk management purposes. The proposed project will modify the Truckee River and Tributaries Project by increasing channel capacity, and by the placement of rip rap on banks and around bridge piers to avoid scouring. The operations and maintenance responsibility will be transferred from the State of Nevada to the present non-federal sponsor. This transfer of operations and maintenance responsibility for the Truckee River and Tributaries Project will ensure that the non-federal sponsor for the Truckee Meadows Flood Control Project has full and clear responsibility to the Department of the Army for OMRR&R of all federal flood risk management elements between Glendale Avenue and Vista. OMRR&R responsibilities for the parts of the Truckee River and Tributaries Project upstream of Glendale Avenue or downstream of Vista would not be changed by the recommended plan.

8. The reporting officers have further recommended additional studies to investigate further reduction of the residual flood risk to the Reno-Sparks area and/or ecosystem restoration opportunities along the Truckee River. Such studies could be part of a future comprehensive investigation of the Truckee River watershed, or a portion thereof. The previously authorized purpose of fish and wildlife enhancement (i.e., ecosystem restoration) may be retained for the Truckee Meadows Flood Control Project for potential future implementation.

9. In accordance with the Engineer Circular 1165-2-214, entitled "Civil Works Review", all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included an Agency Technical Review (ATR), an Independent External Peer Review (IEPR) (Type I), and a USACE Headquarters policy and legal review. ATR concerns have been addressed and incorporated into the final report. The IEPR was completed by Battelle Memorial Institute. A total of 58 comments were documented. The IEPR comments identified significant concerns in areas of the explanation of the plan

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formulation, hydraulic analysis, and environmental analyses. This resulted in expanded narratives throughout the report to support the decision-making process and justify the recommended plan. All comments from the above referenced reviews have been addressed and incorporated into the final documents. Overall the reviews resulted in improvements to the technical quality of the report. A safety assurance review (IEPR Type II) will be conducted during the design phase of the project.

10. The final GRR and EIS were published for State and Agency Review on 17 January 2014. Comments from other federal agencies generally requested minor clarifications and encouraged further cooperation through the project life. Two more extensive comment letters were received from the Pyramid Lake Paiute Tribe (PLPT) and Reno-Sparks Indian Colony (RSIC). The PLPT expressed concerns relating to tribal coordination and consultation, potential downstream impacts and impacts to the delta at Pyramid Lake, and cumulative impacts of other flood control projects. The PLPT also requested that ecosystem restoration work be included in this project. USACE responded to PLPT with commitments for further coordination and clarification on modeling analyses. Additional studies to investigate further ecosystem restoration opportunities are recommended in the report by the reporting officers. The RSIC letter expressed continued concern with not being a signatory to the Programmatic Agreement (PA) per Section 106 of the National Historic Preservation Act. The RSIC also requested revisions to the final EIS relating to Tribal claims, traditional cultural property (TCP) identification, and provision of funding for tribal monitors during construction. In the response letter sent to the RSIC, USACE committed to including RSIC as a signatory party to the PA and to abide by the stipulations of the PA, which will govern future activities to determine the presence of historic properties, including TCPs, and potential effects of the project.

11. Washington level review indicates that the project recommended by the reporting officers is technically sound, environmentally and socially acceptable, and economically justified. The plan complies with all essential elements of the 1983 U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies and complies with other administrative and legislative policies and guidelines. Also the views of interested parties, including federal, state and local agencies have been considered.

12. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan to reduce flood damage in the Truckee Meadows area near the City of Reno, Nevada, be authorized in accordance with the reporting officers' recommended plan at an estimated cost of $280,820,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of federal laws and policies, including Section 103 of P.L. 99-662, WRDA 1986, as amended (33 U.S.C. 2213). These requirements include, but are not limited to, the following items of local cooperation from the non-federal sponsor:

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a. Provide a minimum of 35 percent, but not to exceed 50 percent, of total flood risk management costs and 50 percent of total recreation costs as further specified below:

(1) Provide, during design, 35 percent of design costs allocated to flood risk management and 50 percent of design costs allocated to recreation.

(2) Pay, during the first year of construction, funds so its contribution equals 35 percent of the costs of the reevaluation report for the project.

(3) Pay, during construction, 5 percent of total flood risk management costs.

(4) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material, and perform or ensure the performance of all relocations, as determined by the government to be required for the construction, operation, and maintenance of the project.

(5) During construction, pay any additional funds necessary to make its total contribution equal to at least 35 percent of total flood risk management costs and 50 percent of total recreation costs.

b. Provide, during construction, 100 percent of the total recreation costs that exceed 10 percent of the federal share of total flood risk management costs.

c. Inform affected interests, at least yearly, of the extent of protection afforded by the flood risk management features; participate in and comply with applicable federal floodplain management and flood insurance programs; comply with Section 402 of P.L. 99-662, the WRDA of 1986, as amended (33 U.S.C. 701b-12); and publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with protection levels provided by the flood risk management features.

d. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the level of protection the flood risk management features afford, hinder operation and maintenance of the project, or interfere with the project's proper function.

e. Keep the recreation features, and access roads, parking areas, and other associated public use facilities, open and available to all on equal terms.

f. Operate, maintain, repair, rehabilitate, and replace the project, at no cost to the federal government, in a manner compatible with the project's authorized purposes and in accordance

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with applicable federal and state laws and regulations and any specific directions prescribed by the federal government.

g. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, rehabilitation, and replacement of the project, except for damages due to the fault or negligence of the United States or its contractors.

h. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), P.L. 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the federal government determines to be required for construction, operation, and maintenance of the project.

i. Assume, as between the federal government and the non-federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way required for construction, operation, and maintenance of the project.

j. Agree, as between the federal government and the non-federal sponsor, that the non-federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA.

13. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the sponsor, the state, interested federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

THOMAS P. BOSTICK
Lieutenant General, USA
Chief of Engineers

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
441 G Street N.W.
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

SEP 28 2009

CECW-SAD (1105-2-10a)

SUBJECT: West Onslow Beach and New River Inlet (Topsail Beach), North Carolina

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on hurricane and storm damage reduction along a 5-mile reach of Atlantic Ocean shoreline at Topsail Beach, North Carolina. It is accompanied by the report of the district and division engineers. These reports are in final response to the Energy and Water Development Appropriations Act for Fiscal Year 2001, Public Law 106-377, which included funds for the U.S. Army Corps of Engineers to initiate a General Reevaluation Report (GRR) of the West Onslow Beach and New River Inlet (Topsail Beach) Shore Protection Project, and the remaining shoreline at Topsail Beach. The original project was authorized in Section 101(15) of the Water Resources Development Act (WRDA) of 1992 at a total cost of $14,100,000, with an estimated Federal cost of $7,600,000, and an estimated non-Federal cost of $6,500,000. The authorized project was never constructed. Several recent coastal storms and hurricanes along many portions of North Carolina's shoreline and increasing threats to existing and new development within the Town of Topsail Beach led to initiation of this post-authorization investigation. Preconstruction engineering and design activities for Topsail Beach will be continued under the authorities above.

2. The reporting officers recommend a new authorization for a locally preferred plan (LPP) to reduce hurricane and storm damages by construction of a sand dune and berm along the Topsail Beach shoreline. The recommended plan includes a 26,200-foot long dune and berm system to be constructed to an elevation of 12 feet National Geodetic Vertical Datum (NGVD) fronted by a 50-foot wide berm at an elevation of 7-foot NGVD, with a main fill length of 23,200 feet and a 2,000-foot transition length on the north end into the Town of Surf City and a 1,000-foot transition on the south end. The recommended plan also includes periodic nourishment at four-year intervals. Other associated features of the project are dune vegetation and construction of 23 dune walkover structures for public access. The estimated in-place volume of fill for the initial project construction is 2,387,000 cubic yards, which does not include placement of 690,000 cubic yards for the first nourishment. Fill material for the sand dune and berm construction and nourishment will be dredged from offshore borrow sites identified off the coast of Topsail Beach. The recommended plan also includes post-construction monitoring over the life of the project to ensure project performance. Since the recommended plan does not have any significant adverse effects, no mitigation measures (beyond management practices and avoidance) or compensation measures are required. Compared to the National Economic Development (NED) Plan, the LPP has a dune three feet lower and extends the main fill protection 400-feet southwest to include properties south of Godwin Avenue that are vulnerable

to coastal storm damage. The Assistant Secretary of the Army (Civil Works) approved a policy exception allowing the Corps of Engineers to recommend the LPP by letter dated May 8, 2008. The 400-foot project extension costs an additional $320,000, and is not economically justified. The extension will therefore be funded entirely by the non-Federal sponsor. All features are located in North Carolina.

3. Based on October 2008 price levels the estimated total first cost of the NED plan is $50,332,000, of which $32,712,000 (65 percent) is Federal and $17,620,000 (35 percent) is non-Federal. The estimated first cost of the LPP is $37,712,000. The total initial cost of the recommended plan, including sunk preconstruction engineering and design (PED) costs from project authorization in 1992 through completion of this GRR and Environmental Impact Statement (EIS), is $42,558,000. These sunk PED costs include initial project PED costs of $616,000 and the GRR and EIS cost of $4,230,000, for a total of $4,846,000. The sunk PED costs for the original project are cost shared 75 percent Federal and 25 percent non-Federal and the expanded portion of the project is cost shared 50 percent Federal and 50 percent non-Federal. The total initial project construction cost is composed of both the total first cost of the LPP plus sunk PED costs. Cost sharing for the construction of the project is applied in accordance with the provisions of Section 103 of WRDA 1986, as amended by Section 215 of WRDA 1999. The Federal share of the total cost for the LPP is estimated to be $27,455,000 and the non-Federal share is estimated to be $15,103,000, but will be based upon conditions of public ownership and use of the shore when the Project Partnership Agreement is signed. The non-Federal share includes $320,000 for the incremental cost of the 400-foot berm and dune extension. The estimated cost of lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas (LERRD) is $ 1,654,000, of which $1,481,000 is estimated to be creditable to the non-Federal sponsor's share.

4. Total periodic nourishment costs for the LPP are estimated to be $113,904,000 (October 2008 price level) over the 50-year period following initiation of construction. These costs are based on an estimated cost for each periodic nourishment of $9,492,000 occurring at four year intervals subsequent to completion of the initial construction (year zero) and include engineering and design and monitoring. The ultimate project cost, which includes initial construction, project monitoring, and periodic nourishment is estimated to be $170,032,000 (October 2008 price level). The equivalent annual cost of periodic nourishment is estimated to be $2,190,000, based on a Federal discount rate of 4.625 percent and a 50-year period of analysis. Based on WRDA 1996, as amended, subject to the availability of funds, periodic nourishment is cost-shared 50 percent Federal and 50 percent non-Federal, based upon conditions of public ownership and use of the shore. The Federal share of each periodic nourishment cost is estimated to be $4,746,000 (50 percent) and the non-Federal share is estimated to be $4,746,000 (50 percent). The project includes beach fill and environmental monitoring costs estimated at $269,000. Annual beach fill monitoring includes semi-annual beach profile surveys ($137,000), annual hydrographic surveys of New Topsail Inlet ($6,000), annual aerial photography of the inlet and beach (cost included in inlet hydrographic survey), an annual monitoring report ($93,000), and monitoring program coordination ($15,000). Annual environmental monitoring includes sea turtle nesting ($17,000) and sea beach amaranth surveys ($1,000), and a one-time cost for benthic invertebrate monitoring ($120,000). The estimated Federal share of annual monitoring costs is $134,500 (50 percent) and the estimated non-Federal share is $134,500 (50 percent). The estimated

Federal share of the one-time benthic invertebrate monitoring is $60,000 (50 percent) and the estimated non-Federal share is $60,000 (50 percent). The Town of Topsail Beach is the non-Federal cost-sharing sponsor for all features and is responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction, a cost currently estimated at about $22,000 per year.

5. Based on a 4.625-percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $4,450,000, including monitoring and OMRR&R. The equivalent average annual benefits are estimated to be $13,328,000 with net average annual benefits of $8,878,000. The benefit-cost ratio is three to one.

6. The goals and objectives included in the Campaign Plan of the U.S. Army Corps of Engineers have been fully integrated into the Topsail Beach study process. From inception, the district has implemented an effective comprehensive systems approach with full stakeholder participation. The study included an integrated analysis of the Topsail Beach shoreline system and cumulative environmental effects. A statistical, risk based model was used to formulate and evaluate the project. The study report describes risks associated with residual coastal storm damages and risks that will not be reduced such as sound side flooding and wind damages. Loss of life is prevented by the existing procedure of evacuating the barrier island completely well before expected hurricane landfall, removing people from harm's way. The study recommends continuation of the evacuation policy both with and without the project. The selected plan would reduce average annual coastal storm damages by about 84 percent and would leave average annual residual damages estimated at $1,543,000. Additional institutional nonstructural measures to be implemented by the local government are contained in the study report recommendation. The project contains adaptive management measures through the development of borrow area contingency plans to be applied during construction and by an annual project monitoring program to reevaluate and adjust the periodic renourishment actions. The project monitoring program will be a useful research tool for other beach and shoreline studies.

7. I concur with the findings, conclusions, and recommendations of the reporting officers. The plan developed is technically sound, economically justified, and environmentally and socially acceptable. The plan conforms to essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies and complies with other administrative and legislative policies and guidelines. Also, the views of interested parties, including Federal, State, and local agencies have been considered. Substantive comments concerned borrow material compatibility, potential existence of near shore hard bottom areas, and avoiding impacts to sea turtles and piping plover. The comments resulted in some changes to the text of the GRR and EIS, but did not change the design of the recommended plan. Independent external peer review (IEPR) was not undertaken for this project, since it was not considered to be unusually complex, novel approaches or methods were not employed, there is no significant threat to public safety from project failure, and it was not controversial. Additionally, the project did not generate significant interagency interest, and only negligible adverse impacts would result.

8. Accordingly, I recommend that the plan to reduce hurricane and storm damages at Topsail Beach, North Carolina be authorized in accordance with the reporting officers' recommended

plan at an October 2008 estimated cost of $42,558,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 103 of WRDA 1986, as amended by Section 215 of WRDA 1999. The non-Federal sponsor would provide the non-Federal cost share and all LERRD. Further, the non-Federal sponsor would be responsible for all OMRR&R. This recommendation is subject to the non-Federal sponsors agreeing to comply with all applicable Federal laws and policies.

9. I further recommend that construction of the proposed project be contingent on the project sponsor giving written assurances satisfactory to the Secretary of the Army that it will:

a. Provide 35 percent of initial construction costs assigned to hurricane and storm damage reduction plus 100 percent of initial construction costs assigned to protecting privately owned shores where use is limited to private interests, and as further specified below:

1. Provide 25 percent of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

2. Provide, during the first year of construction, any additional funds necessary to pay the full non-Federal share of design costs;

3. Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of the project; and

4. Provide, during initial construction, any additional funds necessary to make its total contribution equal to 35 percent of project costs assigned to hurricane and storm damage reduction plus 100 percent of costs assigned to protecting privately owned shores where use is limited to private interests.

b. Provide during the periodic nourishment period, 50 percent of periodic nourishment costs and 50 percent of monitoring costs assigned to hurricane and storm damage reduction plus 100 percent of periodic nourishment costs and 100 percent of monitoring assigned to protecting privately owned shores where use is limited to private interests.

c. Shall not use funds from other Federal programs, including any non-Federal contribution required as a matching share therefore, to meet any of the non-Federal obligations for the project unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is authorized;

d. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the outputs produced by the project, hinder operation and maintenance of the project, or interfere with the project's proper function;

e. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

f. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, including any mitigation features, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

g. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project;

h. Hold and save the United States free from all damages arising from the construction, periodic nourishment, operation, maintenance, repair, rehabilitation, and replacement of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors;

i. Keep and maintain books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations (CFR) Section 33.20;

j. Comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.*);

k. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such

investigations unless the Federal Government provides the non-Federal sponsor with prior specific written direction, in which case the non-Federal sponsor shall perform such investigations in accordance with such written direction;

l. Assume, as between the Federal Government and the non-Federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project;

m. Agree, as between the Federal Government and the non-Federal sponsor, that the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA;

n. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element;

o. Not less than once each year, inform affected interests of the extent of protection afforded by the project;

p. Agree to participate in and comply with applicable Federal floodplain management and flood insurance programs;

q. Comply with Section 402 of the Water Resources Development Act of 1986, as amended, (33 U.S.C. 701b-12) , which requires a non-Federal interest to prepare a floodplain management plan within one year from signing a project partnership agreement., and to implement such plan not later than one year after completion of construction of the project;

r. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with protection levels provided by the project;

s. For so long as the project remains authorized, the non-Federal Sponsor shall ensure continued conditions of public ownership, access, and use of the shore upon which the amount of Federal participation is based;

t. Provide and maintain necessary access roads, parking areas, and other public use facilities , open and available to all on equal terms; and

u. At least twice annually at no cost to the Federal Government, perform surveillance of the beach to determine losses of nourishment material from the project design section and provide the results of such surveillance to the Federal Government.

10. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the sponsor, the State of North Carolina, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

Yr,

R. L. VAN ANTWERP
Lieutenant General, US Army
Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CECW-SAD (1105-2-10a)

DEC 30 2010

SUBJECT: Surf City and North Topsail Beach, North Carolina Coastal Storm Damage Reduction Report

THE SECRETARY OF THE ARMY

1. I submit for transmission my report on coastal storm damage reduction along the Atlantic Ocean shoreline of the towns of Surf City and North Topsail Beach, North Carolina. It is accompanied by the report of the district and division engineers. These reports are in response to two resolutions by the Committee on Transportation and Infrastructure of the House of Representatives, adopted on February 16, 2000 and April 11, 2000. The resolutions requested a review of the report of the Chief of Engineers on West Onslow Beach and New River Inlet, North Carolina, and other pertinent reports, to determine whether any modifications of the recommendations contained therein are advisable at the present time in the interest of shore protection and related purposes for Surf City and North Topsail Beach, North Carolina. Preconstruction engineering and design activities for this project will be continued under the authority provided by the resolutions cited above.

2. The reporting officers recommend authorization for a plan to reduce coastal storm damages by construction of a berm and dune along the Surf City and North Topsail Beach shorelines. The recommended plan includes a 52,150-foot long dune and berm system to be constructed to an elevation of 15 feet National Geodetic Vertical Datum (NGVD) fronted by a seven-foot NGVD (50-foot wide) beach berm with a main fill length of 52,150 feet, extending from the boundary between Topsail Beach and Surf City to the southern edge of the Coastal Barrier Resources Act (CBRA) Zone in North Topsail Beach. The recommended plan also includes renourishment at six-year intervals. Other associated features of the project are dune vegetation and construction of 60 dune walkover structures. Material for the dune and berm construction and renourishment will be dredged from borrow sites identified between one to six miles off the coast of Topsail Island. The recommended plan also includes post-construction monitoring over the period of Federal participation to ensure project performance and adjust renourishment plans as needed. Since the recommended plan would not have any significant adverse effects, no mitigation measures (beyond management practices and avoidance) or compensation measures would be required. The recommended plan is the National Economic Development (NED) Plan for coastal storm damage reduction.

3. The Towns of Surf City and North Topsail Beach are the non-Federal cost-sharing sponsors for all features. Based on October 2010 price levels the estimated total first cost of the plan is

$123,135,000. Renourishment is planned at six-year intervals. There will be seven renourishments with a total cost estimated at October 2010 price levels to be $205,539,000. The ultimate project cost, which includes initial construction, monitoring, and periodic renourishment is estimated to be $353,924,000. Cost sharing is applied in accordance with the provisions of Section 103 of the Water Resources Development Act (WRDA) of 1986, as amended by Section 215 of WRDA 1999. Additional access points and nearby public parking will be necessary to meet the requirements for federal cost sharing; the sponsors anticipate no obstacles to develop such additional access and parking. The Federal and non-Federal shares shown below reflect anticipated development and satisfaction of access and parking requirements, but the final cost-share amounts will be based upon the conditions of public access, parking, development and use of the shore at the time when the Project Partnership Agreement (PPA) is signed.

a. The Federal share of the total first cost would be about $80,038,000 (65 percent) and the non-Federal share would be about $43,097,000 (35 percent).

b. The cost of lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas (LERRD) is estimated at $4,814,000, all of which is eligible for LERRD credit.

c. The Federal share of the total renourishment cost would be about $102,769,500 (50 percent) and the non-Federal share would be about $102,769,500 (50 percent).

4. Based on a 4.125 percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $10,702,000, including monitoring and OMRR&R. All project costs are allocated to the authorized purpose of coastal storm damage reduction. The equivalent average annual benefits, which include recreation benefits, are estimated to be $40,129,000 with net average annual benefits of $29,427,000. The benefit cost ratio is approximately 3.7 to 1.

5. The goals and objectives included in the Campaign Plan of the U.S. Army Corps of Engineers have been fully integrated into the Surf City and North Topsail Beach study process. The project contains adaptive management measures through an annual project monitoring program in order to be able to reevaluate and adjust the periodic renourishment actions. The study was conducted using a systems perspective that considered the effects of other Federal (West Onslow and New River Inlet [Topsail Beach] Coastal Storm Damage Reduction study, New River and New Topsail Inlet Navigation features) and non-Federal projects in the area, particularly as related to borrow volume availability. A statistical, risk based model was used to formulate and evaluate the project. The study report fully describes risks associated with residual coastal storm damages and risks that will not be reduced, such as sound side flooding and wind damages. The project is intended to address erosion and prevent damages to structures and contents; it is not intended to

nor will it reduce the risk to loss of life during major storm events. Loss of life can only be prevented by the existing procedure of evacuating the barrier island completely well before expected hurricane landfall, thus removing people from harm's way. This study recommends continuation of the evacuation policy both with and without the project. Additional institutional nonstructural measures to be implemented by the local governments are contained in the study report recommendation. The selected plan would reduce average annual coastal storm damages by about 88 percent and would leave average annual damages estimated at $2,241,000. These residual risks have been communicated to both the Towns of Surf City and North Topsail Beach.

6. In accordance with the Corps Engineering Circular EC 1165-2-211 on sea level change, the study performed a sensitivity analysis to look at the economic effects that different rates of accelerated sea level rise could have on the recommended plan. The plan was formulated using a historical or low rate of sea level rise, and the sensitivity analysis used additional accelerated rates, which includes what the EC defines as medium and high rates. The sensitivity analysis indicates that at higher rates of sea level rise, the project costs increase; the project benefits however, increase even more.

7. In accordance with the Corps Engineering Circular EC 1165-2-209 on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included an independent Agency Technical Review (ATR) and an Independent External Peer Review (IEPR). The IEPR was managed by an outside eligible organization (Battelle) that assembled a panel of five experts with combined expertise in the fields of geotechnical and coastal engineering, plan formulation, environment/biology, economics, and recreation analysis. Ultimately, the panel identified and documented sixteen comments. Eight of the panel comments were classified as having high significance. These comments raised questions regarding various aspects of the coastal and non-structural analysis in the report, the availability of sufficient borrow material for the life of the project, and the methods used to determine property values in the economic analysis. Based on these comments, the report's coastal appendix was greatly expanded. To address the concern regarding borrow volume availability, additional analysis was conducted and the discussion in the report regarding risks and uncertainty in borrow availability was expanded. Also information regarding the economic feasibility of obtaining additional borrow material if the currently identified borrow sites were to be depleted in the latter years of the project was added. The panel did not concur with this last response and maintained that the plan formulation should still have been constrained by borrow availability due to uncertainty. I have considered the borrow availability issue and concluded it has been appropriately addressed in the project's risk management plan through the identification of additional sites with similar borrow cost and volume to mitigate the uncertainty. Even though uncertainty remains regarding utilization of specific borrow sites, the recommendation is viable and economically justifiable. Overall the reviews have resulted in the improvement of the technical quality of the report including the enhanced communication of risk and uncertainty.

CECW-SAD (1105-2-10a)
SUBJECT: Surf City and North Topsail Beach, North Carolina Coastal Storm Damage Reduction Report

8. The United States Army Corps of Engineers Headquarters review indicates that the project recommended by the reporting officers is technically sound, environmentally and socially acceptable, and economically justified. The goal to reduce loss of life is incorporated into this project but it is a shared responsibility that can never be completely mitigated by structural solutions. Discussion in the report emphasizes that residual risk will remain after this project is executed; it also, emphasizes the roles of all partners in addressing and communicating residual risk to the public, including the need for a well coordinated hurricane storm warning and evacuation plan. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources implementation studies and complies with other administrative and legislative policies and guidelines.

9. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan to reduce coastal storm damages for Surf City and North Topsail Beach, North Carolina be authorized in accordance with the reporting officers recommended plan at an October 2010 estimated initial cost of $123,135,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 103 of the Water Resources Development Act (WRDA) of 1986, as amended by Section 215 of WRDA 1999. The non-Federal sponsors would provide the non-Federal cost share and all LERRD. Further, the non-Federal sponsors would be responsible for all Operation and Maintenance, Repair, Replacement and Rehabilitation (OMRR&R). This recommendation is subject to the non-Federal sponsors agreeing to comply with all applicable Federal laws and policies and in accordance with the required items of cooperation, and agreeing prior to project implementation, to perform as follows:

a. Provide 35 percent of initial project costs assigned to coastal storm damage reduction, plus 50 percent of initial project costs assigned to reducing damages to undeveloped public lands, plus 50 percent of initial project costs assigned to recreation, plus 100 percent of initial project costs assigned to reducing damages to undeveloped private lands and other private shores that do not provide public benefits; and 50 percent of periodic nourishment costs assigned to hurricane and storm damage reduction, plus 100 percent of periodic nourishment costs assigned to reducing damages to undeveloped private lands and other private shores that do not provide public benefits and as further specified below:

(1) Provide 25 percent of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for the project.

(2) Provide, during the first year of construction, any additional funds needed to cover the non-Federal share of design costs.

(3) Provide all lands, easements, and rights-of-way, and perform or ensure the performance of all relocations determined by the Federal Government to be necessary for the initial construction, periodic nourishment, operation, and maintenance of the project.

(4) Provide, during construction, any additional amounts as are necessary to make it total contribution equal to 35 percent of initial project costs assigned to coastal storm damage reduction, plus 50 percent of initial project costs assigned to reducing damages to undeveloped public lands, plus 50 percent of initial project costs assigned to recreation, plus 100 percent of initial project costs assigned to reducing damages to undeveloped private lands and other private shores that do not provide public benefits; and 50 percent of periodic nourishment costs assigned to hurricane and storm damage reduction, plus 100 percent of periodic nourishment costs assigned to reducing damages to undeveloped private lands and other private shores that do not provide public benefits.

b. Operate, maintain, repair, rehabilitate and replace the completed project, or functional portion of the project, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government.

c. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, on property that the non-Federal sponsors, now or hereafter, owns or controls for access to the project for the purpose of inspecting, operating, maintaining, repairing, replacing, rehabilitating, or completing the project. OMRR&R by the Federal Government will not relieve the non-Federal sponsors of responsibility to meet the non-Federal sponsors' obligations, or to preclude the Federal Government from pursuing any other remedy at law or equity to ensure faithful performance.

d. Hold and save the United States free from all damages arising from the initial construction, periodic nourishment, OMRR&R of the project and any project related betterments, except for damages due to the fault or negligence of the United States or its contractors.

e. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of three years after completion of the accounting for which such books, records, documents, and other evidence is required, to the extent and in such detail as will properly reflect total costs of construction of the project, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 CFR 33.20.

f. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), P.L. 96-510, as amended, 42 U.S.C. 9601–9675, that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for the initial construction, periodic nourishment, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government will perform such investigations unless the Federal Government provides the non-Federal sponsors with prior specific written direction, in which case, the non-Federal sponsors will perform such investigations in accordance with such written direction.

g. Assume, as between the Federal Government and the non-Federal sponsors, complete financial responsibility for all necessary cleanup and response costs of any CERCLA-regulated materials in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be necessary for the initial construction, periodic nourishment, operation, or maintenance of the project.

h. Agree that, as between the Federal Government and the non-Federal sponsors, the non-Federal sponsor will be considered the operators of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, and repair the project in a manner that will not cause liability to arise under CERCLA.

i. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, as amended by (42 U.S.C. 4601–4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way required for the initial construction, periodic nourishment, operation, and maintenance of the project, including those necessary for relocations, borrow materials, and dredged or excavated material disposal, and inform all affected persons of applicable benefits, policies, and procedures in connection with that Act.

j. Comply with all applicable Federal and State laws and regulations, including section 601 of the Civil Rights Act of 1964, P.L. 88-352 (42 U.S.C. 2000d), Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, titled *Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army*, and all applicable Federal labor standards and requirements, including, 40 U.S.C. 3141–3148 and 40 U.S.C. 3701–3708 (revising, codifying, and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.*).

k. Comply with section 402 of the WRDA of 1986, as amended (33 U.S.C. 701b-12), which requires the non-Federal interest to participate in and comply with applicable Federal floodplain management and flood insurance programs, prepare a floodplain management plan within one year after the date of signing a PPA, and implement the plan no later than one year after project construction is complete.

l. Provide the non-Federal share of that portion of the costs of data recovery activities associated with historic preservation, that are in excess of 1 percent of the total amount authorized to be appropriated for the project, in accordance with the cost-sharing provisions of the agreement.

m. Participate in and comply with applicable Federal floodplain management and flood insurance programs.

n. Do not use Federal funds to meet the non-Federal sponsors' share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is authorized.

o. Prevent obstructions of or encroachment on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments), which might reduce the level of damage reduction it affords, hinder operation and maintenance or future periodic nourishment, or interfere with its proper function, such as any new developments on project lands or the addition of facilities that would degrade the benefits of the project.

p. Not less than once each year, inform affected interests of the extent of damage reduction afforded by the project.

q. Publicize floodplain information in the area concerned and provide such information to zoning and other regulatory agencies for their use in preventing unwise future development in the floodplain and in adopting such regulations as might be necessary to prevent unwise future development and to ensure compatibility with damage reduction levels provided by the project.

r. For so long as the project remains authorized, the non-Federal sponsors must ensure continued conditions of public ownership, access, and use of the shore on which the amount of Federal participation is based.

s. Provide and maintain necessary access roads, parking areas, and other public use facilities, open and available to all on equal terms.

CECW-SAD (1105-2-10a)
SUBJECT: Surf City and North Topsail Beach, North Carolina Coastal Storm Damage Reduction Report

t. At least twice annually and after storm events, perform surveillance of the beach to determine losses of nourishment material from the project design section and provide the results of such surveillance to the Federal Government.

u. Comply with section 221 of P.L. 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and section 103(j) of the WRDA of 1986, P.L. 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army must not commence the construction of any water resources project or separable element thereof, until the non-Federal interests have entered into a written agreement to furnish its required cooperation for the project or separable element.

10. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the sponsors, the State, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

R. L. VAN ANTWERP
Lieutenant General, US Army
Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CEMP-SPD (1105-2-10a) APR 15 2012

SUBJECT: San Clemente Shoreline, Orange County, California

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on coastal storm damage reduction along the Pacific Ocean shoreline in San Clemente, California. It is accompanied by the report of the Los Angeles District Engineer and the South Pacific Division Engineer. These reports are in partial response to the authority contained in Section 208 of the Flood Control Act of 1965 (Title II of P.L. 89-298), which provides for studies to determine the advisability of protection work against storm and tidal waves along the coasts of Washington, Oregon, and California. The Energy and Water Development Appropriations Act of 2000, P.L. 106-60, appropriated the funds for a reconnaissance study to investigate shoreline protection alternatives for San Clemente Shoreline, California. Preconstruction engineering and design activities for this project will be continued under the authority provided by the resolutions cited above.

2. The reporting officers recommend authorization for a plan to reduce coastal storm damages by constructing a beach fill/berm along the San Clemente shoreline. The recommended plan for coastal storm damage reduction includes construction of a 50-foot-wide beach nourishment project along a 3,412-foot-long stretch of shoreline using 251,000 cubic yards of compatible sediment, with renourishment on the average of every 6 years over a 50-year period of Federal participation, for a total of eight additional nourishments. The design berm will be constructed to an elevation of 17 feet MLLW with foreshore slope of 8H:1V (at equilibrium). Material for the beach fill will be dredged from a borrow site identified off the coast of San Diego County. Physical monitoring of the performance of the project will be required annually throughout the 50-year period of Federal participation. The recommended plan would provide coastal storm damage reduction throughout the project reach and would maintain the existing recreational beach. Monitoring of the environmental resources will be required for each construction event. The project is expected to have minimal impacts to environmental resources. A comprehensive monitoring and mitigation plan has been incorporated in the project in the event that impacts to habitat result. The recommended plan is the national economic development (NED) plan for coastal storm damage reduction.

3. The City of San Clemente is the non-Federal cost-sharing sponsor for all features. Based on October 2011 price levels, the estimated total nourishment cost of the plan is $98,100,000, which includes the project first cost of initial construction of $11,300,000 and a total of 8 periodic renourishments at a total cost of $86,800,000. Periodic renourishments are planned at 6-year

[1] This report contains the proposed recommendation of the Chief of Engineers. The recommendation is subject to change to reflect Washington level review and comments from Federal and State agencies.

intervals. In accordance with the cost share provisions in Section 103 of the Water Resources Development Act (WRDA) of 1986, as amended (33 U.S.C. 2213), the Federal and non-Federal shares are as follows:

a. The Federal share of the project first cost would be $7,350,000 and the non-Federal share would be $3,960,000, which equates to 65 percent Federal and 35 percent non-Federal. The cost of lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas (LERRD) is estimated at $11,000, all of which is eligible for LERRD credit.

b. The Federal share of the total renourishment cost would be $43,400,000 and the non-Federal share would be $43,400,000, which equates to 50 percent Federal and 50 percent non-Federal.

c. The total nourishment cost includes $4,460,000 for environmental monitoring, and $8,550,000 for physical monitoring over the life of the project.

d. The City of San Clemente would be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction. The project is not currently estimated to result in a significant incremental increase over the sponsor's existing beach maintenance activities and costs.

4. Based on a 4-percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $2,180,000, including monitoring. All project costs are allocated to the authorized purpose of coastal storm damage reduction. The selected plan would reduce average annual coastal storm damages by about 97 percent and would leave average annual damages estimated at $36,900. The equivalent average annual benefits, which include recreational benefits, are estimated to be $3,160,000, with net average annual benefits of $978,000. The benefit-cost ratio is approximately 1.4 to 1.

5. The goals and objectives included in the Campaign Plan of the U.S. Army Corps of Engineers have been fully integrated into the San Clemente Shoreline study process. The project includes an annual project monitoring program to reevaluate and adjust the periodic renourishment actions. The study was conducted using a watershed perspective to examine sediment supply changes within the San Juan Creek Watershed. A statistical, risk based model was used to formulate and evaluate the project. The project is intended to address erosion and prevent damages to structures and contents; it is not intended to, nor will it, reduce the risk to loss of life during major storm events. The study report fully describes risks associated with residual coastal storm damages and risks that will not be reduced. These residual risks have been communicated to the City of San Clemente.

6. Along the shoreline of San Clemente, a lack of sediment supply to the shoreline has resulted in chronic, mild, and long-term erosion. Without a coastal storm damage reduction project public properties and structures will continue to be susceptible to damages caused by erosion (including land loss and undermining of structures), inundation (structures), and wave attack (structures, railroad). The project area includes the LOSSAN (Los Angeles to San Diego)

railroad corridor which is a vital link for passenger and freight service and has been designated as a Strategic Rail Corridor by the Department of Defense. As the protective beach lessens over time and is eventually lost, it is expected that storm waves will act directly upon the railroad ballast, significantly threatening the operation of the LOSSAN railroad line. The narrowing beaches are also expected to subject ancillary beachfront public facilities to storm wave-induced damages, and further reduce recreational space on an already space-limited beach. The recommended plan was formulated to maximize coastal storm damage reduction, address potential environmental affects, and minimize cost.

7. In accordance with the Corps Engineering Circular (EC 1165-2-211) on sea level change, the study performed a sensitivity analysis to investigate the economic effects that different rates of accelerated sea level rise could have on the recommended plan. The plan was formulated using a historical or low rate of sea level rise, and the sensitivity analysis used additional accelerated rates, which includes what the EC defines as medium and high rates. The sensitivity analysis indicates that at higher rates of sea level rise, renourishment intervals increase and the reduction of storm damages decreases, but the plans are still justified.

8. In accordance with the Corps Engineering Circular (EC 1165-2-209) on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included an Agency Technical Review (ATR), an Independent External Peer Review (IEPR) (Type I), and a Corps Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the final report. The IEPR was completed by Battelle Memorial Institute. A total of 24 comments were documented. The IEPR comments identified significant concerns in areas of the plan formulation and engineering assumptions that are needed to support the decision-making process and plan selection. This resulted in expanded narratives throughout the report to support the decision-making process and justify the recommended plan. A safety assurance review (Type II IEPR) will be conducted during the design phase of the project. All comments from the above referenced reviews have been addressed and incorporated into the final documents. Overall the reviews resulted in improvements to the technical quality of the report.

9. Washington level review indicates that the project recommended by the reporting officers is technically sound, environmentally and socially acceptable, and economically justified. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land related resources implementation studies and complies with other administrative and legislative policies and guidelines. Also the views of interested parties, including Federal, State and local agencies have been considered.

10. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan to reduce coastal storm damages for the San Clemente, California shoreline be authorized in accordance with the reporting officers' recommended plan at an estimated project first cost of $11,300,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 103 of WRDA 1986, as amended by Section 215 of WRDA 1999. The non-Federal

sponsor would provide the non-Federal cost share and all LERRD. Further the non-Federal sponsor would be responsible for all OMRR&R. This recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and policies.

a. Provide a minimum of at least 35 percent of initial project costs assigned to coastal storm damage reduction, plus 50 percent of initial project costs assigned to reducing damages to undeveloped public lands, plus 50 percent of initial project costs assigned to recreation, plus 100 percent of initial project costs assigned to reducing damages to undeveloped private lands and other private shores that do not provide public benefits; and 50 percent of periodic nourishment costs assigned to hurricane and storm damage reduction, plus 100 percent of periodic nourishment costs assigned to reducing damages to undeveloped private lands and other private shores that do not provide public benefits and as further specified below:

(1) Provide 25 percent of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for the project.

(2) Provide, during the first year of construction, any additional funds necessary to pay the full non-Federal share of design costs.

(3) Provide all lands, easements, and rights-of-way, and perform or ensure the performance of all relocations determined by the Federal Government to be necessary for the initial construction, periodic nourishment, operation, and maintenance of the project.

(4) Provide, during construction, any additional amounts as are necessary to make the total contribution equal to 35 percent of initial project costs assigned to coastal storm damage reduction, plus 50 percent of initial project costs assigned to reducing damages to undeveloped public lands, plus 50 percent of initial project costs assigned to recreation, plus 100 percent of initial project costs assigned to reducing damages to undeveloped private lands and other private shores that do not provide public benefits; and 50 percent of periodic nourishment costs assigned to hurricane and storm damage reduction, plus 100 percent of periodic nourishment costs assigned to reducing damages to undeveloped private lands and other private shores that do not provide public benefits.

b. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portion of the project, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government.

c. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal Sponsor, now or hereafter, owns or controls for access to the project for the purpose of inspecting, operating, maintaining, repairing, replacing, rehabilitating, or completing the project. No completion, operation, maintenance, repair, replacement, or rehabilitation by the Federal Government shall relieve the non-Federal Sponsor

of responsibility to meet the non-Federal Sponsor's obligations, or to preclude the Federal Government from pursuing any other remedy at law or equity to ensure faithful performance.

d. Hold and save the United States free from all damages arising from the initial construction, periodic nourishment, operation, maintenance, repair, replacement, and rehabilitation of the project and any project related betterments, except for damages due to the fault or negligence of the United States or its contractors.

e. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations (CFR) Section 33.20.

f. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended, 42 U.S.C. 9601-9675, that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for the initial construction, periodic nourishment, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal Government provides the non-Federal Sponsor with prior specific written direction, in which case the non-Federal Sponsor shall perform such investigations in accordance with such written direction.

g. Assume, as between the Federal Government and the Non-Federal Sponsor, complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated materials located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be necessary for the initial construction, periodic nourishment, operation, or maintenance of the project.

h. Agree, as between the Federal Government and the Non-Federal Sponsor, that the non-Federal Sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, and repair the project in a manner that will not cause liability to arise under CERCLA.

i. If applicable, comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way, required for the initial construction, periodic nourishment, operation, and maintenance of the project, including those necessary for relocations, borrow materials, and dredged or excavated material disposal, and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

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j. Comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), requiring non-Federal preparation and implementation of floodplain management plans; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)).".

k. Comply with section 402 of the WRDA of 1986, as amended (33 U.S.C. 701b-12), which requires the non-Federal interest to participate in and comply with applicable Federal floodplain management and flood insurance programs, prepare a floodplain management plan within one year after the date of signing a Project Partnership Agreement (PPA), and implement the plan no later than one year after project construction is complete.

l. Provide the non-Federal share of that portion of the costs of data recovery activities associated with historic preservation, that are in excess of 1 percent of the total amount authorized to be appropriated for the project, in accordance with the cost sharing provisions of the agreement.

m. Participate in and comply with applicable Federal floodplain management and flood insurance programs.

n. Do not use Federal funds to meet the non-Federal sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is authorized.

o. Prescribe and enforce regulations to prevent obstruction of or encroachment on the project that would reduce the level of protection it affords or that would hinder future periodic nourishment and/or the operation and maintenance of the project.

p. Not less than once each year, inform affected interests of the extent of protection afforded by the project.

q. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in preventing unwise future development in the floodplain, and in adopting such regulations as may be necessary to prevent unwise future development and to ensure compatibility with protection levels provided by the project.

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r. For so long as the project remains authorized, the non-Federal Sponsor shall ensure continued conditions of public ownership and use of the shore upon which the amount of Federal participation is based;

s. Provide and maintain necessary access roads, parking areas, and other public use facilities, open and available to all on equal terms;

t. At least twice annually and after storm events, perform surveillance of the beach to determine losses of nourishment material from the project design section and provide the results of such surveillance to the Federal Government;

u. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element.

11. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the sponsor, the State, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

MERDITH W. B. TEMPLE
Major General, U.S. Army
Acting Commander

DEPARTMENT OF THE ARMY
CHIEF OF ENGINEERS
2600 ARMY PENTAGON
WASHINGTON, D.C. 20310-2600

DAEN JUL 16 2013

SUBJECT: Walton County, Florida, Hurricane and Storm Damage Reduction, General Investigations Study

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on hurricane and storm damage reduction along the Gulf of Mexico shoreline of Walton County, Florida. It is accompanied by the report of the district and division engineers. This report is in response to resolutions authorized both within the United States Senate and the U.S. House of Representatives. In the Senate, the Committee on Environment and Public Works adopted a committee resolution (unnumbered) on July 25, 2002, and in the House, the Committee on Transportation and Infrastructure adopted a resolution, Docket 2690, dated July 24, 2002. The resolutions requested the Secretary of the Army to review the feasibility of providing beach nourishment, shore protection and environmental restoration and protection in the vicinity of Walton County, Florida.

2. The reporting officers recommend authorization of a locally preferred plan (LPP) to reduce hurricane and storm damages by constructing a beach fill along the shoreline of Walton County, Florida. The recommended plan for hurricane and storm damage reduction includes construction of a 50-foot wide berm at elevation 5.5 NAVD that includes 25 feet of berm and an additional 25 feet of advanced nourishment along 18.8 miles of the Walton County shoreline. The project will also include added dune width in the construction area of either 10 or 30 feet. The design dune elevation will be constructed to match the existing 15 foot contour NAVD with a shoreward slope of 3H: 1V. The project will begin at the western boundary of the Walton County shoreline and extend eastward to the eastern boundary. The recommended plan includes the initial fill and four renourishments, for a total of five nourishments, in 50 years at an average of 10-year intervals. Initial construction of the recommended plan will require the placement of 3,868,000 cubic yards (cy) of material and a total of 7,157,000 cy for the four renourishments which average 1,789,000 cy of material each. Other associated features of the project are dune vegetation and replacement of dune walkover structures as required. Material for the berm and dune construction and renourishment will be dredged from a borrow site identified offshore of the shoreline area within state waters. Since the recommended plan would not have any significant adverse effects, no mitigation measures (beyond management practices and avoidance) or compensation measures would be required. The recommended plan is the Locally Preferred Plan for hurricane and storm damage reduction which includes areas requested by the non-Federal sponsor in addition to those included in the National Economic Development Plan (NED). Compared to the NED Plan, the LPP includes additional shoreline length of 3.6 miles to provide consistent shoreline protection in areas that were not economically justified. The LPP, similar to the NED Plan, will include a 50-foot berm with added dune widths of either 10 or 30

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feet throughout the project length. The Assistant Secretary of the Army (Civil Works) approved a policy exception allowing the Corps of Engineers to recommend the LPP by letter dated February 7, 2012. The extension will be funded entirely by the non-Federal sponsor.

3. The Walton County Board of Commissioners is the non-Federal cost sharing sponsor for all features. Based on October 2012 price levels, the estimated total nourishment cost of the NED Plan is $143,340,000. Based on October 2012 price levels, the estimated total nourishment cost of the LPP is $164,437,000, which includes the project first cost of initial construction of $61,397,000 and a total of four periodic renourishments at a total cost of $103,040,000. Periodic renourishments are planned at 10-year intervals. Cost sharing is applied in accordance with the provisions of Section 103 of the Water Resources Development Act (WRDA) of 1986, as amended by Section 215 of WRDA 1999, as follows:

a. The Federal share of the total first cost would be $17,191,000 and the non-Federal share would be about $44,206,000, which equates to 28 percent Federal and 72 percent non-Federal. The non-Federal costs include the value of lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas (LERRD) estimated to be $737,000.

b. The Federal share of future periodic renourishment is estimated to be $23,699,000 and the non-Federal share is estimated to be $79,341,000 which equates to 23 percent Federal and 77 percent non-Federal.

c. Walton County would be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction, a cost currently estimated at about $168,000 per year.

4. Based on a 3.75 percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $4,786,000, including monitoring and OMRR&R. All project costs are allocated to the authorized purpose of hurricane and storm damage reduction. The selected plan would reduce average annual coastal storm damages by about 92 percent and would leave average annual damages estimated at $637,000. The equivalent average annual benefits, which include recreation benefits, are estimated to be $7,570,000 with net average annual benefits of $2,784,000. The benefit to cost ratio is approximately 1.6 to 1.

5. Risk and uncertainty has been explicitly factored into the economic analysis of this project. Chapter 6 of ER 1105-2-100, entitled "Risk-Based Analysis for Evaluation of Hydrology/Hydraulics and Economics in Shore Protection Studies" specifies the analysis requirements for shore protection projects, the fundamental requirement being that all shore protection analyses adopt a life cycle approach. A statistical risk based model, Beach-fx, was used in this study to formulate and evaluate the project in a life-cycle approach. Beach-*fx* is a comprehensive analytical framework for evaluating the physical performance and economic benefits and costs of storm damage reduction projects, particularly beach nourishment along

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sandy shores. The model has been implemented as an event-based Monte Carlo life-cycle simulation tool that is run on desktop computers. Beach-*fx* integrates the engineering and economic analyses and incorporates uncertainty in both physical parameters and environmental forcing, which enables quantification of risk with respect to project evolution and economic costs and benefits of project implementation. This approved modeling approach provides for a more realistic treatment of shore protection project evolution through the relaxation of a variety of simplifying assumptions that are made in existing, commonly applied approaches. The application of Beach-*fx* in this study is to estimate future without project damages and quantify the damages prevented by various storm damage reduction alternatives for Walton County over the 50 year project life. The project is intended to address erosion and prevent damages to structures and contents; it is not intended to, nor will it, reduce the risk to loss of life during major storm events. Loss of life can only be prevented by residents and visitors following the local evacuation plans that are already in place. These residual risks have been communicated to Walton County.

6. In accordance with the Corps Engineering Circular (EC 1165-2-211) on sea level change, the study performed a sensitivity analysis to look at the effects that different rates of accelerated sea level rise could have on the recommended plan. The plan was formulated using a historical or low rate of sea level rise, and the sensitivity analysis used additional accelerated rates, which includes what the EC defines as intermediate and high rates. The analysis found that the influence of current sea level rise on the project is relatively low as compared to other factors causing erosion (waves, currents, winds and storms). The magnitude of the short-term storm-induced erosion during hurricane events have a much greater affect along the beaches of Walton County than those indicated by the natural long term shoreline trends. The recommended plan was based on Beach-*fx* simulations that incorporated the observed rate of sea level rise. Adaptive management will be used including monitoring and adding additional volume of sand during renourishments to compensate for significant accelerated sea level rise beyond the current observed rate should it become necessary.

7. In accordance with the Corps Engineering Circular (EC 1165-2-209) on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and rigorous review process to ensure technical quality. This included an Agency Technical Review (ATR), an Independent External Peer Review (IEPR) (Type I), and a Corps Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the final report. The IEPR was completed by Battelle Memorial Institute. A total of 18 comments were documented. The IEPR comments identified significant concerns in areas of the economics and engineering assumptions and methodologies used to support the decision-making process and plan selection and the incorporation of risk and uncertainty into the project analyses. This resulted in expanded narratives throughout the report to support the decision-making process and justify the recommended plan. All comments from the above referenced reviews have been addressed and incorporated into the final documents. Overall the reviews resulted in improvements to the technical quality of the report.

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8. Washington level review indicates that the project recommended by the reporting officers is technically sound, environmentally and socially acceptable, and economically justified. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land related resources implementation studies and complies with other administrative and legislative policies and guidelines. Also the views of interested parties, including Federal, State and local agencies have been considered. During the State and Agency review, comments were received from the Florida Department of Environmental Protection and Department of Interior. These comments expressed the need to protect endangered species during construction and asked for clarification on the economic modeling. The USACE has acknowledged the need to protect endangered species, in compliance with the USFWS biological opinion and clarified the modeling results. In addition, the Florida State Historic Preservation Office (SHPO) wrote concerning the need for additional information to complete their review. The USACE referred the SHPO to the results of a previous SHPO review, which completed the consultation process.

9. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan to reduce hurricane and storm damages for Walton County, Florida be authorized in accordance with the reporting officers' recommended plan at an estimated project first cost of $61,397,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 103 of the Water Resources Development Act (WRDA) of 1986, as amended by Section 215 of WRDA 1999. The non-Federal sponsor would provide the non-Federal cost share and all LERRD. Further, the non-Federal sponsor would be responsible for all OMRR&R. This recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and policies.

a. Provide a minimum of at least 35 percent of initial project costs assigned to coastal storm damage reduction, plus 50 percent of initial project costs assigned to protecting undeveloped public lands, plus 50 percent of initial project costs assigned to recreation, plus 100 percent of initial project costs assigned to protecting undeveloped private lands and other private shores which do not provide public benefits and 50 percent of periodic nourishment costs assigned to coastal storm damage reduction plus 100 percent of periodic nourishment costs assigned to protecting undeveloped private lands and other private shores which do not provide public benefits and as further specified below:

(1) Enter into an agreement which provides, prior to execution of the project partnership agreement, the non-Federal share of design costs;

(2) Provide all lands, easements, and rights-of-way, and perform or ensure the performance of all relocations determined by the Federal Government to be necessary for the initial construction, periodic nourishment, operation, and maintenance of the project;

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(3) Provide, during construction, any additional amounts as are necessary to make its total contribution equal to 35 percent of initial project costs assigned to hurricane and storm damage reduction plus 100 percent of initial project costs assigned to protecting undeveloped private lands and other private shores which do not provide public benefits and 50 percent of periodic nourishment costs assigned to hurricane and storm damage reduction plus 100 percent of periodic nourishment costs assigned to protecting undeveloped private lands and other private shores which do not provide public benefits;

(4) Provide 100 percent of the total project costs that reflect the difference between the National Economic Development (NED) Plan and the Locally Preferred Plan (LPP);

b. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, including any mitigation features, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

c. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor, now or hereafter, owns or controls for access to the project for the purpose of inspecting, operating, maintaining, repairing, replacing, rehabilitating, or completing the project. No completion, operation, maintenance, repair, replacement, or rehabilitation by the Federal Government shall relieve the non-Federal sponsor of responsibility to meet the non-Federal sponsor's obligations, or to preclude the Federal Government from pursuing any other remedy at law or equity to ensure faithful performance;

d. Hold and save the United States free from all damages arising from the initial construction, periodic nourishment, operation, maintenance, repair, replacement, and rehabilitation of the project and any project-related betterments, except for damages due to the fault or negligence of the United States or its contractors;

e. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of three years after completion of the accounting for which such books, records, documents, and other evidence is required, to the extent and in such detail as will properly reflect total costs of construction of the project, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations (CFR) Section 33.20;

f. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended, 42 U.S.C. 9601-9675, that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for the initial construction, periodic nourishment, operation, and maintenance of the project;

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SUBJECT: Walton County, Florida, Hurricane and Storm Damage Reduction, General Investigations Study

however, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal Government provides the non-Federal sponsor with prior specific written direction, in which case the non-Federal sponsor shall perform such investigations in accordance with such written direction;

g. Assume, as between the Federal Government and the non-Federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated materials located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be necessary for the initial construction, periodic nourishment, operation, or maintenance of the project;

h. Agree that, as between the Federal Government and the non-Federal sponsor, the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, and repair the project in a manner that will not cause liability to arise under CERCLA;

i. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, PL 91-646, as amended by (42 U.S.C. 4601 – 4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way, required for the initial construction, periodic nourishment, operation, and maintenance of the project, including those necessary for relocations, borrow materials, and dredged or excavated material disposal, and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

j. Comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, PL 88-352 (42 U.S.C. 2000d), Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army," and all applicable Federal labor standards and requirements, including but not limited to, 40 U./S.C. 3141 – 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying, and enacting without substantial change the provisions of the Davis- Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.) and the Copeland Anti-Kickback Act (formerly 40 U.S. C. 276c et seq.);

k. Comply with Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), which requires the non-Federal interest to participate in and comply with applicable Federal floodplain management and flood insurance programs, prepare a floodplain management plan within one year after the date of signing a Project Cooperation Agreement, and implement the plan not later than one year after completion of construction of the project;

l. Provide the non-Federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation, that are in excess of one percent of the total

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amount authorized to be appropriated for the project, in accordance with the cost sharing provisions of the agreement;

m. Agree to participate in and comply with applicable Federal floodplain management and flood insurance programs;

n. Do not use Federal funds to meet the non-Federal sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is authorized.

o. Prevent obstructions of or encroachment on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) which might reduce the level of protection it affords, hinder operation and maintenance or future periodic nourishment, or interfere with its proper function, such as any new developments on project lands or the addition of facilities which would degrade the benefits of the project;

p. Not less than once each year, inform affected interests of the extent of protection afforded by the project;

q. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in preventing unwise future development in the floodplain, and in adopting such regulations as may be necessary to prevent unwise future development and to ensure compatibility with protection levels provided by the project;

r. For so long as the project remains authorized, the non-Federal sponsor shall ensure continued conditions of public ownership, access, and use of the shore upon which the amount of Federal participation is based;

s. Provide, keep and maintain the recreation features, and access roads, parking areas, and other associated public use facilities, open and available to all on equal terms;

t. At least twice annually and after storm events, perform surveillance of the beach to determine losses of nourishment material from the project design section and provide the results of such surveillance to the Federal Government; and,

u. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103 of the Water Resources Development Act of 1986, PL 99-662, as amended (33 U.S.C. 22130, which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element.;

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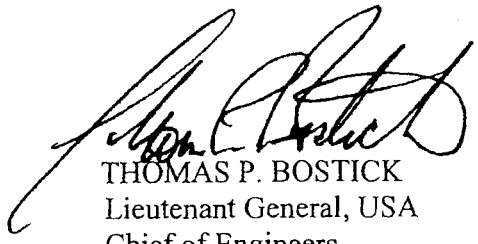
10. The recommendations contained herein reflect the information available at this time and current Departmental policies governing formulation of individual projects. These recommendations do not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program nor the perspective of higher review levels within the executive branch. Consequently, the recommendations may be modified before they are transmitted to the Congress as proposals for authorization and implementation funding." However, prior to transmittal to the Congress, the non-Federal sponsor, the State, interested Federal agencies, and other parties will be advised of any modifications and will be afforded an opportunity to comment further.



THOMAS P. BOSTICK
Lieutenant General, USA
Chief of Engineers

DEPARTMENT OF THE ARMY
CHIEF OF ENGINEERS
2600 ARMY PENTAGON
WASHINGTON, DC 20310-2600

REPLY TO
ATTENTION OF

JUL 0 8 2013

DAEN-ZA

MEMORANDUM FOR: THE SECRETARY OF THE ARMY

SUBJECT: Morganza to the Gulf of Mexico, Louisiana

1. I submit for transmission to Congress my report updating the authorized Morganza to the Gulf of Mexico, Louisiana project. This report supplements the reports of the Chief of Engineers dated 23 August 2002 and 22 July 2003 and is accompanied by the reports of the New Orleans District Commander, Mississippi Valley Division Commander and the Mississippi River Commission. This report presents the updated design and associated costs to the project as a result of applying more robust design and hydrologic and hydraulic modeling standards developed subsequent to Hurricane Katrina. These updated changes have caused the project to exceed the maximum authorized project cost limit under Section 902 of the Water Resources Development Act of (WRDA) 1986. While the project was not reformulated as part of this update, an analysis using the post-Katrina design criteria was initially performed that confirmed the authorized project alignment as the alignment that best meets the Federal objective.

2. The Morganza to the Gulf of Mexico, Louisiana hurricane and storm damage risk reduction project was authorized by Section 1001(24)(A) of the Water Resources Development Act (WRDA) of 2007 at a total cost of $886,700,000 consistent with the reports of the Chief of Engineers dated 23 August 2002 and 22 July 2003. In addition Section 1001(24)(B) of WRDA 2007 provides that operation, maintenance, repair, rehabilitation and replacement (OMRR&R) of the Houma Navigation Canal lock complex and the Gulf Intracoastal Waterway floodgate features of the project that provides for inland waterways transportation shall be a Federal responsibility in accordance with Section 102 of WRDA 1986 (33 U.S.C. 2212).

3. The authorized Morganza to the Gulf of Mexico, Louisiana project was designed to provide hurricane and storm damage risk reduction while maintaining navigational passage and tidal exchange. The project is located approximately 60 miles southwest of New Orleans, Louisiana and includes Terrebonne Parish and a portion of Lafourche Parish. The project recommended in the reports of the Chief of Engineers dated 23 August 2002 and 22 July 2003 was to reduce hurricane and storm damages by providing the one percent annual exceedance (1% annual exceedance probability (AEP)) probability level of risk reduction.

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4. The reporting officers considered the WRDA 2007 authorized project by applying two different water surface design elevation assumptions. The first assumption retained the pre-Katrina water surface design elevations used in developing the authorized project. The second assumption applied the post-Katrina water surface design elevations to the previously authorized project. Using post-Katrina water surface design elevation calculation methodologies, the pre-Katrina water surface design elevation is equal to approximately a 3% AEP. The post-Katrina water surface design elevation is equal to a 1% AEP as used for the second assumption. Of the two, the assumption associated with the post-Katrina 1% AEP water elevation project provided the greater net benefits, lower residual risk, and greatest adaptability to sea level rise. This 1% AEP project identified by the reporting officers provides the same target level of risk reduction as the authorized project and follows the same alignment with some refinements to address the new storm surge modeling which showed deeper and wider storm surge inundation. The updated project also involves no change in project purpose. However, the application of the more rigorous storm modeling and more robust post-Katrina design standards has resulted in expansion of the project features authorized by WRDA 2007. Changes to the major project features are as follows:

- Levee Length: The total levee length has increased from 72 miles to approximately 98 miles. The reason for the increase is to reduce risk of flanking, based on the assumption of higher rates of relative sea level rise, and higher surge and waves in the future.
- Levee/Structure Elevations: Levee and structure elevations were increased by 6 feet to 18 feet. Most of the increase in elevation is attributable to higher predicted surge and waves and post Katrina design criteria.
- Levee Widths: Levee widths have increased from approximately 40 feet to 200 feet wide to approximately 282 feet to 725 feet wide. The increased widths are attributable to increases in levee heights and the post Katrina geotechnical stability factors of safety.
- Houma Navigation Canal (HNC) lock complex and Gulf Intracoastal Waterway (GIWW) floodgate feature: These features which cross federal navigation channels are generally the same except the HNC structure sill depth would be increased by 5 feet as part of the requested sponsor funded work item and the HNC floodgate width increased from 200 feet to 250 feet. The HNC floodgate needed to be widened given that the pre-Katrina design was no longer technically feasible with the increased project height. The GIWW floodgate near Houma was redesigned to eliminate one of the two sector gates.
- Floodgates: The number of floodgates on other canals and bayous increased from 9 to 19 as several bayous were not previously identified as being used for navigation and with the extension of the levee length several additional navigable bayous were crossed.
- Environmental Control Structures: The number of environmental control structures increased from 12 to 23 sets of concrete box culverts with sluice gates. The increase in the number of structures is attributable to more refined set of design criteria, which considered precipitation event conditions water level and velocity and box culvert design criteria.

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- Environmental Mitigation: Impacted acres requiring mitigation increased from approximately 3,740 acres to 4,100 acres. The increase is directly related to the increase in the foot print of the levee.
- Structures Afforded Protection: The number of structures afforded hurricane and storm damage risk reduction increased from approximately 26,000 structures to 53,000 structures. The increase in the number of structures afforded risk reduction is a result of post-Katrina change in 1% AEP water surface elevation.
- Hydraulic Mitigation: Costs have been included for measures to address a potential indirect impact of the construction to raise water levels outside the levees. Potential impact areas include portions of the communities of Gibson, Bayou Dularge, Dulac, and all of Cocodrie and Isle de Jean Charles. In addition, measures and associated costs have been included to offset potential induced stages on the existing Larose to Golden Meadows project.

5. Based on October 2012 price levels, the estimated first cost of the updated project is $10,265,000,000, with the Federal and non-Federal shares estimated at $6,672,000, 000 and $3,593,000,000, respectively. The Coastal Protection and Restoration Authority of Louisiana in coordination with the Terrebonne Levee and Conservation District has expressed intent to be the non-Federal cost sharing sponsor for the project. Upon completion of construction, the non-Federal sponsor would be responsible for the OMRR&R of the project, a cost currently estimated at $7,400,000 per year. In accordance with Section 1001(24)(B) of WRDA 2007 the OMRR&R for the GIWW floodgates and the Houma Navigation Canal Lock, estimated at $1,700,000 per year, is a Federal responsibility.

6. Based on a 3.75-percent discount rate, October 2012 price levels and a 50-year period of analysis, the total equivalent average annual costs of the updated project, including OMRR&R, are estimated to be $716,000,000. The equivalent average annual benefits are estimated to be $1,023,000,000. The net average annual benefits would be $307,000,000. The benefit-to-cost ratio is 1.4 to 1.

7. While the estimated project costs in the district's report are the best available and compliant with current post-Katrina design criteria, the U.S. Army Corps of Engineers Risk Management Center and the New Orleans District jointly evaluated the proposed Morganza to the Gulf project to assess whether the post-Katrina design criteria, specifically in the areas of global stability and overtopping and structural superiority, could be site adapted to reduce project cost without significantly increasing risk. Based on the results of this effort, site adaptations of the criteria were identified for consideration during the next phase of implementation, preconstruction, engineering and design.

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8. The draft report / programmatic environmental impact statement underwent an independent external peer review by the Louisiana Water Resource Council (LWRC). The LWRC assessed the adequacy and acceptability of the economic, engineering, and environmental methods, models and analysis used, during two reviews. A second review was added to focus on the economics supporting the report findings. There were a total of 18 comments of which 13 were medium significance and five were low significance. In summary, the panel felt that the engineering, economics, plan formulation, and environmental analysis were adequate and needed to be properly documented in the final report. The final report / programmatic environmental impact statement also underwent state and agency review. The state and agency comments received during review of the final report/ programmatic environmental impact statement included comments from federal agencies and agencies from the state of Louisiana. Comments provided by the National Ocean and Atmospheric Administration's National Marine Fisheries Service included the need for additional detailed analysis of the potential direct, indirect, and cumulative impacts to Essential Fisheries Habitat related to the closure structures. They were informed this will be further analyzed during the design phase and that the Corps intends to use a certified habitat change model and appropriate fisheries impact models as part of these future analyses. The Department of Interior also expressed similar concerns that will also be addressed as the design is further analyzed. The United States Environmental Protection Agency expressed concerns regarding the need to provide continued coordination with affected communities in the project area to identify any disproportional effects to low income or minority populations in accordance with Executive Order 12898. In addition they were concerned with the impacts associated with potential sea level rise. We acknowledged that under some future relative sea level rise scenarios, increased frequency of closure of the system's gates and water control structures could result in significant adverse indirect impacts to wetlands, hydrology, fisheries, water quality, threatened/endangered species, and navigation. The level of those impacts cannot be fully quantified at this time and these will be analyzed further as well as that adaptive management measures may mitigate for that potentiality. The state of Louisiana had several agencies that provided comments which were generally in support of the project and recognized that earlier comments had been addressed in the final document but were still concerned over the cost of the risk reduction designs. The response noted that the Corps will continue to identify cost-reduction measures that do not sacrifice the overall level of risk reduction to the citizens of Louisiana. Concerns expressed by the Louisiana Department of Wildlife and Fisheries (LDWF) with the Pointe aux Chenes Wildlife Management Area and the Mandalay National Wildlife Refuge that will be unavoidably impacted by the construction. The impacts have been and will continue to be coordinated with the appropriate offices of USFWS and LDWF to ensure that appropriate and practicable efforts are made to minimize adverse environmental impacts to the areas. In summary, responses were provided re-iterating the considerations during the planning process and the extensive coordination that occurred regarding environmental effects and mitigation with the natural resource agencies and that a detailed analysis of the potential indirect and cumulative impacts to wildlife and fisheries related to the construction of this project and specifically to the closure of the structures will occur during the design phase. The Corps will

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produce tiered National Environmental Policy Act documents as needed to document the analysis of the plans and the impacts to the human and natural environments and the informed decision being made as the project proceeds forward. The Corps will make a diligent effort to identify and assess ways to further avoid and minimize any significant adverse environmental and socioeconomic impacts.

9. I concur that the reporting officers have updated the plan identified within the previous reports of the Chief of Engineers and find that the updated plan is economically justified, environmentally acceptable and engineeringly sound. Post-Katrina engineering design criteria and standards for gulf coast communities were applied to reduce the potential of loss of life and property from coastal storms. These engineering practices were developed using the findings of the *Interagency Performance Evaluation Task Force* including key lessons learned from Hurricane Katrina and their implications for future hurricane preparedness and planning for south Louisiana. Project modifications were also found necessary to address developments after the project was authorized, including community resettlement patterns after Katrina, to incorporate improved water control elements and navigation features, and to update other outmoded aspects of the authorized project to more effectively provide the utility of function originally intended by Congress. Accordingly, I submit for transmission to Congress my report updating the authorized Morganza to the Gulf of Mexico, Louisiana project with the required modifications and changes necessary for engineering and construction reasons to produce the degree and extent of coastal storm damage reduction improvements intended by Congress. Finally, the non-Federal sponsor must agree with the following requirements prior to project implementation.

a. Provide 35 percent of total project costs as further specified below:

1. Provide the required non-Federal share of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

2. Provide, during the first year of construction, any additional funds necessary to pay the full non-Federal share of design costs;

3. Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of the project;

4. Provide, during construction, any additional funds necessary to make its total contribution equal to 35 percent of total project costs;

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b. Shall not use funds from other Federal programs, including any non-Federal contribution required as a matching share therefore, to meet any of the non-Federal obligations for the project unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is authorized;

c. Not less than once each year, inform affected interests of the extent of protection afforded by the project;

d. Agree to participate in and comply with applicable Federal floodplain management and flood insurance programs;

e. Comply with Section 402 of the Water Resources Development Act of 1986, as amended (33U.S.C. 701b-12), which requires a non-Federal interest to prepare a floodplain management plan within one year after the date of signing a project cooperation agreement, and to implement such plan not later than one year after completion of construction of the project;

f. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with protection levels provided by the project;

g. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the level of protection the project affords, hinder operation and maintenance of the project, or interfere with the project's proper function;

h. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

i. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace (OMRR&R) the project or functional portions of the project, including any mitigation features, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government (except the HNC lock complex and the GIWW floodgate features of the project for which the

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responsibility for OMRR&R is assigned to the Government under Section 1001(24) of WRDA 2007);

j. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project;

k. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, rehabilitation, and replacement of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors;

l. Keep and maintain books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations (CFR) Section 33.20;

m. Comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c et seq.);

n. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal Government provides the non-Federal sponsor with prior specific written direction, in which case the non-Federal sponsor shall perform such investigations in accordance with such written direction;

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o. Assume, as between the Federal Government and the non-Federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project;

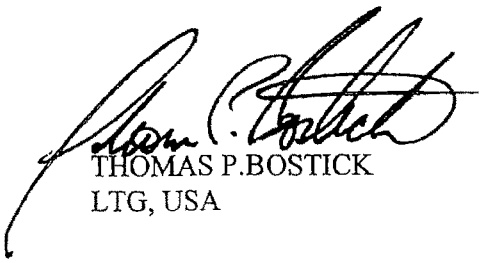
p. Agree, as between the Federal Government and the non-Federal sponsor, that the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA; and

q. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element;

r. Shall not use any project features or lands, easements, and rights-of-way required for such features as a wetlands bank or mitigation credit for any other project;

s. Pay all costs due to any project betterments or any additional work requested by the sponsor, subject to the sponsor's identification and request that the Government accomplish such betterments or additional work, and acknowledgement that if the Government in its sole discretion elects to accomplish the requested betterments or additional work, or any portion thereof, the Government shall so notify the Non-Federal Sponsor in writing that sets forth any applicable terms and conditions;

10. This report reflects the information available at this time. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, this supplemental report may be modified before it is transmitted to the Congress. However, prior to transmittal to Congress, the sponsor, the State, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.



THOMAS P.BOSTICK
LTG, USA

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, DC 20314-1000

REPLY TO
ATTENTION OF
CECW-SAD

15 SEP 2009

SUBJECT: Mississippi Coastal Improvements Program, Hancock, Harrison, and Jackson Counties, Mississippi, Comprehensive Plan Report

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my final report on water resources improvements associated with hurricane and storm damage risk reduction and ecosystem restoration in the coastal counties of Hancock, Harrison, and Jackson, Mississippi. It is accompanied by the report of the district and division engineers. These reports are a final response to authorizing legislation contained in the Department of Defense Appropriation Act of 2006 (P.L. 109-148), dated 30 December 2005. The study authorization states, in part, the following:

> *"... the Secretary shall conduct an analysis and design for comprehensive improvements or modifications to existing improvements in the coastal area of Mississippi in the interest of hurricane and storm damage reduction, prevention of saltwater intrusion, preservation of fish and wildlife, prevention of erosion, and other related water resource purposes at full Federal expense; Provided further, that the Secretary shall recommend a cost-effective project, but shall not perform an incremental benefit-cost analysis to identify the recommended project, and shall not make project recommendations based upon maximizing net national economic development benefits; Provided further, that interim recommendations for near term improvements shall be provided within 6 months of enactment of this act with final recommendations within 24 months of this enactment."*

Pre-construction engineering and design and additional studies will be initiated upon Congressional authorization.

2. The Mississippi Coastal Improvements Program Comprehensive Plan, hereinafter referred to as the MsCIP Comprehensive Plan, is a systemwide approach linking structural and nonstructural hurricane and storm damage risk reduction elements with ecosystem restoration elements, all with the goal of providing for a coastal community that is more resilient to hurricanes and storms. The MsCIP Comprehensive Plan for hurricane and storm damage risk reduction in coastal Mississippi was developed using a multiple lines-of-defense approach focusing on reducing hurricane and storm damages through barrier islands restoration, and employing beachfront protection, wetland restoration, and floodplain evacuation concepts of the MsCIP Comprehensive Plan. The reporting officers identify 12 elements to aid recovery of coastal Mississippi that was severely damaged by the hurricanes of 2005. Structural elements include restoring protective beaches and systems, restoring native habitats, and raising an

existing levee. Non-structural elements include removing structures from floodplains or raising structures that are highly vulnerable to storm damage. The hurricanes of 2005 severely taxed the resources of local governments and institutions, making it unlikely that those resources could be employed to implement these proposed recovery actions without Federal assistance. Thus, this package of 12 elements and the identified further feasibility studies will help the people of coastal Mississippi in their recovery. Implementation of the 12 elements would provide for the restoration of over 3,000 acres of coastal forest and wetlands, approximately 30 miles of beach and dune restoration, and floodproofing or acquisition of approximately 2,000 tracts within the 100-year floodplain.

3. The MsCIP Comprehensive Plan also includes recommendations for additional studies to address the longer term needs over the next 30-40 years. These studies would evaluate the restoration of over 30,000 acres of coastal forest, wetlands, beaches and dunes; sustainable restoration of the barrier islands; structural measures; and floodproofing or acquisition of over 58,000 tracts within the 100-year floodplain.

4. The reporting officers developed the recommended 12 elements for coastal Mississippi consistent with the direction provided in the Department of Defense Appropriations Act of 2006 (P.L. 109-148), dated 30 December 2005. In accordance with P.L. 109-148, the reporting officers found each of the 12 elements to be cost-effective, technically sound, and environmentally and socially acceptable. These 12 elements are described below and include two non-structural hurricane storm risk reduction elements, one structural hurricane and storm damage risk reduction element, seven ecosystem restoration elements, and two coastal ecosystem restoration elements. The additional studies that are part of the MsCIP Comprehensive Plan could provide further improvements in the coastal area of Mississippi if implemented. Discussion of these studies is included in paragraphs 5 and 6.

a. High Hazard Area Risk Reduction Program (HARP). This project element consists of acquisition of approximately 2,000 tracts which are at the highest risk of being damaged by storm surge, demolition of existing structures, and retention of acquired tracts in an open space condition. The number of tracts was based on an estimate of what could be acquired during a five year period following the execution of the Project Partnership Agreement for implementation of this element. To the extent practicable, acquisition would be on a willing seller basis, but eminent domain could be utilized when determined to be warranted. As described in the report, acquisition will be in compliance with the provisions of the Uniform Relocations Assistance and Real Property Acquisition Policies Act (P.L. 91-646), as amended, and the uniform regulations contained in 49 CFR, Part 24 including the provision of payment of relocation assistance benefits to eligible recipients. The tracts would include residential, commercial and unimproved tracts. In addition, buildings owned by the City of Moss Point that are used for municipal purposes will be replaced with buildings out of the Federal Emergency Management Agency (FEMA) designated Velocity Zone. Benefits of the HARP include approximately $22,000,000 – $33,000,000 in average annual hurricane and storm damage risk

reduction benefits, depending on the specific tracts acquired. At October 2008 price levels, the estimated first cost of this element is $407,860,000. The cost of this non-structural project element is allocated to hurricane and storm damage risk reduction. In accordance with the provisions of the Water Resources Development Act of 1986 (WRDA 1986), as amended, cost sharing would be 65-percent Federal and 35-percent non-Federal. The Federal share of the estimated first cost of this element would be $265,110,000 and the non-Federal share would be $142,750,000. The estimated annual cost for operation, maintenance, repair, replacement and rehabilitation of this project element is $75,000 and is a 100-percent non-Federal responsibility.

b. Waveland Floodproofing. This project element consists of elevating approximately 25 residential structures in the City of Waveland, Mississippi that are determined to be eligible for floodproofing by elevation out of the 1-percent chance storm event inundation level. Benefits of the Waveland Floodproofing include $224,000 in average annual hurricane and storm damage risk reduction benefits. At October 2008 price levels, the estimated first cost of this element is $4,450,000. The cost of this element is allocated to hurricane and storm damage risk reduction. In accordance with the provisions of WRDA 1986, as amended, cost sharing would be 65-percent Federal and 35-percent non-Federal. The Federal share of the estimated first cost of this project element is $2,890,000 and the non-Federal share is $1,560,000. Due to the non-structural nature of this element, the estimated annual costs for operation, maintenance, repair, replacement and rehabilitation are expected to be nominal. However any operation, maintenance, repair, replacement and rehabilitation that would be needed is a 100-percent non-Federal responsibility.

c. Forrest (Forest) Heights Levee. This project element for the Forrest Heights community in the Turkey Creek watershed of Gulfport, Mississippi consists of raising approximately 6,500 linear feet of an existing non-Federal levee to a levee crest elevation of 21 feet North Atlantic Vertical Datum of 1988 (NAVD-88). An existing publicly owned park with a surface elevation of 12 to 14 feet NAVD-88 would be included in the plan to serve as a water detention area for temporary containment of rainfall during storm events. This recommended project element will require the acquisition of two residential properties within the existing community. Unavoidable adverse environmental impacts have been identified and the cost of acquisition and restoration of approximately 3 acres of mitigation is included in total estimated cost of this element. Hurricane and storm damage risk reduction benefits are estimated at $101,000 to a historically significant minority community. In addition to these benefits, the levee would maintain cohesiveness of the historically significant community, and preserve the culture and heritage of its predominantly minority residential population. At October 2008 price levels, the estimated first cost of this element is $14,070,000. The cost of this element is allocated to hurricane and storm damage risk reduction. In accordance with the provisions of WRDA 1986, as amended, cost sharing would be 65-percent Federal and 35-percent non-Federal. The Federal share of the estimated first cost of this project element is $9,150,000 and the non-Federal share is $4,920,000. The estimated annual cost for operation, maintenance, repair, replacement, and rehabilitation of this project element is $114,000 and is a 100-percent non-Federal responsibility.

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d. Turkey Creek Ecosystem Restoration. This project element consists of the restoration of 689 acres of an undeveloped site of degraded wet pine savannah habitat. Restoration of this area would provide an increase of 1,565 average annual functional habitat units. These habitats have been identified by the U.S. Fish and Wildlife Service as habitats of high value for native species and as relatively scarce or becoming scarce on a national basis or in the ecoregion. Measures required to restore hydrology and natural vegetation on the site include filling drainage ditches, road removal, and controlled burning. Rare and threatened and endangered birds that are expected to utilize the areas following burning and regrowth include Henslow's sparrow, Bachman's sparrow, red-cockaded woodpecker, and Mississippi Sandhill Crane. This restored ecosystem also may benefit the Mississippi Gopher frog and, in drier areas along ridges, the black pine snake and the gopher tortoise. At October 2008 price levels, the estimated first cost of this element is $6,840,000. The cost of this project is allocated to ecosystem restoration. In accordance with the provisions of WRDA 1986, as amended, cost sharing would be 65-percent Federal and 35-percent non-Federal. The Federal share of the estimated first cost of this project element is $4,450,000 and the non-Federal share is $2,390,000. The estimated annual cost for operation, maintenance, repair, replacement, and rehabilitation of this project element is $47,000 and is a 100-percent non-Federal responsibility. Post-implementation monitoring of this ecosystem restoration element is projected to be conducted for no more than five years at a cost of less than 1-percent of the total first cost of the ecosystem restoration elements. Adaptive management of ecosystem restoration element is expected to cost no more than 3-percent of the total first cost of the ecosystem restoration element. The cost of monitoring and adaptive management is included in the total estimated first cost of this element.

e. Dantzler Ecosystem Restoration. This project element consists of restoration of 385 acres of severely degraded wet pine savannah owned by the State of Mississippi. Measures required to restore hydrology and natural vegetative habitat to the site include removal of existing hurricane debris and sedimentation, filling drainage ditches, road removal, control of non-native species, and controlled burning. The proposed element would provide an increase of 1,244 average annual functional habitat units and restore the natural hydrologic character of the area. The site's location in proximity to the Pascagoula River delta, a Gulf Ecological Management Site, increases the value of this restoration element by minimizing the fracturing of biodiversity. At October 2008 price levels, the estimated first cost of this element is $2,210,000. The cost of this project is allocated to ecosystem restoration. In accordance with the provisions of WRDA 1986, as amended, cost sharing would be 65-percent Federal and 35-percent non-Federal. The Federal share of the estimated first cost of this project element is $1,440,000 and the non-Federal share is $770,000. The estimated annual cost for operation, maintenance, repair, replacement, and rehabilitation of this project element is $26,000 and is a 100-percent non-Federal responsibility. Post-implementation monitoring of this ecosystem restoration element is projected to be conducted for no more than five years at a cost of less than 1-percent of the total first cost of the ecosystem restoration elements. Adaptive management of ecosystem restoration element is expected to cost no more than 3-percent of the total first cost of the ecosystem restoration element. The cost of monitoring and adaptive management is included in the total estimated first cost of this element.

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f. Franklin Creek Ecosystem Restoration. This project element includes restoration of hydrology and native habitats by removing ditches, excavating and removing existing roadbeds, installing culverts under U.S. Highway 90, control of non-native species, and controlled burning to restore 149 acres located north and south of U.S. Highway 90 with critical wet pine savannah habitat. This area routinely floods with only a slight rainfall; thus, this would also provide additional flood storage capacity by restoring the natural habitat. Pine savannah wetlands provide floodwater retention, groundwater recharge, and water purification. This habitat is becoming fragmented and with the increased development, fire maintenance is increasingly harder to perform. The proposed element would provide an increase of 516 average annual functional habitat units and restore the natural hydrology of the area. In addition, restoration of this area would provide for additional flood storage capacity within the Grand Bay area reducing flooding severity within the adjacent communities of Orange Grove and Pecan in Jackson County. The site's location in proximity to the Grand Bay National Wildlife Refuge (NWR) and the Grand Bay National Estuarine Research Reserve (NERR) increases the value of this restoration element by minimizing the fracturing of biodiversity. Incidental hurricane and storm damage risk reduction benefits would be realized from the removal of approximately 30 residential structures from the floodplain. At October 2008 price levels, the estimated first cost of this element is $1,860,000. The cost of this project is allocated to ecosystem restoration. In accordance with the provisions of WRDA 1986, as amended, cost sharing would be 65-percent Federal and 35-percent non Federal. The Federal share of the estimated first cost of this project element is $1,210,000 and the non-Federal share is $650,000. The estimated annual cost for operation, maintenance, repair, replacement, and rehabilitation of this project element is $11,000 and is a 100-percent non-Federal responsibility. Post-implementation monitoring of this ecosystem restoration element is projected to be conducted for no more than five years at a cost of less than 1-percent of the total first cost of the ecosystem restoration elements. Adaptive management of ecosystem restoration element is expected to cost no more than 3-percent of the total first cost of the ecosystem restoration element. The cost of monitoring and adaptive management is included in the total estimated first cost of this element.

g. Bayou Cumbest Ecosystem Restoration. This project element includes the acquisition of approximately 61 tracts, removal of 19 structures, excavation and removal of fill material from former home sites and adjacent lands, filling drainage ditches, control of non-native species, and planting with native emergent wetland species. Following acquisition of these tracts, 148 acres would be restored to emergent wetland (110 acres) and coastal scrub shrub habitat (38 acres). The estuarine wetland habitats provide nursery and foraging habitat that supports various species including economically-important marine fishery species, such as black drum, spotted seatrout, southern flounder, Gulf menhaden, bluefish, croaker, mullet, and blue crab. The proposed element would provide an increase of 637 average annual functional habitat units. The site's proximity to Franklin Creek, Grand Bay NWR and Grand Bay NERR increases the value of this project element by minimizing the fracturing of biodiversity. At October 2008 price levels, the estimated first cost of this element is $25,530,000. The cost of this project is allocated to ecosystem restoration. In accordance with the provisions of WRDA 1986, as amended, cost sharing would be 65-percent Federal and 35-percent non-Federal. The Federal share of the estimated first cost of this project

element is $16,590,000 and the non-Federal share is $8,940,000. The current estimated annual cost for operation, maintenance, repair, replacement, and rehabilitation of this project element is $114,000 and is a 100-percent non-Federal responsibility. Post-implementation monitoring of this ecosystem restoration element is projected to be conducted for no more than five years at a cost of less than 1-percent of the total first cost of the ecosystem restoration elements. Adaptive management of ecosystem restoration element is expected to cost no more than 3-percent of the total first cost of the ecosystem restoration element. The cost of monitoring and adaptive management is included in the total estimated first cost of this element.

h. Admiral Island Ecosystem Restoration. This project element consists of restoration of a severely degraded 123-acre tidal wetland area owned by the State of Mississippi. Measures required to restore hydrology and native habitat to the area include excavating fill material, filling ditches, control of non-native species and planting native tidal emergent species. The proposed element would provide an increase of 108 average annual functional habitat units. At October 2008 price levels, the estimated first cost of this element is $21,810,000. The cost of this project is allocated to ecosystem restoration. In accordance with the provisions of WRDA 1986, as amended, cost sharing would be 65-percent Federal and 35-percent non-Federal. The Federal share of the estimated first cost of this project element is $14,180,000 and the non-Federal share is $7,630,000. The current estimated annual cost for operation, maintenance, repair, replacement, and rehabilitation of this project element is $58,000 and is a 100-percent non-Federal responsibility. Post-implementation monitoring of this ecosystem restoration element is projected to be conducted for no more than five years at a cost of less than 1-percent of the total first cost of the ecosystem restoration elements. Adaptive management of ecosystem restoration element is expected to cost no more than 3-percent of the total first cost of the ecosystem restoration element. The cost of monitoring and adaptive management is included in the total estimated first cost of this element.

i. Deer Island Ecosystem Restoration. This project element includes actions that will complement existing Federal restoration projects by minimizing the fracturing of biodiversity. Measures include restoration of a portion of the northern and southern shorelines of the island, and new stone training dikes to prevent future erosion. The proposed element would provide an additional 400 acres of highly productive estuarine wetlands, restore beach and dune habitat, create hard bottom habitat, reduce coastal erosion, and restore the coastal maritime forest. This element would produce an increase of 2,125 average annual functional habitat units. In addition, the restoration of Deer Island provides incidental hurricane and storm damage risk reduction benefits to the developed mainland Biloxi area. At October 2008 price levels, the estimated first cost of this element is $21,520,000. The cost of this project is allocated to ecosystem restoration. In accordance with the provisions of WRDA 1986, as amended, cost sharing would be 65-percent Federal and 35-percent non-Federal. The Federal share of the estimated first cost of this project element is $13,990,000 and the non-Federal share is $7,530,000. All costs for operation, maintenance, repair, replacement and rehabilitation are a 100-percent non-Federal responsibility. Post-implementation monitoring of this ecosystem restoration element is projected to be conducted for no more than five years at a cost of less than 1-percent of the total first cost of the ecosystem

restoration elements. Adaptive management of ecosystem restoration element is expected to cost no more than 3-percent of the total first cost of the ecosystem restoration element. The cost of monitoring and adaptive management is included in the total estimated first cost of this element.

j. Submerged Aquatic Vegetation Element. This element consists of measures designed to evaluate techniques for restoring submerged aquatic vegetation (SAV), an essential component of an estuarine ecosystem. Specifically, five acres of SAVs in the Grand Bay National Estuarine Research Reserve (NERR) area that were destroyed by Hurricane Katrina will be restored using different techniques. The results will be used to guide and develop other SAV restoration projects that would be undertaken as future authorized elements of the overall Comprehensive Plan. At October 2008 price levels, the estimated first cost of this element is $900,000. Cost sharing would be 65-percent Federal and 35-percent non-Federal. The Federal share of the estimated first cost of this measure is $590,000 and the non-Federal share is $310,000.

k. Coast-wide Beach and Dune Ecosystem Restoration. This project element consists of beach and dune improvements to approximately 30 miles of the 60 miles of existing beaches on the mainland coast. These improvements would include construction of 60-foot wide vegetated dune fields approximately 50 feet seaward of the existing seawalls. The element would provide 248 average annual functional habitat units. These beach and dune areas are critical to nesting and resting shorebirds such as the State listed least tern and the threatened piping plover. In addition to the ecological benefits, the dunes would provide incidental hurricane and storm damage risk reduction benefits particularly during smaller storm events, tropical storms, and lower energy hurricanes. At October 2008 price levels, the estimated first cost of this element is $23,320,000. The cost of this project is allocated to ecosystem restoration. In accordance with the provisions of WRDA 1986, as amended, cost sharing would be 65-percent Federal and 35-percent non-Federal. The Federal share of the estimated first cost of this project element is $15,160,000 and the non-Federal share is $8,160,000. All costs for operation, maintenance, repair, replacement and rehabilitation are a 100-percent non-Federal responsibility. Post-implementation monitoring of this ecosystem restoration element is projected to be conducted for no more than five years at a cost of less than 1-percent of the total first cost of the ecosystem restoration elements. Adaptive management of ecosystem restoration element is expected to cost no more than 3-percent of the total first cost of the ecosystem restoration element. The cost of monitoring and adaptive management is included in the total estimated first cost of this element.

l. Barrier Island Restoration. This project element consists of the placement of approximately 22 million cubic yards of sand within the National Park Service's Gulf Islands National Seashore, Mississippi unit. Approximately 13 million cubic yards of sand would be used to close a gap between East Ship Island and West Ship Island, originally opened by Hurricane Camille, through the construction of a low level dune system. The remaining 9 million cubic yards of sand would be placed in the littoral zones at the eastern ends of Ship and Petit Bois Islands. This would result in the restoration of 1,150 acres of critical coastal zone habitats. In accordance with the requests of the National Park Service, the closure of the Ship Island gap and placement of sand into the littoral zones would be undertaken only once, and would not be nourished or otherwise maintained in the

future. The restoration of Ship Island would provide over 400 average annual functional habitat units and help to ensure the sustainability of the Mississippi Sound ecosystem by maintaining salinity inflows from the Gulf of Mexico. The estuarine habitats provide nursery and foraging habitat that supports various species including economically-important marine fishery species, such as black drum, spotted seatrout, southern flounder, Gulf menhaden, bluefish, croaker, mullet, and blue crab. These estuarine-dependent organisms serve as prey for other important fisheries, such as mackerels, snappers, and groupers, and highly migratory species, such as billfishes and sharks. Incidental benefits associated with this element include average annual hurricane and storm damage risk reduction benefits of $20,000,000 to mainland Mississippi, $470,000 in average annual recreation benefits, and $43,000,000 in average annual fishery benefits to Mississippi Sound. The placement of sand would also provide incidental protection to two cultural sites listed on the National Register of Historic Places. At October 2008 price levels, the estimated cost of this element is $479,710,000. The cost of this element is allocated to ecosystem restoration. Cost sharing would be 65-percent Federal and 35-percent non-Federal. The Federal share of the estimated cost of this project element is $311,810,000 and the non-Federal share is $167,900,000.

5. Further Detailed Investigations of Remaining Elements of the Comprehensive Plan. The MsCIP Comprehensive Plan describes a number of additional components that could provide further improvements in the coastal area of Mississippi if implemented. However, these components are not recommended for authorization for construction at this time because further feasibility level analysis under additional study authority would be required to support a recommendation for construction authorization. Consequently, the reporting officers recommended additional feasibility level studies as part of the MsCIP Comprehensive Plan. These follow-on feasibility studies would evaluate the potential for restoration of over 30,000 acres of coastal forest, wetlands, beaches and dunes; restoration of barrier islands; structural measures; and floodproofing of structures on, or acquisition of, over 58,000 tracts within the 100 year floodplain. The reporting officers worked closely with other Federal agencies, the State of Mississippi, environmental groups, stakeholders, and interested parties to ensure that the program recommended for implementation best meets the goals and objectives of the MsCIP Comprehensive Plan consistent with the Congressional authorization. The total study cost of the recommended follow-on feasibility level studies is estimated to be $143,200,000, which would be cost shared on a 50-percent Federal and 50-percent non-Federal basis consistent with cost sharing provisions of Section 105 of WRDA 86, as amended. Follow-on analysis would include:

- 6 additional ecosystem restoration studies to restore the hydrology and native habitat on undeveloped state owned property.
- Long-term High Hazard Area Risk Reduction Program element to evaluate the further acquisition of high risk properties.
- Escatawpa River Freshwater Diversion to evaluate a variety of freshwater diversion scenarios to restore wet pine savannah habitat and reduce salinities in Grand Bay.

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- 30 long-term ecosystem restoration and hurricane and storm damage risk reduction studies to restore the hydrology and natural habitat and reduce storm damages in developed residential areas.
- 7 hurricane and storm damage risk reduction studies to evaluate additional hurricane and storm damage risk reduction opportunities in high density land use areas.

6. At October 2008 price levels, the estimated first cost of the 12 elements of the MsCIP Comprehensive Plan recommended for authorization is $1,010,080,000, of which $656,550,000 would be Federal and $353,530,000 would be non-Federal. The estimated first cost of the individual elements recommended for authorization is summarized below in Table 1. The first cost of the recommended feasibility studies is estimated at $143,200,000. The estimated first cost of the individual studies recommended are summarized below in Table 2.

Table 1
Mississippi Coastal Improvements Program
Cost Sharing (October 2008 Price Level)

Phase I Recommended Plan Element	Total First Cost	Federal Cost	Non-Federal Cost
Phase I High Hazard Area Risk Reduction Plan	$407,860,000	$265,110,000	$142,750,000
Waveland Floodproofing	$4,450,000	$2,890,000	$1,560,000
Forrest Heights Levee	$14,070,000	$9,150,000	$4,920,000
Turkey Creek Ecosystem Restoration	$6,840,000	$4,450,000	$2,390,000
Dantzler Ecosystem Restoration	$2,210,000	$1,440,000	$770,000
Franklin Creek Ecosystem Restoration	$1,860,000	$1,210,000	$650,000
Bayou Cumbest Ecosystem Restoration & Hurricane & Storm Damage Reduction	$25,530,000	$16,590,000	$8,940,000
Admiral Island Ecosystem Restoration	$21,810,000	$14,180,000	$7,630,000
Deer Island Ecosystem Restoration	$21,520,000	$13,990,000	$7,530,000
Submerged Aquatic Vegetation Pilot Program	$900,000	$590,000	$310,000
Coast-wide Beach and Dune Ecosystem Restoration	$23,320,000	$15,160,000	$8,160,000
Comprehensive Barrier Island Restoration	$479,710,000	$311,810,000	$167,900,000
Total MsCIP Authorization Request	$1,010,080,000	$656,550,000	$353,530,000

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Table 2
Mississippi Coastal Improvements Program
Cost Sharing (October 2008 Price Level)

Feasibility Studies	Estimated Study Cost	Federal Cost	Non-Federal Cost
Long-term High Hazard Area Risk Reduction	$5,000,000	$2,500,000	$2,500,000
Escatawpa River Freshwater Diversion	$3,000,000	$1,500,000	$1,500,000
Ecosystem Restoration Studies	$1,700,000	$850,000	$850,000
Long-term Ecosystem Restoration and Hurricane and Storm Damage Risk Reduction	$48,500,000	$24,250,000	$24,250,000
Structural Hurricane and Storm Damage Risk Reduction	$85,000,000	$42,500,000	$42,500,000
Total First Cost of MsCIP Recommended Investigations	$143,200,000	$71,600,000	$71,600,000

7. In concert with the Corps Campaign Plan, the MsCIP Comprehensive Plan was developed utilizing a systematic and regional approach in formulating solutions and in evaluating the impacts and benefits of those solutions. All potential impacts, both adverse and beneficial, have been considered without regard to geographic boundaries. The MsCIP and Louisiana Coastal Protection and Restoration (LACPR) study teams collaborated fully their efforts on a systems scale to ensure consistency. A regional salinity and water quality model has been developed covering an area from west of Lake Pontchartrain to east of Mobile Bay and south beyond the Chandeleur Islands in the Gulf. Regional storm surge modeling has been applied to examine regional-scale changes to storm surge levels associated with several of the proposed project alternatives. A multi-disciplinary risk assessment team was assembled by the Corps to characterize the probabilities of different hurricanes that can impact the northern Gulf of Mexico region. The risk assessment team supported both the MsCIP and LACPR work and FEMA's remapping efforts, and developed a unified general coastal flooding methodology that is being applied by U.S. Army Corps of Engineers (Corps) and FEMA.

8. Independent External Peer Review (IEPR) of the MsCIP Comprehensive Plan was managed by Battelle Memorial Institute, a non-profit science and technology organization with experience in establishing and administering peer review panels for the Corps. The IEPR panel consisted of seven individuals selected by Battelle with technical expertise in engineering (civil and geotechnical); geology/geomorphology; hydrology; hydraulics; coastal environmental science, water quality/resource management; floodplain management; meteorology/hurricanes; socioeconomics; real estate; risk assessment; and modeling. The Final Report from the IEPR panel was issued November 7, 2008 and included 14 final comments. Overall, the IEPR panel found the MsCIP Comprehensive Plan is an impressive body of work that is wide-ranging in the scope of research used to inform plan selection and recommendations. However, they felt that the plan could be improved by inclusion of a concise statement of the project's long-term vision for the future coastal landscape and a figure illustrating the project in the Executive Summary. The panel also acknowledged that there has been extensive outreach and community engagement

in the scoping process. The panel encouraged continued Corps collaboration with the public, local and Federal agencies, and the inclusion of universities and research institutions to continue to inform this plan. Support of local communities and states should be fostered as it is also a critical component to project success. Of the 14 IEPR comments identified by the panel, four were classified as high significance by the panel. This first comment recommended including a refined analysis in certain areas before design and build is conducted. In response, additional clarification was added to the report to indicate that a refined analysis would be undertaken in the ensuing project phases. The second comment requested providing additional explanations on the preliminary evaluations of hurricane storm damage risk reduction, erosion control, and ecosystem restoration. In response, with assistance from recommendations in the IEPR report, the Comprehensive Plan was revised to provide further clarification in these areas. The third comment recommended that the redevelopment scenarios should include a range of possible outcomes for the economy. In response, the team provided further explanations on the preliminary analysis and possible outcomes for the redevelopment scenarios. The fourth comment recommended that adaptive management processes should be a more integral part of the Comprehensive Plan and must include a strong monitoring and feedback mechanism. In response, the adaptive management process was further integrated into the Comprehensive Plan, along with recognition that adaptive management will be developed more extensively in collaboration with others in the ensuing project phases. Eight of the IEPR panel comments were classified as medium significance by the panel. They included clarifying the extent of inclusion of public and agency engagement into plan selection; including additional information on future impacts to municipal and industrial waste facilities; including additional detail on human adaptation, as it relates to economic activities; including additional explanations on sea level rise; including a clearer description on how relative sea level rise is incorporated; providing a clearer explanation on the physics-based models; providing further descriptions on the factors in model selection; and providing further explanation on why oysters were used as an indicator species. As a result of these comments, additional discussions were added to the report to clarify these areas, including why decisions were made through the study process respective to these comments. The report was also revised to provide further explanation on the use of oysters as one of several indicator species that assisted in the identification of feasible alternatives. The final two comments from the IEPR panel were classified as low significance. They included reevaluating the goal to reduce loss of life by 100% as it is unrealistic for the project; and to clarify the process for weighting metrics, both of which were addressed with modifications to the report. While the goal to reduce loss of life by 100% remained in the study, additional discussion was added to the report to state that residual risk will remain with any type of plan in place, and to emphasize the roles of all partners in addressing and communicating residual risk, including the need for a well coordinated hurricane evacuation plan.

9. Washington level review indicated that the project is technically sound, environmentally acceptable, and cost effective. The plan conforms with essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation studies and complies with other administration and

legislative policies and guidelines. Also, the views of interested parties, including Federal, State and local agencies have been considered.

10. One or more of the 12 elements of the MsCIP Comprehensive Plan recommended in this report to be authorized for implementation may be implementable pursuant to statutory language included in Title IV of the Supplemental Appropriations Act, 2009 (Public Law 111-32) under the heading "Flood Control and Coastal Emergencies" that was enacted on June 24, 2009 (*see* 123 Stat. 1875-1876). Analysis as to which element or elements may be implemented pursuant to that language is ongoing.

11. I find that the reporting officers have addressed the provisions of P.L. 109-148, and I generally concur in their findings, conclusions, and recommendations. Accordingly, I recommend that the 12 elements described herein be authorized for implementation in accordance with the reporting officers' plan, with such modifications as in the discretion of the Chief of Engineers may be advisable. I further recommend that the additional studies as described herein be authorized subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including WRDA 1986, as amended. This recommendation of authorization for implementation of the 12 elements is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including WRDA 1986, as amended, and with the non-Federal sponsor agreeing to comply with applicable Federal law and policies, and with the following requirements:

a. Provide 35 percent of total project costs allocated to hurricane and storm damage risk reduction, as further specified below:

(1) Provide 25 percent of design costs allocated to hurricane and storm damage risk reduction in accordance with the terms of a design agreement entered into prior to commencement of design work for a project element for hurricane and storm damage risk reduction;

(2) Provide, during the first year of construction of a project element for hurricane and storm damage risk reduction, any additional funds necessary to pay the full non-Federal share of design costs allocated to hurricane and storm damage reduction;

(3) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of a project element for hurricane and storm damage risk reduction;

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(4) Provide, during construction of a project element for hurricane and storm damage risk reduction, any additional funds necessary to make its total contribution for hurricane and storm damage risk reduction equal to 35 percent of total project costs allocated to hurricane and storm damage risk reduction;

b. Provide 35 percent of total project costs allocated to ecosystem restoration, as further specified below:

(1) Provide 25 percent of design costs allocated to ecosystem restoration in accordance with the terms of a design agreement entered into prior to commencement of design work for a project element for ecosystem restoration;

(2) Provide, during the first year of construction of a project element for ecosystem restoration, any additional funds necessary to pay the full non-Federal share of design costs allocated to ecosystem restoration;

(3) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of a project element for ecosystem restoration;

(4) Provide, during construction of a project element for ecosystem restoration, any additional funds necessary to make its total contribution for ecosystem restoration equal to 35 percent of total project costs allocated to ecosystem restoration;

c. Shall not use funds from other Federal programs, including any non-Federal contribution required as a matching share therefore, to meet any of the non-Federal obligations for a project element unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is authorized;

d. Shall not use a project element for ecosystem restoration or lands, easements, and rights-of-way required for a project element for ecosystem restoration as a wetlands bank or mitigation credit for any other project or project element;

e. Not less than once each year, inform affected interests of the extent of protection afforded by the project elements for hurricane and storm damage risk reduction;

f. Agree to participate in and comply with applicable Federal floodplain management and flood insurance programs for project elements for hurricane and storm damage risk reduction;

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g. Comply with Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), which requires a non-Federal interest to prepare a floodplain management plan within one year after the date of signing a project partnership agreement, and to implement such plan not later than one year after completion of construction of a project element for hurricane and storm damage risk reduction;

h. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with protection levels provided by a project element for hurricane and storm damage risk reduction;

i. Prevent obstructions or encroachments on a project element (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project element lands, easements, and rights-of-way or the addition of facilities which might reduce the level of protection a project element affords, reduce the outputs produced by a project element, hinder operation and maintenance of a project element, or interfere with a project element's proper function;

j. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of a project element, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

k. For so long as a project element remains authorized, operate, maintain, repair, rehabilitate, and replace the project element, or functional portions of the project element, including any mitigation features, at no cost to the Federal Government, in a manner compatible with the project element's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

l. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor owns or controls for access to a project element for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project element;

m. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, rehabilitation, and replacement of a project element and any betterments, except for damages due to the fault or negligence of the United States or its contractors;

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n. Keep and maintain books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to a project element, for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations (CFR) Section 33.20;

o. Comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.*);

p. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of a project element. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal Government provides the non-Federal sponsor with prior specific written direction, in which case the non-Federal sponsor shall perform such investigations in accordance with such written direction;

q. Assume, as between the Federal Government and the non-Federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of a project element;

r. Agree, as between the Federal Government and the non-Federal sponsor, that the non-Federal sponsor shall be considered the operator of a project element for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project element in a manner that will not cause liability to arise under CERCLA; and

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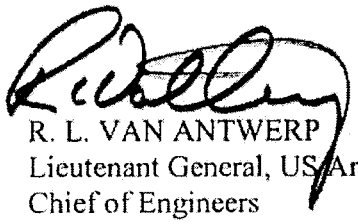
s. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element.

12. The recommendations contained herein reflect the information available at this time and current Departmental policies governing formulation of individual projects. They do not reflect program and budgeting priorities inherent in the formulation of a national Civil Works construction program nor the perspective of higher review levels within the Executive Branch. Consequently, the recommendations may be modified before they are transmitted to the Congress as proposals for authorization and implementation funding. However, prior to transmittal to the Congress, the non-Federal sponsor, the State, interested Federal agencies, and other parties will be advised of any modifications and will be afforded an opportunity to comment further.



R. L. VAN ANTWERP
Lieutenant General, US Army
Chief of Engineers

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

REPLY TO
ATTENTION OF

CEMP-NAD (1105-2-10a)

AUG 24 2009

SUBJECT: Mid-Chesapeake Bay Island Ecosystem Restoration Project, Chesapeake Bay, Dorchester County, Maryland

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on ecosystem restoration in the Middle Chesapeake Bay at James and Barren Islands. It is accompanied by the report of the Baltimore District Engineer and the North Atlantic Division Engineer. These reports are a partial response to a resolution by the Senate Committee on Environment and Public Works, adopted 5 June 1997. The resolution requested that the Secretary review the report of the Chief of Engineers on the Chesapeake Bay, Maryland and Virginia, published as House Document 176, Eighty-eighth Congress, First Session, and other pertinent reports with a view to conducting watershed management studies, in cooperation with other Federal agencies, the State of Maryland and the State of Delaware, their political subdivisions and agencies and instrumentalities thereof, of water resources improvements in the interest of navigation, flood control, hurricane protection, erosion control, environmental restoration, wetlands protection, and other allied purposes in watersheds of the Eastern Shore, Maryland and Delaware. The Eastern Shore, Maryland (MD) and Delaware (DE) Section 905(b) analysis concluded that a Federal interest existed to assess the needs and opportunities within the study area and recommended a variety of potential projects for further study. The Mid-Chesapeake Bay Island Ecosystem Restoration Study was initiated specifically to evaluate protecting and/or restoring island habitat loss because of erosion and subsidence through the beneficial use of dredged material, as recommended in the Section 905(b) analysis.

2. Land subsidence, rising sea level, and wave action are causing valuable remote island habitats to be lost throughout the Chesapeake Bay. Approximately 10,500 acres of island habitat has been lost in middle-eastern portion of Chesapeake Bay in the last 150 years, and should present island loss rates continue in the future, it is estimated that most remote island habitats will disappear from the Mid-Chesapeake Bay region within 20 years. The Mid-Chesapeake Bay Island Ecosystem Restoration Project consists of constructing environmental restoration projects at both James and Barren Islands. The reporting officers recommend authorizing a plan that will restore 2,144 acres of remote island habitat (2,072 acres at James Island and 72 acres at Barren Island), while also protecting approximately 1,325 acres of submerged aquatic vegetation (SAV) habitat adjacent to Barren Island and providing approximately 90 to 95 million cubic yards, or approximately 28 to 30 years, of dredged material placement capacity. Through the beneficial use of dredged material, the Mid-Chesapeake Bay Island Ecosystem Restoration Project would replace hundreds of acres of lost wetland and upland remote island habitat. This habitat would

improve productivity in the surrounding area, while providing an environmentally sound method for the use of dredged material from the Chesapeake Bay approach channels to the Port of Baltimore. Cost effectiveness and incremental cost analysis techniques were used to evaluate alternative ecosystem restoration plans. Since the recommended plan would not have any significant adverse effects, no mitigation measures (beyond management practices and avoidance) or compensation measures would be required. The recommended plan is the most efficient and cost-effective of the alternatives considered and provides substantial environmental benefits. The recommended plan is the national ecosystem restoration plan (the NER plan).

3. The incremental cost of the disposal of dredged material for ecosystem restoration purposes over the least cost, environmentally acceptable method of disposal is shared in accordance with Section 210 of WRDA 1996 (PL 104-303). Project cost sharing for ecosystem restoration requires that the non-Federal sponsor provide 35 percent of the cost associated with construction of the project for the protection, restoration, and creation of aquatic and ecologically related habitats, including provision of all lands, easements, rights-of-way, and necessary relocations. Cost sharing for recreation features requires that the non-Federal sponsor provide 50 percent of the cost associated with construction cost. Recreation facilities will be constructed on existing project lands required for the environmental restoration. Further, the non-Federal project sponsor must pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs associated with the project.

4. The Maryland Port Administration, under the auspices of the Maryland Department of Transportation is the non-Federal sponsor for the project. The estimated total first cost including contingencies for the Mid-Chesapeake Bay Island Ecosystem Restoration Project is $1.612 billion based on October 2008 price levels. The Federal share of the total project costs would be $1.045 billion for the Federal government (65 percent) and $567 million for the non-Federal sponsor (35% percent). Operations, maintenance, repair, rehabilitation, and replacement (OMRR&R) costs for the completed project are projected to be less than 2 percent of the total project cost and would be a non-Federal responsibility. The first costs of the recommended recreation facilities are estimated at $210,000. The Federal Government and the non-Federal sponsor would each share 50 percent of the cost or $105,000. Since the recreation features are not planned to be constructed until the project is largely complete, OMRR&R costs would be incurred beyond to period of analysis for the project and so are not included in the project cost.

5. The cost of the recommended environmental restoration plan is justified by the restoration of 2,144 acres of remote island habitat (2,072 acres at James Island and 72 acres at Barren Island), the protection of approximately 1,325 acres of SAV habitat adjacent to Barren Island, and achieving habitat increases in the most cost-effective manner. The habitats constructed as part of the Mid-Bay Ecosystem Restoration Project will restore additional remote island habitat, a scarce and rapidly vanishing ecosystem niche within the Chesapeake Bay region that provide a vital

connection for avian species between open-water and mainland terrestrial habitats within the region and provide valuable nesting habitat for a variety of colonial nesting and wading bird species. Protection of the extensive SAV beds east of Barren Island will provide nursery habitat for blue crabs and many species of commercially important finfish species, while also providing foraging habitat for waterfowl. The restoration projects at James and Barren Islands would contribute to the goals of the Chesapeake Bay Program watershed partnership through its habitat and ecosystem recovery and preservation efforts. Both James and Barren Islands would contribute to the Chesapeake 2000 Agreement goals to restore tidal and non-tidal wetlands, to protect and restore submerged aquatic vegetation, and to develop strategies to address water clarity in areas of critical importance for submerged aquatic vegetation.

6. The Corps of Engineers uses a Campaign Plan to establish priorities, focus transformation initiatives, measure and guide progress, and adapt to the needs of the future. The second of four goals of the Campaign Plan is to deliver enduring and essential water resource solutions through collaboration with partners and stakeholders. In developing this project, the Corps of Engineers has focused its talents and energy on a comprehensive, sustainable and integrated solution to the one of the Chesapeake Bay's greatest water resources and related challenges, and has accomplished this through collaboration with a diverse group of organizations and individuals, ranging from large government agencies to local watermen making their living on the Chesapeake Bay in the vicinity of James and Barren Islands. They included numerous local, State, and Federal agencies; defined groups such as watermen's, fishermen's, and boating associations; and private citizens. Through this substantial network of stakeholders and the beneficial use of dredged material, this project is an integrated and holistic solution that not only sustains one of the Nation's most productive ports, but ensures that the invaluable remote island habitat that the project is restoring in the Nation's largest estuary is equally sustainable.

7. The plan as developed is technically sound, economically efficient, and environmentally and socially acceptable. The plan conforms with essential elements of the U.S. Water Resources Council's 1983 Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies and complies with other administration and legislative policies and guidelines. The development of this project benefited from an extensive review process that included the District Quality Control by the Baltimore District, Agency Technical Review by the Philadelphia District, and an Independent External Peer Review. District Quality Control reviewed basic science and engineering products. The Agency Technical Review was an in-depth review by senior Corps personnel to ensure the proper application of clearly established criteria, regulations, laws, codes, principles, and professional practices. In addition, the primary benefit model, the Island Community Units Model, was reviewed by the Corps of Engineers National Ecosystem Planning Center of Expertise and the Engineer Research and Development Center. Approval of the application of the Island Community Units model was recommended for the Mid-Chesapeake Bay Island Ecosystem Restoration Project. It was also determined that

use of the model for future projects would require additional documentation supporting model assumptions, justification of guild weightings, and a sensitivity analysis of individual guild models and guild weighting.

8. The Independent External Peer Review (IEPR) was managed by an outside eligible organization that assembled a panel of four experts in the fields of engineering, estuarine ecology, economics and plan formulation, and hydrology. Ultimately, the panel identified and documented 14 comments. Four were classified as low significance and included comments about the influence of climate change on design, the addition of figures to the main body of the report, citations for restoration literature, and clarification of the location for dredged material in the most probable future without project condition. These comments were addressed with minor modifications to the feasibility report. Eight of the comments were classified as medium significance. They included the level of rigor/review of the preferred alternative; the use of a sensitivity analysis and the documentation of risk and uncertainty; the schedule for establishment of a fully functioning marsh; further discussion of the link between the need and scale of the project with the target volume of dredged material; description of the environmental monitoring; connectivity between the salt marsh and the estuary; inclusion of climate change, sea level rise, and invasive species in the Adaptive Management Plan; and potential discounting of environmental outcomes over the project lifetime. As a result, clarification was added to the report, a cost and schedule risk assessment was conducted, and a detailed monitoring plan and Adaptive Management Plan are being developed with the assistance of the panel's recommendations. The remaining two panel comments were determined to be of high significance. One concern was that the analysis of environmental benefits was biased by the failure to subtract quantitative habitat injuries, making the selection process and justification of the preferred alignment unreliable. In response, the team worked with fishery managers to quantify adverse impacts from filling the water column and benthic habitat and provided a discussion to support the conclusions produced by the plan formulation selection process using net benefits. The second concern was that water quality impacts associated with construction and the potential negative impacts of resettled suspended sediment were not addressed. As suggested by the IEPR reviewers, the team prepared an assessment that considered sediment re-suspension, transport, and deposition, and oyster and submerged aquatic vegetation requirements to assess construction impacts for Barren and James Islands. Federal and State resource agencies were involved in the planning and assessment of impacts. The team concluded that there will be no significant turbidity or environmental impacts to the oyster bars or submerged aquatic vegetation from construction at Barren or James Islands.

9. The views of interested parties, including Federal, State and local agencies, have been considered. Specific requests have been made for additional coordination with U.S. Fish and Wildlife Service and the National Marine Fisheries Service as detailed designs proceed on the

project. USACE has agreed to continue close coordination with these agencies and other affected parties as the design and construction process continues.

10. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend implementation of the authorized project in accordance with the reporting officers' plan with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of WRDA 1986, as amended. The non-Federal sponsor would provide the non-Federal cost share and all LERRD. Further, the non-Federal sponsor would be responsible for all OMRR&R. This recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and policies, including the following requirements:

a. Provide a minimum of 35 percent of total ecosystem restoration costs as further specified below:

1) Provide *25* percent of design costs allocated by the Government to ecosystem restoration in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

2) Provide, during the first year of construction, any additional funds necessary to pay the full non-Federal share of design costs allocated by the Government to ecosystem restoration;

3) Provide all lands, easements, and rights-of-way, including suitable borrow, and perform or ensure the performance of all relocations determined by the Federal Government to be necessary for the construction, operation, and maintenance of the project;

4) Provide all improvements required on lands, easements, and rights-of-way to enable the proper placement of dredged or excavated material associated with the construction, operation, and maintenance of the project;

5) Provide, during construction, any additional amounts as are necessary to make its total contribution at least 35 percent of ecosystem restoration costs.

b. Provide 50 percent of total recreation costs as further specified below:

1) Provide 25 percent of design costs allocated by the Government to recreation in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

2) Provide during the first year of construction, any additional funds necessary to pay the non-Federal share of design costs allocated by the Government to recreation;

3) Provide all lands, easements, and rights-of-way, including those required for relocations, and borrowing of material, and the disposal of dredged or excavated material;

perform or ensure the performance of all relocations; and construct all of the improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated materials all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of the recreation features;

4) Provide, during construction, any funds necessary to make its total contribution for recreation equal to 50 percent of the recreation costs;

5) Provide during construction, 100 percent of the total recreation costs that exceed an amount equal to 10 percent of the Federal share of total ecosystem restoration costs.

c. For so long as the project remains authorized, operate, maintain, repair, replace, and rehabilitate the project, or functional portion of the project, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government.

d. Shall not use the project or project lands, easements, and rights-of-way as a wetland bank or mitigation credit required for another project.

e. Provide and maintain recreation features and public use facilities open and available to all on equal terms.

f. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor, now or hereafter, owns or controls for access to the project for the purpose of inspection, and, if necessary after failure to perform by the non-Federal sponsor, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the project. No completion, operation, maintenance, repair, replacement, or rehabilitation by the Federal Government shall operate to relieve the non-Federal sponsor of responsibility to meet the non-Federal sponsor's obligations, or to preclude the Federal Government from pursuing any other remedy at law or equity to ensure faithful performance.

g. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, replacement, and rehabilitation of the project and any project related betterments, except for damages due to the fault or negligence of the United States or its contractors.

h. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence are required, to the

extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 CFR Section 33.20.

i. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), PL 96-510, as amended, 42 U.S.C. 9601-9675, that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for the construction, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal government provides the non-Federal sponsor with prior specific written direction, in which case, the non-Federal sponsor shall perform such investigations in accordance with such written direction.

j. Assume, as between the Federal government and the non-Federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated substances located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be necessary for the construction, operation, or maintenance of the project.

k. Agree, as between the Federal Government and the non-Federal sponsor, the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability. To the maximum extent practicable, operate, maintain, repair, replace, and rehabilitate the project in a manner that will not cause liability to arise under CERCLA.

1. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91 -646, as amended (42 U.S.C. 4601 - 4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way, required for the construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the placement of dredged or excavated material, and inform all affected persons of applicable benefits, policies, and procedures under said Act.

m. Comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of -the Civil Rights Act of 1964, PL 88-352 (42 U.S.C. 2000d); Department of Defense Directive 5500.1 1 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army;" and all applicable Federal labor standards including,

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SUBJECT: Mid-Chesapeake Bay Island Ecosystem Restoration Project, Chesapeake Bay, Dorchester County, Maryland

but not limited to, 40 U.S.C. 3 141 -48 and 40 U.S.C. 3701-08 (reversing, codifying, and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 267a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c et seq.),

11. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program nor the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to the Congress, the sponsors, the State, interested Federal agencies, and other parties will be advised of any modifications and will be afforded an opportunity to comment further.

R. L. VAN ANTWERP
Lieutenant General, US Army
Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:
CECW-SAD (1105-2-10a)

MAR 11 2010

SUBJECT: Comprehensive Everglades Restoration Plan, Central and Southern Florida, Caloosahatchee River (C-43) West Basin Storage Reservoir Project, Hendry County, Florida

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on ecosystem restoration improvements for the Caloosahatchee River (C-43) West Basin Storage Reservoir project, located in Hendry County, Florida. It is accompanied by the report of the district and division engineers. These reports are in response to Section 601 of the Water Resources Development Act (WRDA) of 2000, which authorized the Comprehensive Everglades Restoration Plan (CERP) as a framework for modifications and operational changes to the Central and Southern Florida Project that are needed to restore, preserve, and protect the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection. WRDA 2000 identified specific requirements for implementing components of the CERP, including development of a decision document known as a Project Implementation Report (PIR). The Caloosahatchee River (C-43) West Basin Storage Reservoir Project is a component of the CERP that was not specifically authorized in that Act. The authority for the preparation of the Caloosahatchee River (C-43) West Basin Storage Reservoir Project Implementation Report (PIR), one of a number of site-specific projects, is contained in Section 601(d) of WRDA 2000. Congress may authorize the project following review and approval of a PIR by the Secretary of the Army. The requirements of a PIR are addressed in this report. Preconstruction engineering and design activities for this Project will be continued under the existing CERP Design Agreement.

2. The PIR recommends a project that significantly contributes to two of the ecologic goals and objectives of the CERP: improving habitat and functional quality and improving native plant and animal species abundance and diversity. In addition, it contributes to the socioeconomic objective of providing recreational and navigation opportunities. Scientists have established that a mosaic of uplands, freshwater marsh, deep water sloughs, and estuarine habitats supporting a diverse community of fish and wildlife was one of the defining characteristics of the pre-drainage Everglades ecosystem. Currently in south Florida, habitat function and quality has significantly declined in remaining natural system areas due to water management projects and practices, resulting in a loss of suitable nesting, foraging, and fisheries habitat and a decline in native species diversity and abundance. The PIR confirms information in the CERP and provides project-level evaluation of costs and benefits associated with construction and operations of a reservoir. Constructing and operating a reservoir would reduce the extreme salinity changes in the Caloosahatchee Estuary by providing a more consistent flow of fresh water discharging at S-79 into the Caloosahatchee River Estuary. The extreme fresh water

fluctuations are due to fresh water flows from basin runoff and releases from Lake Okeechobee. Due to the advanced land acquisition activities conducted jointly by the Federal Government and the State of Florida, the Project can be implemented relatively quickly, significantly advancing the realization of project benefits in an area that has been degraded by past water management activities.

3. The reporting officers recommend implementing the Caloosahatchee River (C-43) West Basin Storage Reservoir to improve the ecological function of the Caloosahatchee Estuary by capturing and storing the excess surface water runoff from the Caloosahatchee River watershed (or C-43 Basin) and excess releases from Lake Okeechobee. Stored water will then be discharged to the estuary during the dry season to augment existing inadequate flows. The project site is located on farm land adjacent to the Caloosahatchee River (C-43) canal in Hendry County and totals approximately 10,700 acres. The reservoir will require approximately 10,480 acres of land in fee and 20 acres of perpetual channel easement. Approximately 200 additional acres will be required on a temporary basis during project construction for staging areas. Approximately 7,080 acres of project lands were acquired with a 50 percent Federal cost-share using funds appropriated via the 1996 Federal Farm Bill and the Land and Water Conservation Funds that were specifically designated for the acquisition of lands to restore the South Florida ecosystem. Major features of the reservoir include external (dam) embankments varying in height from 32-37 feet above existing grade, Soil-Bentonite slurry walls within and beneath the external embankments, an internal (dam) embankment separating the two reservoir cells with an approximate height of 31 feet above existing grade, an inflow pump station consisting of diesel-powered pumps with a total pumping capacity of 1,500 cfs, a perimeter canal, and pump station consisting of electric-powered pumps with a total pumping capacity of 195 cfs, and numerous spillways, culverts, perimeter canal structures, an internal cell balancing structure, and outlet structures. Recreational opportunities are also provided at the site within the project footprint.

4. The total first cost of the recommended plan from the Final PIR and Integrated EIS, dated September 2007, based on October 2009 price levels, is estimated to be $570,480,000. The fully funded cost, based on October 2009 price levels, is estimated to be $610,736,000. Project cost increases since the Central and Southern Florida Project Comprehensive Restudy Study Final Integrated Feasibility Report and Programmatic Environmental Impact Statement, April 1999, are primarily due to the fact that the recommended plan is a larger reservoir than originally envisioned (170,000 acre-feet of storage compared to 160,000 acre-feet in the Restudy), that design refinements were needed to incorporate current methods and criteria for addressing dam safety requirements, and that real estate costs increased. Project cost increases from the final PIR to present are due to revisions to the land valuation crediting policy for CERP.

5. In accordance with the cost-sharing requirements of Section 601(e) of the WRDA 2000, as amended, the Federal cost of the recommended plan would be $ 305,368,000 and the non-Federal cost would be $305,368,000. The estimated lands, easements, rights-of-way, and relocations costs for the recommended plan are $84,650,000 of which approximately

CECW-SAD
SUBJECT: Comprehensive Everglades Restoration Plan, Central and Southern Florida, Caloosahatchee River (C-43) West Basin Storage Reservoir project, Hendry County, Florida

$27,566,500 (Rounded) has been provided to the State through the Federal Department of Interior Grant Funds. Based on October 2009 price levels, a 40-year period of economic evaluation and a 4.375 percent discount rate, the equivalent annual cost of the proposed project is estimated at $37,600,000, which includes operation, maintenance, repair, rehabilitation and replacement (OMRR&R), interest and amortization. The estimated annual costs for restoration OMRR&R are $3,100,000. The annual OMRR&R costs for recreation are estimated at $25,000. As a component of the CERP program, the interagency/interdisciplinary scientific and technical team, formed to ensure that system-wide goals are met, will participate in the annual monitoring to assess system-wide changes. In accordance with Sections 601(e)(4) and 601(e)(5)(D) of WRDA 2000 as amended, OMRR&R costs and adaptive assessment and monitoring costs will be shared equally between the Federal Government and the non-Federal sponsor. OMRR&R costs related to recreation features will be funded 100 percent by the non-Federal sponsor.

6. To ensure that an effective ecosystem restoration plan was recommended, cost effectiveness/incremental cost analysis techniques were used to evaluate alternative restoration plans. These techniques determined the selected alternative plan to be cost effective. The plan recommended for implementation is an increment of the National Ecosystem Restoration (NER) plan, it supports the adaptive management recommendations established by the National Research Council, and it meets the policy criteria established in U.S Army Corps of Engineers (USACE) guidance for planning in a collaborative environment. The recommended plan provides benefits by: 1) reducing harmful discharges to the Caloosahatchee Estuary by capturing a portion of high flow releases from Lake Okeechobee and basin runoff from the lower West Caloosahatchee River Basin during the wet season, 2) storing the water until needed in a reservoir, and 3) discharging stored water to supplement inadequate flows over S-79 to Caloosahatchee Estuary during the dry season, thereby reducing stress on the natural system. Hydrologic output comparisons were made between the flow frequency distribution of each alternative plan and the target frequency distribution for the combined monthly and weekly average freshwater inflows at S-79 for a nine year period of record. The nine years chosen out of the 36 year period of record contain three wet, three dry and three normal years. Biological outputs used to compare plans are based on several parameters that indicate the degree to which natural vegetative conditions and key indicator species are restored. The parameters for both hydrologic outputs and biological outputs are based on established peer-reviewed hydrologic and conceptual ecological models developed to guide the restoration of the South Florida ecosystem.

7. The recommended plan improves functional fish and wildlife habitat in the Caloosahatchee River Estuary. The Everglades has been designated an International Biosphere Reserve (1976) and a World Heritage Site (1979) by the United Nations Educational, Scientific, and Cultural Organization (UNESCO) and a Wetland of International Importance (1987) in accordance with the Ramsar Convention. The portion of the Everglades ecosystem directly affected by the Caloosahatchee River (C-43) West Basin Storage Reservoir, including the project site and the Caloosahatchee River and Estuary, provides habitat for 21 federally-listed endangered or threatened species, including the Florida panther, Everglades snail kite, wood stork, manatee, eastern indigo snake, Audubon's crested caracara and five species of sea turtles. In accordance

with the WRDA 2000 Section 601(f)(2), individual CERP projects shall be justified by the environmental benefits derived by the South Florida ecosystem. Similarly, Section 385.9(a) of the CERP Programmatic Regulations (33 CFR Part 385) requires that individual projects shall be formulated, evaluated, and justified based on their ability to contribute to the goals and purposes of the Plan and on their ability to provide benefits that justify costs on a next-added increment basis. The Caloosahatchee River (C-43) West Basin Storage Reservoir Project, operating in conjunction with other projects in the comprehensive plan produces an average annual increase of 12,809 habitat units in the Caloosahatchee River Estuary. On a next-added increment (NAI) basis (meaning adding the Caloosahatchee River (C-43) West Basin Storage Reservoir as the next project to be added to a system of projects) the Caloosahatchee River (C-43) West Basin Storage Reservoir project delivers about 15,300 average annual habitat units. Based on restoration first cost and the Caloosahatchee Estuary, the cost per acre benefited is about $8,034. On a next-added increment basis, the average annual cost per average annual habitat unit is approximately $2,825. Based on these parameters, the Caloosahatchee River (C-43) West Basin Storage Reservoir project is justified by the environmental benefits derived by the South Florida ecosystem and on a next-added increment basis. All NEPA compliance requirements have been completed. Final EIS coordination began on 21 September 2007 and concluded on 22 October 2007. No significant environmental changes have occurred since the EIS coordination was finalized in 2007.

8. Section 601(e)(5)(B) of the Water Resources Development Act of 2000, as amended by Section 6004 of the Water Resources Development Act of 2007, authorizes credit toward the non-Federal share for non-Federal design and construction work completed during the period of design or construction, subject to the execution of the design or project partnership agreement, and subject to a determination by the Secretary that the work is integral to the project. This project is included in the "Expedited Projects" formerly called Acceler8. The reporting officers recommend that the non-Federal sponsor be credited for all reasonable, allowable, necessary, auditable, and allocable costs applicable to The Caloosahatchee River (C-43) West Basin Storage Reservoir Project as may be authorized by law, including those incurred in advance of executing a project partnership agreement for this project, subject to authorization of the Project by law, a determination by the Assistant Secretary of the Army (Civil Works) or his/her designee that the In-kind work is integral to the Authorized CERP Project, that the costs are reasonable, allowable, necessary, auditable, and allocable, and that the In-kind work has been implemented in accordance with Government standards and applicable Federal and State laws.

9. Credits for non-Federal design and construction will be evaluated in accordance with the terms of the Master Agreement Between the Department of the Army and South Florida Water Management District for Cooperation in Constructing and Operating, Maintaining, Repairing, Replacing, and Rehabilitating Projects Authorized to be Undertaken Pursuant to the Comprehensive Everglades Restoration Plan, executed on 13 August 2009 (hereinafter "Master Agreement"). All documentation provided by the non-Federal sponsor will be thoroughly reviewed by USACE to determine reasonable, allowable, necessary, auditable, and allocable costs. Upon completion of this review, a financial audit will be conducted prior to granting final

credit. Coordination between USACE and the Sponsor will occur throughout design and construction via the USACE Regulatory process. The credit afforded to the non-Federal sponsor will be limited to the lesser of the following: (1) actual costs that are reasonable, allowable, necessary, auditable, and allocable to the Project; or (2) the USACE estimate of the cost of the work allocable to the Project had USACE performed the work. The non-Federal sponsor intends to implement this work using its own funds and would not use funds originating from other Federal sources unless the Federal granting agency verifies in writing that the expenditure of such funds is expressly authorized by statute and in accordance with Section 601 (e)(3) of WRDA 2000 as amended and the Master Agreement.

10. The plan recommended by the reporting officers is environmentally justified, technically sound, cost effective, and socially acceptable. The plan conforms to essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies and complies with other administration and legislative policies and guidelines. Also, the views of interested parties, including Federal, State and local agencies, have been considered.

State and Agency comments received during review of the Final PIR/EIS included concerns raised by the Florida Department of Agriculture and Consumer Services (FDACS) related to savings clause requirements and water reservations within the Caloosahatchee Basin. These concerns were addressed through several multi-agency meetings and ultimately resolved in a Headquarters, US Army Corps of Engineers (HQUSACE) response dated August 11, 2009. This letter stated that "all water to be protected for the natural system is a result of being able to capture and store excess Lake Okeechobee discharges to tide, and then delivering that water at the right time to meet estuary salinity targets. This project as simulated in the modeling, and as it will be operated, will not reduce the amount of water available from existing sources in the C-43 Basin or the amount available to existing legal users."

The U.S. Environmental Protection Agency, the Southwest Florida Regional Planning Council (SWFRPC), Lee County, and the City of Sanibel provided comments expressing water quality concerns associated with the construction and operations of the reservoir. In response, USACE and the non-Federal sponsor explained that the intent of this project is to focus on meeting salinity targets in the estuary. Future CERP planning efforts will focus on other problems, including water quality, identified in the Caloosahatchee River Basin. This project is permitted through the Florida Department of Environmental Protection (FDEP) and compliant with State water quality standards. The FDEP finds that there are reasonable assurances that "State water quality standards, including water quality criteria and moderating provisions, will be met." (FDEP letter to the Mayor of Sanibel dated April 30, 2007). USACE will require the permit holder to conduct limited algal monitoring. The primary purpose of monitoring for algae in the reservoir will be for the prevention of harmful algal bloom exposure to recreationists and users of the downstream potable water supply systems. This initial monitoring program will be assessed after two years to determine if modifications are needed. USACE also intends to require that the permit holder develop an Algal Monitoring and Management Plan for the

reservoir. This plan should include a long-term monitoring program as well as management plans should an algal bloom develop. Additionally, the non-Federal sponsor in conjunction with Lee County has acquired the Boma Property immediately east of S-78 along the Caloosahatchee River for the construction of a water quality treatment facility targeting nitrogen removal. Plans for this facility are being developed as part of the Northern Everglades Program, Caloosahatchee River Watershed Protection Plan, a cooperative State effort between the non-Federal sponsor, FDEP, and FDACS.

The SWFRPC additionally expressed concerns with the intended use of the Picayune Strand Restoration Project lands as mitigation for Florida panther habitat impacted by the construction and operation of the Caloosahatchee River (C-43) West Basin Storage Reservoir. In response, USACE stated that the USFWS has lead responsibility for programmatic tracking of Florida panther habitat losses and gains associated with CERP projects. Although individual projects may cause some panther habitat loss, this loss is being evaluated in the context of the conservation of the species range-wide. Acquisition of lands for this project and other CERP projects has resulted in preservation of important lands that may have otherwise been used for development. A majority of Florida panther habitat to be preserved is associated with the nearby Picayune Strand Restoration Project (PSRP), which is adjacent to other large tracts of natural and preserved lands including Fakahatchee Strand Preserve State Park and Big Cypress National Preserve. Acquisition and preservation of lands in the Caloosahatchee River (C-43) West Basin Storage Reservoir study area are consistent with the USFWS' goal to locate, preserve, and restore tracts of lands containing sufficient area and appropriate land cover types to ensure the long-term survival of the Florida panther.

11. The Project complies with the following requirements of WRDA 2000 as amended:

a. Project Implementation Report (PIR). The requirements of a PIR as defined by Section 601(h)(4)(A).

b. Water Reservations. Sections 601(h)(4)(A)(iii)(IV) and (V) require identification of the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system and the amount of water to be reserved or allocated for the natural system. Additional water delivered to and retained in natural areas was identified and will be reserved or allocated by the State of Florida.

c. Elimination or Transfer of Existing Legal Sources of Water. Section 601(h)(5)(A) states that existing legal sources of water shall not be eliminated or transferred until a new source of water supply of comparable quantity and quality is available to replace the water to be lost as a result of the Plan. Implementation of the Caloosahatchee River (C-43) West Basin Storage Reservoir project will not result in a transfer or elimination of sources of water to meet agricultural and urban demand in the Caloosahatchee River (C-43 Canal) Basin (remaining the same as before the project). Sources of water for the Seminole and Miccosukee Tribes and Everglades National Park are influenced by the regional water management system (C&SF

Project, including Lake Okeechobee), and will not be affected by this project. Therefore, there will be no elimination or transfer as a result of this project on existing legal sources of supply for: agricultural or urban water supply, allocation or entitlement to the Seminole Indian Tribe of Florida under Section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e), the Miccosukee Tribe of Florida, water supply for Everglades National Park, or water supply for fish and wildlife.

d. Maintenance of Flood Protection. Section 601 (h)(5)(B) states that CERP shall not reduce levels of service for flood protection that are in existence on the date of enactment of this Act and in accordance with applicable law. Potential effects of the storage reservoir on water levels on adjacent lands were evaluated. In response to these evaluations, the Project includes a seepage management system, consisting of a seepage cut-off wall, seepage canal, and pump to ensure that adjacent lands in the immediate vicinity of the project are not adversely affected. The operations of this project will not change the operations of the Caloosahatchee River (C-43 Canal); therefore, there will be no system-wide effects on flood protection that will impact the regional basin as a result of the Project.

12. Agency technical reviews (ATR) of the Caloosahatchee River (C-43) West Basin Storage Reservoir document were carried out through collaboration with the National Ecosystem Restoration Planning Center of Expertise (PCX) in compliance with guidance at the time of Final PIR completion (2007). Extensive external scientific peer review through the National Academy of Science (NAS) has been conducted at the CERP programmatic level and will continue throughout the planning and implementation of the CERP program through the NAS biennial reports to Congress. In particular, the NAS promoted the use of traditional water storage technologies and the use of adaptive management principles within the formulation process. Both of these comments have been integrated into the formulation and design of the C-43 project. No further IEPR was deemed necessary or recommended for the study. In addition, no further IEPR is needed in response to WRDA 2007, since C-43 studies had been initiated and alternatives identified more than two years prior to its enactment and the final report had been submitted for approval prior to its passage.

13. I generally concur with the findings, conclusions, and recommendations of the reporting officers. The Caloosahatchee River (C-43) West Basin Storage Reservoir Project requires specific authorization by Congress in accordance with Section 601(d) of the WRDA 2000. Accordingly, I recommend that the plan described herein for ecosystem restoration be authorized for implementation as a Federal Project, with such modifications as in the discretion of the Chief of Engineers may be advisable, and subject to cost-sharing, financing, and other applicable requirements of Section 601 of WRDA 2000 as amended. In addition, I recommend that the non-Federal sponsor be authorized to receive credit for work accomplished prior to the execution of a Project Partnership Agreement (PPA) for this Project, in accordance with Section 601 of WRDA 2000, as amended, and the terms of the Master Agreement.

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Further, this recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and agreeing to perform the following items of local cooperation:

a. Provide 50 percent of total project costs consistent with the provisions of Section 601(e) of the Water Resources Development Act of 2000 as amended including authority to perform design and construction of project features consistent with Federal law and regulation;

b. Provide all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform or assure the performance of all relocations that the Government and the Non-Federal Sponsor jointly determine to be necessary for the construction, operation, maintenance, repair, replacement and rehabilitation of the Project and valuation will be in accordance with the Master Agreement;

c. Shall not use the ecosystem restoration features or lands, easements, and rights-of-way required for such features as a wetlands bank or mitigation credit for any other projects.

d. Give the Government a right to enter, at reasonable times and in a reasonable manner, upon land that the non-Federal sponsor owns or controls for access to the Project for the purpose of inspection, and, if necessary, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the Project;

e. Assume responsibility for operating, maintaining, repairing, replacing, and rehabilitating (OMRR&R) the Project or completed functional portions of the Project, including mitigation features, in a manner compatible with the Project's authorized purposes and in accordance with applicable Federal and State laws and specific directions prescribed in the OMRR&R manuals and any subsequent amendments thereto. Cost sharing for OMRR&R will be in accordance with Section 601 of WRDA 2000 as amended;

f. The non-Federal Sponsor shall operate, maintain, repair, replace and rehabilitate the recreation features of the Project with responsibility for 100 percent of the cost;

g. Keep the recreation features, and access roads, parking areas, and other associated public use facilities, open and available to all on equal terms;

h. Unless otherwise provided for in the statutory authorization for this Project, comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended, and Section 103 of the WRDA of 1986, Public Law 99-662, as amended, which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the Project or separable element;

i. Hold and save the Government free from all damages arising from construction, operation, maintenance, repair, replacement and rehabilitation of the Project and any project-related

betterments, except for damages due to the fault or negligence of the Government or the Government's contractors;

j. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the Project to the extent and in such detail as will properly reflect total project costs and comply with the provisions of the Master Agreement;

k. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601-9675, that may exist in, on, or under lands, easements or rights-of-way necessary for the construction, operation, and maintenance of the Project; except that the non-Federal sponsor shall not perform such investigations on lands, easements, or rights-of-way that the Government determines to be subject to the navigation servitude without prior specific written direction by the Government;

l. Assume complete financial responsibility for all necessary cleanup and response costs of any CERCLA-regulated materials located in, on, or under lands, easements, or rights-of-ways that the Government determines necessary for construction, operation, maintenance, repair, replacement and rehabilitation;

m. As between the Government and the non-Federal Sponsor, the non-Federal Sponsor shall be considered the operator of the Project for purposes of CERCLA liability. To the maximum extent practicable, the non-Federal Sponsor shall operate, maintain, repair, replace, and rehabilitate the Project in a manner that will not cause liability to arise under CERCLA;

n. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the outputs produced by the ecosystem restoration features, hinder operation and maintenance of the project, or interfere with the project's proper function;

o. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public law 91-646, as amended by title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 CFR part 24, in acquiring lands, easements, and rights-of-way, and performing relocations for construction, operation, and maintenance of the Project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act;

p. Comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7,

entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army;" and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708[revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)];

q. Comply with Section 106 of the National Historic Preservation Act in completion of all consultation with the Florida State Historic Preservation Officer, and as necessary, the Advisory Council on Historic Preservation, prior to construction as part of the preconstruction engineering and design phase of the project;

r. Provide 50 percent of that portion of total cultural resource preservation mitigation and data recovery costs attributable to the Project that are in excess of one percent of the total amount authorized to be appropriated for the Project;

s. Do not use Federal funds to meet the non-Federal sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is expressly authorized and in accordance with Section 601 (e)(3) of the WRDA of 2000, as amended, and in accordance with the Master Agreement;

t. The Non-Federal Sponsor agrees to participate in and comply with applicable Federal floodplain management and flood insurance programs consistent with its statutory authority.

(1) Not less than once each year the Non-Federal Sponsor shall inform affected interests of the extent of protection afforded by the Project.

(2) The Non-Federal Sponsor shall publicize flood plain information in the area concerned and shall provide this information to zoning and other regulatory agencies for their use in preventing unwise future development in the flood plain and in adopting such regulations as may be necessary to prevent unwise future development and to ensure compatibility with protection levels provided by the Project.

(3) The Non-Federal Sponsor shall comply with Section 402 of WRDA 1986, as amended (33 U.S.C. 701b-12), which requires a non-Federal interest to have prepared, within one year after the date of signing a PPA for the Project, a floodplain management plan. The plan shall be designed to reduce the impacts of future flood events in the project area, including but not limited to, addressing those measures to be undertaken by non-Federal interests to preserve the level of flood protection provided by the Project. As required by Section 402, as amended, the non-Federal interest shall implement such plan not later than one year after completion of construction of the Project. The Non-Federal Sponsor shall provide an information copy of the plan to the Government upon its preparation.

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(4) The Non-Federal Sponsor shall prescribe and enforce regulations to prevent obstruction of or encroachment on the Project or on the lands, easements, and rights-of-way determined by the Government to be required for the construction, operation, maintenance, repair, replacement, and rehabilitation of the Project, that could reduce the level of protection the Project affords, hinder operation or maintenance of the Project, or interfere with the Project's proper function.

u. The overarching objective of the Plan is the restoration, preservation, and protection of the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection. The Federal Government and the non-Federal sponsor are committed to the protection of the appropriate quantity, quality, timing, and distribution of water to ensure the restoration, preservation, and protection of the natural system as defined in Section 601 of WRDA 2000, for so long as the project remains authorized. This quantity, quality, timing, and distribution of water shall meet applicable water quality standards and be consistent with the natural system restoration goals and objectives of the CERP, as the Plan is defined in the Programmatic Regulations. The non-Federal sponsor will protect the water for the natural system by taking the following actions to achieve the overarching natural system objectives of the Plan:

(1) Ensure, through appropriate and legally enforceable means under Florida law, that the quantity, quality, timing, and distribution of existing water that the Federal Government and the non-Federal sponsor have determined in this Project Implementation Report is available and beneficial to the natural system, will be available at the time the Project Partnership Agreement for the project is executed and will remain available for so long as the Project remains authorized.

(a) Prior to the execution of the Project Partnership Agreement, reserve or allocate for the natural system the necessary amount of water that will be made available by the project that the Federal Government and the non-Federal sponsor have determined in this Project Implementation Report.

(b) After the Project Partnership Agreement is signed and the project becomes operational, make such revisions under Florida law to this reservation or allocation of water that the non-Federal sponsor determines, as a result of changed circumstances or new information, is necessary for the natural system.

(2) For so long as the Project remains authorized, notify and consult with the Secretary of the Army should any revision in the reservation of water or other legally enforceable means of protecting water be proposed by the non-Federal sponsor, so that the Federal Government can assure itself that the changed reservation or legally enforceable means of protecting water conform with the non-Federal sponsor's commitments under paragraphs 1 and 2. Any change to

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a reservation of water made available by the project shall require an amendment to the Project Partnership Agreement.

14. The recommendation contained herein reflects the information available at this time and current Departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities in the formulation of a national Civil Works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding.

R. L. VAN ANTWERP
Lieutenant General, US Army
Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

JAN 0 6 2011

CECW-SAD (1105-2-10a)

SUBJECT: Comprehensive Everglades Restoration Plan, Central and Southern Florida, Caloosahatchee River (C-43) West Basin Storage Reservoir Project, Hendry County, Florida - Supplemental

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress this supplement to my report on ecosystem restoration and recreation for the Caloosahatchee River (C 43) West Basin Storage Reservoir project, located in Hendry County, Florida, dated March 11, 2010. The purpose of this supplement is to clarify the authority for cost sharing of the recreational features recommended for the project.

2. In accordance with the Federal Water Project Recreation Act of 1965, full consideration was given to opportunities the project affords for recreation. The recommended C-43 West Basin Storage Reservoir project contains approximately $3,000,000 of recreation features, including a 12-mile multi-purpose trail and associated parking and toilet facilities, information kiosk, canoe/kayak launch facility, a shade structure, traffic control fencing, and a pedestrian footbridge to provide public access to the reservoir. These recreation features have been justified in accordance with policy.

3. Although cost sharing of the ecosystem restoration features for this project is governed by Section 601 of the Water Resources Development Act (WRDA) of 2000, as amended, cost sharing of the recreation features is governed by Section 103 of the WRDA 1986, as amended. In particular, in accordance with Section 103(j) of WRDA 1986, 100 percent of the cost of operation, maintenance, repair, replacement, and rehabilitation of the recreation features is the non-Federal sponsor's responsibility. In addition, Section 601(e)(5)(B) of WRDA 2000, as amended, governs credit for non-Federal sponsor design and construction work on the ecosystem restoration features of the project, whereas Section 221(a)(4) of the Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b(a)(4)) governs credit for non-Federal sponsor design and construction work on the recreation features of the project.

4. As part of this supplement, the costs of the project have been escalated and updated to October 2010 price levels and the reporting format has been changed from fully funded costs to initial investment. The total first cost of the recommended plan from the Final Project Implementation Report and Integrated Environmental Impact Statement, dated September 2007, based on October 2010 price levels, is estimated to be $579,599,000, including $576,643,000 for ecosystem restoration and $2,956,000 for recreation. In accordance with Section 601 of the

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WRDA 2000, as amended, for the ecosystem restoration features of the recommended plan, the estimated Federal cost is $288,321,500 and the estimated non-Federal cost is $288,321,500. In accordance with Section 103(c) of the WRDA 1986, as amended, for the recreational features of the recommended plan, the estimated Federal cost of $1,478,000; and the non-Federal cost is $1,478,000. The estimated lands, easements, rights-of-way, and relocations costs for the recommended plan are $84,650,000 of which approximately $27,567,000 has been provided to the State through the Federal Department of Interior Grant Funds. Based on October 2010 price levels, a 40-year period of economic evaluation and a 4.12 percent discount rate, the equivalent annual cost of the proposed project is estimated at $35,500,000, which includes operation, maintenance, repair, rehabilitation and replacement (OMRR&R), interest and amortization. The estimated annual OMRR&R costs for ecosystem restoration are $3,160,000. The annual OMRR&R costs for recreation are estimated at $25,000. In accordance with Section 601 of WRDA 2000 as amended, OMRR&R costs and adaptive assessment and monitoring costs for ecosystem restoration will be shared equally between the Federal Government and the non-Federal sponsor. In accordance with Section 103(j) of the WRDA 1986, as amended, OMRR&R costs related to recreation features will be funded 100 percent by the non-Federal sponsor.

Respectfully,

R. L. VAN ANTWERP
Lieutenant General, US Army
Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, DC 20314-1000

REPLY TO
ATTENTION OF
CECW-MVD

DEC 30 2010

SUBJECT: Louisiana Coastal Area, Louisiana, Ecosystem Restoration, Six Projects Authorized by Section 7006(e)(3) of Water Resources Development Act of 2007

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my favorable report on ecosystem restoration for six projects in multiple locations in coastal Louisiana. It is accompanied by the report of the New Orleans District Engineer and Mississippi Valley Division Engineer. These reports are in response to the authorization contained in Section 7006(e)(3) of the Water Resources Development Act (WRDA) of 2007. Section 7006(e)(3) identifies six projects referred to in the Report of the Chief of Engineers for ecosystem restoration for the Louisiana Coastal Area dated January 31, 2005, and states, in part, as follows:

> *"The Secretary may carry out the projects under subparagraph (A) substantially in accordance with the plans and subject to the conditions, recommended in a final report of the Chief of Engineers if a favorable report of the Chief is completed by not later than December 31, 2010."*

Preconstruction engineering and design of all six projects will be undertaken under the authority provided in Section 7006(e)(3). Construction of these projects will be undertaken under the Section 7006(e)(3) authority as well, except for construction of the Medium Diversion at White Ditch and the elements of the Terrebonne Basin Barrier Shoreline Restoration beyond the Whiskey Island component.

2. The Report of the Chief of Engineers for ecosystem restoration for the Louisiana Coastal Area, dated January 31, 2005, (hereinafter referred to as the "restoration plan"), describes a program to address the most critical restoration needs to reduce the severe wetland losses occurring in Louisiana. The restoration plan includes 15 near-term ecosystem restoration features, a demonstration project program, beneficial use of dredged material program, project modifications program, and a science and technology program. These features and programs were all aimed at addressing the critical restoration needs of coastal Louisiana, with Congress authorizing the features for construction, in WRDA 2007, subject to the conditions recommended in a final report of the Chief of Engineers, if a favorable Chief's Report is completed no later than December 31, 2010. This report addresses six of the 15 near-term ecosystem restoration features described in the restoration plan.

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3. In accordance with Section 7006(e)(3), the reporting officers recommend that the Secretary carry out under the existing authorization the following five projects: Amite River Diversion Canal Modification; Convey Atchafalaya River Water to Northern Terrebonne Marshes; Multipurpose Operation of the Houma Navigation Canal Lock; Small Diversion at Convent / Blind River; and the Whiskey Island component of the Terrebonne Basin Barrier Shoreline Restoration. The recommended plans for each project contain post-construction monitoring and adaptive management for a period of no more than ten years to ensure project performance. Because the recommended plans are ecosystem restoration plans, they do not have any significant adverse effects and no mitigation measures would be required. While the reporting officers recommend that the Secretary carry out the Multipurpose Operation of the Houma Navigation Canal Lock Project, implementation of this project would be contingent on the construction of a lock at Houma under separate authority.

4. The reporting officers also recommend that the Congress raise the total project cost for the Medium Diversion at White Ditch Project and the recommended plan for the Terrebonne Basin Barrier Shoreline Restoration Project. These projects are consistent with the authorization in Section 7006(e)(3) of WRDA 2007, but modification of that authorization is required, because the total costs for these projects exceed the authorized costs as defined in Section 902 of WRDA 1986, as amended.

5. The reporting officers developed the recommended six projects for Louisiana Coastal Area consistent with the direction provided in WRDA 2007. The reporting officers found each of the six projects to be cost effective, technically sound, and environmentally and socially acceptable. Further refinement and additional analysis of these projects will be performed during preconstruction engineering and design and modifications made, as appropriate, prior to project implementation. Such analysis or modifications will continue to be coordinated with Federal, State, and local agencies and other parties. The following paragraphs describe each of the projects in greater detail.

a. Amite River Diversion Canal Modification. The LCA Amite River Diversion Canal Modification (ARDC) study area is located approximately 30 miles southeast of the City of Baton Rouge and west of Lake Maurepas within one of the largest remaining cypress swamps in coastal Louisiana. This ecosystem provides habitat to threatened and endangered species and buffers the highly developed Interstate 10 corridor between New Orleans and Baton Rouge and Lake Maurepas. The 2004 LCA report recommended several projects to address the restoration and stability of the Maurepas Swamp ecosystem including the Small Diversion at Covent / Blind River also included in this report. The ARDC study area includes portions of the Maurepas Swamp adjacent to the Amite River Diversion Canal which connects, and diverts flows from, the Amite River to the lower Blind River near Lake Maurepas. The ARDC recommended plan (Alternative 33) will restore the most degraded portion of the Maurepas Swamp within the study area by restoring the natural hydrology modified by the construction of the Amite River

Diversion Canal and from the resulting impoundment of water, lack of freshwater, sediment and nutrients, and surge-related saltwater intrusion. The recommended plan includes the creation of three gaps and delivery channels through the north bank of the Amite River Diversion Canal. The bank gaps are 70-foot wide cuts with 25-foot benches through the dredged material berm. The channel cross section is 70, 50 and 30 foot wide as it moves into the swamp. Freshwater swamp tree species will be planted on 438 acres in the swamp. One cut will also be created in the railroad grade approximately 0.9 miles north of the ARDC to improve sheetflow. The recommended plan is an implementable increment of the national ecosystem restoration (NER) plan, meets the LCA Program and project objectives, and is within the cost and scope of the authorization contained in Section 7006(e)(3) of WRDA 2007. The NER plan would create gaps on both the north and south bank of the ARDC along with deliery channels, gaps in the railroad grade and vegetative plantings benefiting 3,881 acres of swamp. The NER plan also includes all the areas addressed by the recommended plan and an additional area that is expected to need restoration in the next 20 years. The NER plan would provide 1,602 average annual habitat units (AAHUs) with a total estimated cost for construction of $15,200,000, which exceeds the current authorization. The State of Louisiana, acting as the non-Federal sponsor, supports the recommended plan. The recommended plan will improve habitat function by 679 AAHUs over the 50-year period of analysis and benefit approximately 1,602 acres of existing freshwater swamp. The estimated first cost of the recommended plan is $8,136,000 and in accordance with the cost sharing provisions of WRDA of 1986, as amended by Section 210 of WRDA 1996, the project will be cost shared 65 percent Federal and 35 percent non-Federal. The Federal share of the estimated first cost of this project is estimated at $5,288,000 and the non-Federal share is estimated at $2,848,000. The operation, maintenance, repair, replacement, and rehabilitation costs for the project are estimated at $10,000 per year and are 100-percent non-Federal responsibility. Based on a 4.375-percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated at $489,000, including operation, maintenance, repair, replacement, and rehabilitation. Post-construction monitoring and adaptive management of this ecosystem restoration project is projected to be conducted for no more than 10 years at an estimated cost of $2,971,000.

b. Convey Atchafalaya River Water to Northern Terrebonne Marshes / Multipurpose Operation of the Houma Navigation Canal Lock. The LCA Convey Atchafalaya River Water to Northern Terrebonne Marshes (ARTM) / Multipurpose Operation of the Houma Navigation Lock (MOHNL) study area is located in coastal Louisiana south of Houma, between the Atchafalaya River and Bayou Lafourche. These two projects are hydrologically linked and subsequently have been analyzed and are presented as a combined feature. The ARTM/MOHNL recommended plan (Alternative 2), which is also the national ecosystem restoration plan, will reduce the current trend of marsh degradation in the project area resulting from subsidence, sea level rise, erosion, saltwater intrusion, and lack of sediment and nutrient deposition. The project proposes to accomplish this by utilizing fresh water and nutrients from the Atchafalaya River and the Gulf Intracoastal Waterway (GIWW). The recommended plan features consist of elimination of Gulf Intracoastal Waterway (GIWW) flow constrictions and construction of flow management

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features in the interior portions of the Study Area. The recommended plan consists of construction of 56 structures and other water management features. The Carencro Bayou channel would be dredged to restore historic freshwater flow to southeast Penchant basin marshes. A weir would be constructed in Grand Pass to restrict saltwater intrusion into Lake Mechant and surrounding marshes. Several connections would be created between the Houma Navigation Canal and the Lake Boudreaux basin. St. Louis Canal and Grand Bayou would be enlarged to allow for increased fresh water flows into the eastern Terrebonne marshes. These new and enlarged channels would be controlled with water management features such as culverts with stop logs, gates or flap gates. Additionally, marsh berms and terracing would be constructed at strategic locations within the project area to prevent salt water intrusion and slow fresh water outflow. The recommended plan also includes the multipurpose operation of the proposed Houma Navigation Canal (HNC) Lock, if and when constructed. The lock complex would be closed and operated more frequently in order to maximize distribution of freshwater into wetlands downstream of the lock and minimizing saltwater intrusion upstream of the lock. For vessels exceeding the lock size, a traffic management system will be developed to open the sector gates to let these vessels pass. The recommended plan would improve habitat function by approximately 3,220 AAHUs, with the ARTM project providing approximately 2,977 AAHUs and the MOHNL operation providing 243 AAHUs. The project would improve habitat for fish and wildlife species including migratory birds , estuarine fish and shellfish. Benefits include the reduction of projected wetland loss by approximately 9,655 acres of existing wetlands over the 50-year period of analysis. The ARTM/MOHNL recommended plan meets the LCA Program and project objectives, is the NER Plan, and is within the cost and scope of the authorization. The State of Louisiana, acting as the non-Federal sponsor, supports the recommended plan.

The estimated total first cost of the ARTM recommended plan is $283,534,000. In accordance with the cost sharing provisions of WRDA of 1986, as amended by Section 210 of WRDA 1996, the project will be cost shared 65 percent Federal and 35 percent non-Federal. The Federal share of the estimated first cost of the ARTM project is $184,298,000 and the non-Federal share is estimated at $99,236,000. Post-construction monitoring and adaptive management of the ARTM ecosystem restoration project is projected to be conducted for no more than 10 years at an estimated cost of $21,204,000. The operation, maintenance, repair, replacement, and rehabilitation of the ARTM project is estimated at $73,000 per year and is a 100-percent non-Federal responsibility. Based on a 4.375-percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the ARTM project are estimated at $15,907,000, including operation, maintenance, repair, replacement, and rehabilitation.

The estimated first cost of MOHNL project which is the incremental cost of operations of the proposed constructed lock, for ecosystem restoration is $1,496,000 and in accordance with the cost sharing provisions of WRDA of 1986, as amended by Section 210 of WRDA 1996, the project will be cost shared 65 percent Federal and 35 percent non-Federal. Federal share of the estimated first cost of the MOHNL project is $972,000 and the non-Federal share is estimated at $524,000. Post-construction monitoring and adaptive management of this ecosystem restoration

project is projected to be conducted for no more than ten years at an estimated cost of $98,000. There is no additional operation, maintenance, repair, replacement, and rehabilitation cost forecast for the modification of the lock project. However should any additional OMRR&R cost be identified in subsequent project design and operation investigations they would be a 100-percent non-Federal responsibility. Based on a 4.375-percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated at $83,000, including operation, maintenance, repair, replacement, and rehabilitation. While the reporting officers recommend that the Secretary carry out the Multipurpose Operation of the Houma Navigation Canal Lock Project, this project cannot be implemented until a lock at Houma is constructed under separate authority.

c. Small Diversion at Convent / Blind River. The LCA Small Diversion at Convent/Blind River study area is located approximately equidistant between Baton Rouge and New Orleans, Louisiana within the Maurepas Swamp, one of the largest remaining cypress swamps in coastal Louisiana. The recommended plan (Alternative 2), which is also the national ecosystem restoration plan, will reintroduce the natural periodic, nearly annual flooding by the Mississippi River to the Maurepas Swamp and Blind River, that was cut off by construction of the Mississippi River and Tributaries (MR&T) flood control system. The recommended plan consists of a 3,000 cubic feet per second (cfs) capacity gated box culvert diversion on the Mississippi River with a delivery channel to be constructed in the vicinity of Romeville, Louisiana. The recommended plan has six major components: a diversion structure, a transmission canal, control structures, approximately 30 berm gaps, cross culverts at four locations along U.S. highway 61, and instrumentation to monitor and control the diversion flow rate and the water surface elevations in the diversion, transmission, and distribution system in the swamp. The recommended plan will restore freshwater, nutrients, and sediment input from the Mississippi River. It will promote water distribution in the swamp, facilitate swamp building, and establish hydrologic period fluctuation in the swamp, improving fish and wildlife habitat. The recommended plan will improve habitat function by 6,421 AAHUs over a total of 21,369 acres of bald cypress-tupelo swamp. The recommended plan would improve habitat for many fish and wildlife species including migratory birds, bald eagles, alligators, gulf sturgeon, and the manatee. The recommended plan meets the LCA program and project objectives and is within the scope of the authorization. The State of Louisiana, acting as the non-Federal sponsor, supports the recommended plan. The estimated total first cost of the recommended plan is $116,791,000 and in accordance with the cost sharing provisions of WRDA of 1986, as amended by Section 210 of WRDA 1996, the project will be cost shared 65 percent Federal and 35 percent non-Federal. The Federal share of the estimated first cost of this project is $75,914,000 and the non-Federal share is estimated at $40,877,000. Post-construction monitoring and adaptive management of this project is projected to be conducted for no more than 10 years at a cost of $6,620,000. The operation, maintenance, repair, replacement, and rehabilitation costs of the project are estimated at $2,754,000 per year and are a 100-percent non-Federal responsibility. If further analysis determines that the project increases maintenance dredging requirements for the Mississippi River, Baton Rouge to the Gulf of Mexico project by inducing shoaling, the

incremental costs of any additional maintenance dredging would also be a 100-percent non-Federal responsibility. Based on a 4.375-percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated at $8,859,000, including operation, maintenance, repair, replacement, and rehabilitation.

d. Terrebonne Basin Barrier Shoreline Restoration. The LCA Terrebonne Basin Barrier Shoreline Restoration (TBBSR) study area is located in Terrebonne Parish 30 miles south of the city of Houma, Louisiana and includes the Isles Dernieres and the Timbalier Islands. The Isles Dernieres reach includes Raccoon, Whiskey, Trinity, East, and Wine Islands. The Timbalier Island reach includes Timbalier and East Timbalier Islands. These barrier islands have undergone significant reductions in size due to a number of natural processes and human actions including lack of sediment, storm-induced erosion and breaching, subsidence, sea level rise and hydrologic modifications such as navigation and oil and gas canals. These habitat losses have had a direct adverse impact on wildlife and fisheries resources including threatened and endangered species. Loss of the barrier island habitat also leaves the saline, brackish, and fresh marshes in the upper reaches of the Terrebonne Basin more vulnerable to the high energy marine coastal processes which have exacerbated wetland loss in these areas. The barrier islands also protect oil and gas infrastructure investments including hundreds of wells and pipelines which are of regional and national importance. Furthermore, numerical modeling indicates that the barrier islands reduce storm surges which can mitigate the damage associated with tropical storms on human populations and infrastructure in Terrebonne and Lafourche Parishes. The national ecosystem restoration (NER) plan (Alternative 5), will reintroduce sediment to the coastal sediment transport system. The NER plan includes the restoration of Raccoon Island with 25 years of advanced fill and construction of a terminal groin. The NER plan also includes restoration of Whiskey and Trinity Islands with five years of advanced fill and restoration of Timbalier Island with 25 years of advanced fill. The NER plan includes beach, dune, and marsh restoration and proposes dune heights ranging from +6.4 feet NAVD 88 for Whiskey Island to +7.7 feet NAVD 88 for Raccoon Island with a crest width of 100 feet to marsh heights ranging from +2.4 feet NAVD 88 on Whiskey Island to +3.2 NAVD 88 on Raccoon Island. The NER plan includes renourishment at staggered intervals to maintain the islands. Raccoon Island will be renourished at Target Year (TY) 30. Whiskey Island will require two renourishment intervals. The first will occur at TY20 and the second renourishment interval will occur at TY40 Trinity Island will be renourished at TY25. Timbalier Island will be renourished at TY30. The NER plan will restore geomorphic and hydrologic form provided by barrier island systems and restore and improve essential habitats for fish, migratory birds, and terrestrial and aquatic species. This barrier shoreline system is also a key component in regulating the hydrology, and ultimately the rate of wetland erosion, throughout the estuary. The NER plan consists of restoration of four islands (Whiskey, Raccoon, Trinity, and Timbalier) improving habitat function by 2,833 AAHUs by adding 3,283 acres to the islands for a total size of 5,840 acres. The restored acreage would include 472 acres of dune, 4,320 acres of supratidal habitat, and 1,048 acres of intertidal habitat and ensure the geomorphic and hydrologic form and ecological function of the majority of the estuary over the period of analysis. The recommended plan meets

the LCA program and project objectives and is within the scope of the authorization. However, it exceeds the authorized cost. The State of Louisiana, acting as the non-Federal sponsor, concurs with the reporting officers' recommendation that additional Congressional authorization be requested to allow implementation of the NER plan. The estimated total first cost of the NER plan is $646,931,000 and in accordance with the cost sharing provisions of WRDA of 1986, as amended by Section 210 of WRDA 1996, the project will be cost shared 65 percent Federal and 35 percent non-Federal. The Federal share of the estimated first cost of this project is $420,505,000 and the non-Federal share is estimated at $226,426,000. Post-construction monitoring and adaptive management of this ecosystem restoration project is projected to be conducted for no more than ten years at a cost estimated to be $5,280,000. The operation, maintenance, repair, replacement, and rehabilitation costs of the project, including periodic nourishment, are estimated at $9,960,000 per year and are a 100-percent non-Federal responsibility. Based on a 4.375-percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated at $26,400,000, including operation, maintenance, repair, replacement, and rehabilitation.

While additional authority is needed to raise the total project cost to allow implementation of the entire NER plan, the reporting officers recommend that the Whiskey Island component (Alternative 11) of the NER plan be implemented under the existing authority provided in Section 7006(e)(3) of WRDA 2007. The Whiskey Island component includes renourishment every 20 years to maintain the constructed features. Restoration of the one island will increase habitat function by 678 AAHUs by restoring a total of 1,272 acres on the island, including 65 acres of dune, 830 acres of supratidal habitat, and 377 acres of intertidal habitat. The Whiskey Island component is an implementable increment of the NER plan, meets the LCA Program objectives, and is within the cost and scope of the current WRDA authorization. The State of Louisiana, acting as the non-Federal sponsor, supports immediate implementation of the Whiskey Island component. The estimated total first cost of the Whiskey Island component is $113,434,000 and in accordance with the cost sharing provisions of WRDA of 1986, as amended by Section 210 of WRDA 1996, the project will be cost shared 65 percent Federal and 35 percent non-Federal. The Federal share of the estimated first cost of this project is $73,732,000 and the non-Federal share is $39,702,000. Post-construction monitoring and adaptive management of this ecosystem restoration project is projected to be conducted for no more than ten years at an estimated cost of $5,820,000. The operation, maintenance, repair, replacement, and rehabilitation cost of the project, including periodic nourishment, are estimated at $6,900,000 per year and is a 100-percent non-Federal responsibility. Based on a 4.375-percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated at $9,508,000, including operation, maintenance, repair, replacement, and rehabilitation.

e. Medium Diversion at White Ditch. The LCA Medium Diversion at White Ditch (MDWD) project area is located on the east bank of the Mississippi River south of New Orleans in Plaquemines Parish near the town of Phoenix, Louisiana. The area includes a portion of the Breton Sound basin framed by the Mississippi River and the River aux Chenes ridge as well as

the gulfward extent of the Breton Sound. The recommended plan, (Alternative 4), which is also the national ecosystem restoration plan, will restore the supply and distribution of freshwater and sediment disrupted by the construction of the Mississippi River and Tributaries flood control. The recommended plan includes a 35,000 cubic feet per second (cfs) capacity gated box culvert diversion on the Mississippi River with a delivery channel to be constructed in the vicinity of Phoenix, Louisiana. The structure will consist of ten 15-foot by 15-foot box culverts and an approximately 9,500 foot conveyance channel to move the diverted water into surrounding marshes. Additionally, notched weirs will be constructed at existing channel intersections to help control and direct the flow of water into the study area. Dredged material from the conveyance channel will be used beneficially to create approximately 416 acres of marsh and ridge habitat. The recommended operational plan consists of pulsing diversion flows up to 35,000 cfs through the structure during March and April and maintaining maintenance flows up to 1,000 cfs the rest of the year. The recommended plan will improve habitat function by 13,353 AAHUs by creating and nourishing approximately 20,315 acres of fresh, intermediate, brackish, and saline wetlands. This project is one of the key components to demonstrating both the ability to stem or reverse the coastal land loss trend and provide a mechanism to combat relative sea level rise in coastal Louisiana. The recommended plan meets the LCA Program objectives and is within the scope of the WRDA authorization, however, it exceeds the authorized project cost. The State of Louisiana, acting as the non-Federal sponsor, supports the reporting officers' recommendation that Congress increase the total project cost to allow implementation of the recommended plan to fully address the restoration needs of the study area identified in this report. Supplemental environmental analysis will be performed prior to construction of the recommended plan to address potential impacts on water quality and fisheries, including coordination with Federal, State, and local agencies and other interested parties as appropriate. The estimated total first cost of the recommended plan is $365,201,000 and in accordance with the cost sharing provisions of WRDA of 1986, as amended by Section 210 of WRDA 1996, the project will be cost shared 65 percent Federal and 35 percent non-Federal. The Federal share of the estimated first cost of this project is $237,381,000 and the non-Federal share is estimated at $127,820,000. Post-construction monitoring and adaptive management of this ecosystem restoration project is projected to be conducted for no more than ten years at an estimated cost of $11,143,000. The operation, maintenance, repair, replacement, and rehabilitation costs of the project are estimated at $1,468,000 per year and are a 100-percent non-Federal responsibility. If further analysis determines that the project increases maintenance dredging requirements for the Mississippi River, Baton Rouge to the Gulf of Mexico project by inducing river shoaling, the incremental costs of any additional channel maintenance dredging would also be a 100-percent non-Federal responsibility. Based on a 4.375-percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated at $21,237,000, including operation, maintenance, repair, replacement, and rehabilitation.

6. The State of Louisiana supports the recommended plans for the six projects described herein. At October 2010 price levels, the estimated total first cost for the recommended plans for the six

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projects is $1,422,089,000. The estimated total first costs for each of the six projects are summarized below in Table 1.

Table 1
LCA Section 7006(e)(3) Projects
Recommended Plan Cost and Benefit Summary
(October 2010 Price Level)

Project	Alternative	Total First Cost	Impacted Acres	Average Annual Habitat Units
Amite River Diversion Canal Modification	Alt. 33	$8,136,000	1,602	679
Convey Atchafalaya River Water to Northern Terrebonne Marshes	Alt. 2	$283,534,000	9,655	3,220
Houma Navigation Control Lock	Alt. 2	$1,496,000	0***	243
Small Diversion at Convent/Blind River	Alt. 2	$116,791,000	21,369	6,421
Terrebonne Basin Barrier Shoreline Restoration	Alt. 11*	$646,931,000	5,840	2,063
	(Alt. 5)**	($113,434,000)	(1,272)	(379)
Medium Diversion at White Ditch	Alt. 4*	$365,201,000	35,146	13,353
Total		**$1,422,089,000**	**73,612**	**25,979**

* Implementation of the recommended plan to fully address the restoration needs of the study area identified in this report requires additional authorization by Congress by raising the total project cost.
** Alternative 5 (Whiskey Island) is an increment of Alternative 11 (the recommended plan).
*** Impacted acres overlap with Convey Atchafalaya River Water to Northern Terrebonne Marshes

7. In accordance with the cost sharing provisions of WRDA of 1986, as amended by Section 210 of WRDA 1996, the Federal share of the first cost of the six projects is estimated at $924,358,000 (65 percent) and the non-Federal share is estimated at $497,731,000 (35 percent). The cost of lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas is estimated at $13,454,000. The total cost includes an estimated $47,856,000 for environmental monitoring, and adaptive management. The State of Louisiana, the non-Federal sponsor, would be responsible for the OMRR&R of the projects after construction, a cost currently estimated at about $15,605,000 per year.

Table 2 shows the Federal and non Federal cost of the projects.

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Table 2
LCA Section 7006(e)(3) Projects
Cost Apportionment (October 2010 Price Level)

Project	Total First Cost	Federal Cost (65%)	Non-Federal Cost (35%)	Total Monitoring	Total Adaptive Management	Annual OMRR&R
Amite River Diversion Canal Modification	$8,136,000	$5,288,000	$2,848,000	$2,113,000	$858,000	$10,000
Convey Atchafalaya River Water to Northern Terrebonne Marshes	$283,534,000	$184,298,000	$99,236,000	$18,874,000	$2,428,000	$73,000
Houma Navigation Control Lock*	$1,496,000	$972,000	$524,000	$98,000	$0	$0
Small Diversion at Convent/Blind River	$116,791,000	$75,914,000	$40,877,000	$4,284,000	$2,336,000	$2,754,000
Terrebonne Basin Barrier Shoreline Restoration	$646,931,000	$420,505,000	$226,426,000	$8,280,000	$1,680,000	$11,300,000
	($113,434,000)	($73,732,000)	($39,702,000)	($4,140,000)	($1,680,000)	($6,900,000)
Medium Diversion at White Ditch	$365,201,000	$237,381,000	$127,820,000	$8,807,000	$2,336,000	$1,468,000
Total LCA	**$1,422,089,000**	**$924,358,000**	**$497,731,000**	**$38,218,000**	**$9,638,000**	**$15,605,000**

8. In concert with the Corps Campaign Plan, the plans recommended in this report were developed utilizing a systematic and regional approach in formulating solutions and in evaluating the impacts and benefits of those solutions. Specifically the projects individually and collectively provide enduring and essential water resources management solutions. The plans were developed through a broad based collaborative process that resulted in wetland restoration that enhances the sustainability of, and is integrated with, the multiple socio-economic purposes supported by the coastal ecosystem. The development of these projects also demonstrates the Corps goal to cultivate competent, disciplined teams to deliver quality plans.

9. Independent External Peer Review (IEPR) of the six conditionally authorized LCA projects was coordinated through the Planning Center of Expertise for Ecosystem Restoration and performed by Battelle Corporation. Independent technical review teams were assembled for each project. The technical review considered all aspects of the project evaluations and the resulting output. The IEPR comments identified concerns in areas of the evaluations that would benefit from additional refinement. The IEPR reviews concurred with the project recommendations and all comments were satisfactorily resolved. Several significant recommendations will be further evaluated during project implementation. In concurrence with

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IEPR comments, additional documentation of hydrodynamic model and land change evaluations were provided for the Amite River Diversion Canal Modification, Convey Atchafalaya River Water to Northern Terrebonne Marshes, Multipurpose Operation of the Houma Navigation Canal Lock, and Small Diversion at Convent / Blind River projects. Additional documentation to support the alternative comparison and plan selection process was provided for all the presented projects to address the comments. Other actions will be taken in response to IEPR comments during project preconstruction engineering and design (PED). For the Amite River Diversion Canal Modification project, additional model refinements will be used to improve the forecast of relative sea level rise (RSLR) effects and revise the adaptive management (AM) plan. For the Convey Atchafalaya River Water to Northern Terrebonne Marshes / Multipurpose Operation of the Houma Navigation Canal Lock Canal Lock project, additional refinements of land change, RSLR, and wetland benefit forecast tools to better correlate them to the high complexity of the project area will be undertaken. For the Convent / Blind river project, additional data collection and refinement of the hydrodynamic model will be undertaken to minimize potential local drainage effects and identify specific management actions for swamp enhancement, as well as refine the AM plan. For the Terrebonne Barrier Shoreline project, refined assessment of estuary-wide current and wave conditions and physical process modeling will be undertaken to better capture the systemic benefits and allow better coordination of project implementation and O&M. Specific construction effects will also be assessed and construction modifications applied to minimize critical habitat disruption. For the White Ditch project, a refinement of the land change evaluation, and an assessment of the effect of RSLR will be undertaken to allow a clearer understanding of potential adaptive management needs and revision of the AM plan. Finally, for the Small Diversion at Convent / Blind River and the Medium Diversion at White's Ditch projects a comprehensive assessment of cumulative diversion impacts on the Mississippi River will be undertaken prior to the initiation of construction to improve the assessments of cumulative project effects and help set operational criteria.

10. The LCA plans recommended by the reporting officers are environmentally justified, technically sound, cost-effective, and socially acceptable. The recommended plans conform to essential elements of the U.S. Water Resources Council's Economic and Environmental Studies and comply with other administration and legislative policies and guidelines. Also, the views of interested parties, including Federal, State, and local agencies have been considered.

11. I concur in the findings, conclusions, and recommendation of the reporting officers. Accordingly, I recommend implementation of these projects, in accordance with the reporting officers' recommendations with such modifications as in the discretion of the Chief of Engineers may be advisable. I further recommend, in accordance with the reporting officers recommendations, that the authorizations for Terrebonne Basin Barrier Shoreline Restoration and Medium Diversion at White Ditch be modified to raise the total project cost to allow for construction of the national ecosystem restoration plans for those projects. My recommendations are subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including WRDA 1986, as amended by Section 210 of

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WRDA 1996. The State of Louisiana, acting as the non-Federal sponsor, would provide the non-Federal cost share and all lands, easements, relocations, right-of-ways and disposals. Further, the non-Federal sponsor would be responsible for all OMRR&R. This recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and policies, including but not limited to its agreeing to:

a. Provide a minimum of 35 percent of total project costs as further specified below:

(1) Enter into an agreement which provides, prior to execution of the project partnership agreement, 25 percent of design costs;

(2) Provide, during the first year of construction, any additional funds needed to cover the non-Federal share of design costs;

(3) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that the Government determines to be necessary for the construction, operation, maintenance, repair, replacement, and rehabilitation of the project;

(4) Provide, during construction, any additional funds necessary to make its total contribution equal to 35 percent of the total project costs allocated to the project;

b. Provide the non-Federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation, that are in excess of 1 percent of the total amount authorized to be appropriated for the project;

c. Not use funds provided by a Federal agency under any other Federal program, to satisfy, in whole or in part, the non-Federal share of the cost of the project unless the Federal agency that provides the funds determines that the funds are authorized to be used to carry out the study or project;

d. Not use project or lands, easements, and rights-of-way required for the project as a wetlands bank or mitigation credit for any other project;

e. For as long as the project remains authorized, operate, maintain, repair, replace, and rehabilitate the project, or functional portion of the project, including mitigation, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and state laws and regulations and any specific directions prescribed by the Federal Government;

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f. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor, now or hereafter, owns or controls for access to the project for the purpose of inspecting, operating, maintaining, repairing, replacing, rehabilitating, or completing the project. No completion, operation, maintenance, repair, replacement, or rehabilitation by the Federal Government shall relieve the non-Federal sponsor of responsibility to meet the non-Federal sponsor's obligations, or to preclude the Federal Government from pursuing any other remedy at law or equity to ensure faithful performance;

g. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, replacement, and rehabilitation of the project and any project-related betterments, except for damages due to the fault or negligence of the United States or its contractors;

h. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for the initial construction, periodic nourishment, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal Government provides the non-Federal sponsor with prior specific written direction, in which case the non-Federal sponsor shall perform such investigations in accordance with such written direction;

i. Assume, as between the Federal Government and the non-Federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated materials located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be necessary for the initial construction, periodic nourishment, operation, or maintenance of the project;

j. Agree that, as between the Federal Government and the non-Federal sponsor, the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, and repair the project in a manner that would not cause liability to arise under CERCLA;

k. Prevent obstructions of or encroachments on the project (including prescribing and enforcing regulations to prevent such obstruction or encroachments) which might reduce ecosystem restoration benefits, hinder operation and maintenance, or interfere with the project's proper function, such as any new developments on project lands or the addition of facilities which would degrade the benefits of the project;

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l. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of three years after completion of the accounting for which such books, records, documents, and other evidence is required, to the extent and in such detail as would properly reflect total costs of construction of the project, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations (CFR) Section 33.20;

m. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5), and Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element;

n. Comply with all applicable Federal and state laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army," and all applicable Federal labor standards and requirements, including but not limited to 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying, and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c et seq.); and

o. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way necessary for the initial construction, periodic nourishment, operation, and maintenance of the project, including those necessary for relocations, borrow materials, and dredged or excavated material disposal, and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

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12. The recommendations contained herein reflect the information available at this time and current departmental policies governing the formulation of individual projects. They do not reflect program and budgeting priorities inherent in the formulation of the national civil works construction program or the perspective of higher levels within the executive branch. Consequently, the recommendations may be modified before they are transmitted to Congress for authorization and/or implementation funding. However, prior to transmittal to Congress, the State of Louisiana, interested Federal agencies, and other parties will be advised of any significant modifications in the recommendations and will be afforded an opportunity to comment further.

R. L. VAN ANTWERP
Lieutenant General, US Army
Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CECW-MVD (1105-2-10a) DEC 30 2011

SUBJECT: Minnesota River, Marsh Lake Ecosystem Restoration Project, Minnesota

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on ecosystem restoration along the Minnesota River at Marsh Lake, a part of the Lac qui Parle Reservoir, west of Appleton, Minnesota. It is accompanied by the report of the district and division engineers. These reports were completed under authorities granted by a May 10, 1962, resolution of the Committee on Public Works of the U.S. House of Representatives. This resolution requested the review of "the report of the Chief of Engineers on the Minnesota River, Minnesota, published as House Document 230, 74th Congress, First Session and other pertinent reports, with a view to determining the advisability of further improvements in the Minnesota River Basin for navigation, flood control, recreation, low flow augmentation, and other related water and land resources." Preconstruction engineering and design activities for the Marsh Lake Ecosystem Restoration Project will continue under the authority provided by the resolution above.

2. The Marsh Lake ecosystem function and connectivity has degraded over time primarily as a result of artificial changes to the hydrologic conditions at the site. The ecosystem significance of the area is demonstrated on the national, regional and local level. Marsh Lake provides critical stop-over refuge for migratory waterfowl moving through the Mississippi River flyway as well as breeding grounds for the largest white pelican population in North America. Many other fish and bird species are also dependent on the resource for life requisites including both migrating and nesting bald eagles. Ecosystem values provided by Marsh Lake have increased in importance over time as 90 percent of the wetland areas within the watershed have been drained.

3. The reporting officers recommend authorization of a plan to restore aquatic ecosystem structure and function as well as implementation of ancillary recreation features to Marsh Lake and surrounding resources in the upper portion of the Lac qui Parle reservoir. The recommended plan consists of ecosystem restoration features including returning the Pomme de Terre River to its historic channel, modifying the Marsh Lake Dam for fish passage, construction of a drawdown water control structure at the Marsh Lake Dam, installation of gated culverts at Louisburg Grade Road, and the breaching of a dike at an abandoned fish pond adjacent to the Marsh Lake Dam. The plan also contains recreation features including shoreline fishing access structures, interpretive signage, a canoe landing, benches, picnic tables, trash receptacles, toilets, and parking lot improvements. The project requires mitigation to offset adverse impacts to Marsh Lake Dam through photographic documentation of the existing site conditions prior to construction since Marsh Lake Dam was determined individually eligible to the National Register of Historic Places. The recommended plan is the National Ecosystem Restoration Plan. Implementation of the recommended plan will have a substantial beneficial impact on fish and

wildlife species in the area. While the project will not directly affect federally-listed endangered or threatened species, the reduction of the suspended sediments in the waters of Marsh Lake and improved water clarity will benefit a wide-range of fish and wildlife species including species of concern such as the bald eagle, that are known to use the Marsh Lake site.

4. Based on an October 2011 price level, the estimated project first cost is $9,967,000. The project first cost includes approximately $9,463,000 for ecosystem restoration and approximately $504,000 for recreation. In accordance with the cost sharing provisions of Section 103(c) of the Water Resources Development Act of 1986 (WRDA 1986), as amended (33 U.S.C. 2213(c)), ecosystem restoration features are cost-shared at a rate of 65 percent Federal and 35 percent non-Federal; and recreation features are cost-shared at a rate of 50 percent Federal and 50 percent non-Federal. Thus, the Federal share of the project first costs is estimated to be $6,403,000 and the non-Federal share is estimated at $3,564,000, which equate to 64 percent Federal and 36 percent non-Federal. The costs of lands, easements, rights-of-way, relocations, and excavated material disposal areas is estimated to have no cost, given the existing Federal ownership over the project area. The State of Minnesota, Department of Natural Resources is the non-Federal cost share sponsor for the recommended plan. The State of Minnesota, Department of Natural Resources would be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction, a cost currently estimated at $35,000 per year.

5. Based on a 4.0-percent discount rate and a 50-year period of analysis, the total equivalent annual costs of the project, including OMRR&R, are estimated to be $490,000.

a. The equivalent average annual costs of ecosystem restoration features are estimated to be $464,000, including OMRR&R. The cost of the recommended aquatic ecosystem restoration features is justified by the restoration of about 8,400 average annual habitat units which includes restoration of approximately two linear miles of historic riverine habitat.

b. The equivalent average annual costs of recreation features are estimated to be $26,000, including OMRR&R. The annual benefits of the proposed recreation features are estimated at $230,000. The benefit-to-cost ratio for recreation is 8.9 to 1.

6. The recommended plan was developed in coordination and consultation with various Federal, State, and local agencies using a systems approach in formulating ecosystem restoration solutions and in evaluating the impacts and benefits of those solutions. Plan formulation evaluated a wide range of non-structural and structural alternatives under Corps policy and guidelines as well as consideration of a variety of economic, social and environmental goals. The recommended plan delivers a holistic, comprehensive approach to solve water resources challenges in a sustainable manner. The resulting recommended plan has received broad public support.

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7. In accordance with EC 1165-2-209, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included Agency Technical Review (ATR) and a Corps Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the final report. An exclusion from the Independent External Peer Review (IEPR) was granted by the Director of Civil Works.

8. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan to restore the ecosystem of Marsh Lake be authorized in accordance with the reporting officers' recommended plan at an estimated project first cost of $9,967,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 103 of WRDA 1986, as amended by Section 202 of WRDA 1996, and WRDA 1986, as amended by Section 210 of WRDA 1996. Accordingly, the non-Federal sponsor must agree with the following requirements prior to project implementation.

a. Provide 35 percent of total ecosystem restoration costs as further specified below:

1. Provide the non-Federal share of design costs allocated by the Government to ecosystem restoration in accordance with the terms of a design agreement entered into prior to commencement of design work for the ecosystem restoration features;

2. Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of the project;

3. Provide, during the design and implementation phase, any funds necessary to make its total contribution equal to 35 percent of total project costs;

b. Provide 50 percent of total recreation costs as further specified below:

1. Provide the non-Federal share of design costs allocated by the Government to recreation in accordance with the terms of a design agreement entered into prior to commencement of design work for the recreation features;

2. Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material

all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of the recreation features;

3. Provide, during construction, any additional funds necessary to make its total contribution for recreation equal to 50 percent of total recreation costs;

4. Provide, during construction, 100 percent of the total recreation costs that exceed an amount equal to 10 percent of the Federal share of total ecosystem restoration costs;

c. Provide, during the design and implementation phase, 100 percent of all costs of planning, design, and construction for the project that exceed the Federal share of the total project costs;

d. Shall not use funds from other Federal programs, including any non-Federal contribution required as a matching share therefore, to meet any of the non-Federal obligations for the project unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is authorized by Federal law;

e. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the outputs produced by the project, hinder operation and maintenance of the project, or interfere with the project's proper function;

f. Shall not use the project or lands, easements, and rights-of-way required for the project as a wetlands bank or mitigation credit for any other project;

g. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 Code of Federal Regulations (CFR) Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

h. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, including any mitigation features, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

i. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor owns or controls for access to the project for

the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project;

j. Hold and save the United States free from all damages arising from the design, construction, operation, maintenance, repair, rehabilitation, and replacement of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors;

k. Keep and maintain books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 CFR Section 33.20;

l. Comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.*);

m. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal Government provides the non-Federal sponsor with prior specific written direction, in which case the non-Federal sponsor shall perform such investigations in accordance with such written direction;

n. Assume, as between the Federal Government and the non-Federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project;

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o. Agree, as between the Federal Government and the non-Federal sponsor, that the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA;

p. Provide, during the design and implementation phase, 35 percent of all costs that exceed $50,000 for data recovery activities associated with historic preservation for the project; and

q. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element.

9. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the sponsor, the State, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

MERDITH W. B. TEMPLE
Major General, U.S. Army
Acting Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CECW-SAD (1105-2-10a)

JAN 3 0 2012

SUBJECT: C-111 Spreader Canal Western Project, Comprehensive Everglades Restoration Plan, Central and Southern Florida Project, Miami-Dade County, Florida.

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on ecosystem restoration improvements for the C-111 Spreader Canal Western Project, located in Miami-Dade County, Florida. It is accompanied by the reports of the Jacksonville District Engineer and South Atlantic Division Engineer. These reports are in response to Section 601 of the Water Resources Development Act (WRDA) of 2000, which authorized the Comprehensive Everglades Restoration Plan (CERP) as a framework for modifications and operational changes to the Central and Southern Florida Project that are needed to restore, preserve, and protect the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection. WRDA 2000 identified specific requirements for implementing components of the CERP, including the development of a decision document known as a Project Implementation Report (PIR). The requirements of a PIR are addressed in this report and are subject to review and approval by the Secretary of the Army. Preconstruction engineering and design activities for this project will be continued under the CERP Design Agreement.

2. The proposed C-111 Spreader Canal project was conditionally authorized by Section 601(b)(2)(C)(x) of WRDA 2000, but is not being recommended for implementation under that authority. The proposed C-111 Spreader Canal project was split into Western and Eastern Projects. Due to changes in scope and intended restoration area, the C-111 Spreader Canal Western project will be recommended for new specific Congressional authorization consistent with WRDA 2000, Section 601(d), Authorization of Future Projects. The Western Project focuses on the restoration of flows to Florida Bay via Taylor Slough as well as the restoration of the Southern Glades and Model Lands. Due to numerous uncertainties associated with the actual spreader canal feature, a spreader canal design test will be implemented to gain information that will guide planning efforts for the Eastern Project. The Eastern Project will address the restoration of the remainder of the project area through such features as a spreader canal, backfilling of the C-111 Canal, etc. It is expected that the Eastern Project will also seek authorization under 601(d). The reporting officers determined that the original authority for the C-111 Spreader Canal Project contained 601(b)(2)(C)(x) of WRDA 2000 is no longer needed. As such, the reporting officers recommend that C-111 Spreader Canal authorized in 601(b)(2)(C)(x) of WRDA 2000 be deauthorized.

3. Although cost sharing of the ecosystem restoration features for this project is governed by Section 601 of WRDA 2000, as amended, cost sharing of the recreation features is governed by Section 103 of the WRDA 1986, as amended. In particular, in accordance with Section 103(j) of WRDA 1986, 100 percent of the cost of operation, maintenance, repair, replacement and rehabilitation (OMRR&R) of the recreation features is the non-Federal sponsor's responsibility. In

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addition, section 601(e)(5)(B) of WRDA 2000, as amended, governs credit for non-Federal sponsor design and construction work on the ecosystem restoration features of the project, whereas section 221(a)(4) of the Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b(a)(4)), governs credit for non-Federal sponsor design and construction work on the recreation features of the project.

4. The final PIR with integrated Environmental Impact Statement (EIS) recommends a project that contributes significantly to all of the ecological goals and objectives of the CERP: (1) increasing the spatial extent of natural areas; (2) improving habitat function and quality; and (3) improving native plant and animal abundance and diversity. In addition, it contributes to the economic values and social well being of the project area by providing recreational opportunities. Scientists have established that a mosaic of uplands, freshwater marsh, deep water sloughs, and estuarine habitats supporting a diverse community of fish and wildlife was one of the defining characteristics of the pre-drainage Everglades ecosystem. Currently in south Florida, habitat function and quality has significantly declined in remaining natural system areas due to water management projects and practices, resulting in a loss of suitable nesting, foraging, and fisheries habitat and a decline in native species diversity and abundance. The PIR confirms information in the CERP and provides project-level evaluation of costs and benefits associated with construction and operations of this ecosystem restoration project which will reverse the damaging trends and increase freshwater retention in Everglades National Park, restoring a natural deepwater slough and the surrounding freshwater marsh habitat. Water levels across the project area will be increased, boosting species abundance and diversity while providing suitable nesting and foraging areas for wading birds. Florida Bay and its estuaries will benefit from decreased salinity levels and improved health of the fisheries habitat. Overall, approximately 252,000 acres of wetlands and coastal habitat will benefit from the project. The South Florida Water Management District (SFWMD), the non-Federal sponsor, has begun land acquisition and construction of the project through its expedited construction program. As such, the C-111 Spreader Canal Western project can be implemented quickly, substantially advancing the realization of project benefits in an area that has been degraded by past water management practices.

5. The reporting officers recommend a plan for ecosystem restoration and recreation. The recommended C-111 Spreader Canal Western project would improve the ecological function of Everglades National Park by creating a hydraulic ridge that will reduce drainage of the area by the C-111 Canal. The Recommended Plan, Alternative 2DS, will consist of two above-ground detention areas, the approximately 590-acre Frog Pond Detention Area and an approximately 50-acre Aerojet Canal, which will serve to create a continuous and protective hydraulic ridge along the eastern boundary of Everglades National Park. Five additional features will be included that are intended to raise water levels in the eastern portion of the project area and restore wetlands in the Southern Glades and Model Lands. Major features of the detention areas include the construction of external levees and one approximately 225-cubic feet per second pump station for each detention area. The five additional features will include the following: incremental operational changes at existing structure S-18C; one new operable structure in the lower C-111 Canal; ten plugs in the C-110 Canal; operational changes at existing structure S-20; and, one plug in the existing L-31E Canal (near inoperable structure S-20A). Recreation components consist of a trailhead with parking, traffic controls, a shade shelter with interpretive board, and approximately 6.8 miles of multi-use levee trails atop impoundment levees. Restoration-compatible recreation includes hiking, biking, fishing, nature study, bird watching, state-managed hunts and equestrian use.

6. The cost of the initially authorized C-111 Spreader Canal component of the CERP, escalated to October 2011 (FY 12) price levels, is $143,540,000. The total first cost of the Recommended Plan

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from the final PIR/EIS, based upon October 2011 price levels, is estimated at $165,098,000. Total first cost for the ecosystem restoration features is estimated to be $164,832,000 and for recreation is estimated to be $266,000. The proposed project costs have increased primarily due to the fact that the project has increased in scope to address ecological problems in Everglades National Park and Florida Bay as identified by the public and stakeholders.

7. In accordance with the cost-sharing requirements of Section 601(e) of the WRDA 2000, as amended, the Federal cost of the Recommended Plan is $82,549,000 and the non-Federal cost is $82,549,000. The estimated lands, easements, right-of-way, and relocation (LERRs) costs for the recommended plan are $68,451,000. LERRs valued at approximately $18,610,000 are already owned by the State of Florida. Based on October 2011 price levels, a 40-year period of economic evaluation and a 4.0 percent discount rate, the equivalent annual cost of the proposed project is estimated at $10,268,000, which includes OMRR&R, interest and amortization. The estimated annual costs for ecosystem restoration OMRR&R, including project monitoring costs, vegetation management, and endangered species monitoring, are $1,468,000. The estimated annual OMRR&R costs for recreation are $25,000. The project monitoring period is five years except for endangered species monitoring, which is 10 years. Any costs associated with project monitoring beyond 10 years after completion of construction of the Project (or a component of the Project) shall be a non-Federal responsibility.

8. As a component of the CERP program, the interagency/interdisciplinary scientific and technical team, formed to ensure that system-wide goals are met, will participate in the annual monitoring to assess system-wide changes. In accordance with Sections 601(e)(4) and 601(e)(5)(D) of WRDA 2000, as amended, OMRR&R costs and adaptive assessment and monitoring costs for ecosystem restoration will be shared equally between the Federal Government and the non-Federal sponsor. The Project Monitoring Plan was developed assuming that major, ongoing monitoring programs that are not funded by the Project would continue to supply data relevant to the Project. The Project Monitoring Plan shall not include items that are already required to be monitored by another Federal agency or other entity as part of their regular responsibilities or required by law. Should any of these monitoring programs (e.g. coastal water quality and seagrass monitoring) be discontinued or significantly curtailed, then monitoring priorities and funding options may be re-evaluated to ensure proper Project evaluation. In accordance with Section 103(j) of the WRDA 1986, as amended, OMRR&R costs related to recreation features will be funded 100 percent by the non-Federal sponsor.

9. To ensure that an effective ecosystem restoration plan was recommended, cost effectiveness/ incremental cost analysis techniques were used to evaluate alternative restoration plans. These techniques determined the selected alternative plan to be cost effective and incrementally justified. The hydraulic model and ecological model utilized to estimate the ecological outputs that were used in the economic analysis were both peer-reviewed and certified for use in the project. The plan recommended for implementation is the National Ecosystem Restoration (NER) plan, supports the Incremental Adaptive Restoration principles established by the National Research Council, and was prepared in a collaborative environment. The recommended plan provides benefits by: (1) restoring the quantity, timing, and distribution of water delivered to Florida Bay via Taylor Slough; (2) improving hydroperiods and hydropatterns in the Southern Glades and Model Lands; and, (3) restoring coastal zone salinities in Florida Bay and its tributaries.

10. In accordance with the WRDA 2000 Section 601(f)(2), individual CERP projects may be justified by the environmental benefits derived by the South Florida ecosystem. Similarly, Section

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385.9(a) of the CERP Programmatic Regulations (33 CFR Part 385) requires that individual projects shall be formulated, evaluated, and justified based on their ability to contribute to the goals and purposes of the CERP and on their ability to provide benefits that justify costs on a next-added increment basis. Due to the project location at the terminus of the Everglades system, the C-111 Spreader Canal Western project does not depend on any other CERP or non-CERP projects to achieve the estimated ecological benefits. As such, the Next-Added Increment (NAI) is equivalent to the total, System-Wide benefits that were calculated for the proposed project. The Recommended Plan will produce an average annual increase of 8,271 habitat units per year at an annual cost of $10,268,000. In coordination with Fish and Wildlife Service, this project could benefit threatened and endangered species and migratory birds. The average annual cost per average annual habitat unit is $1,240. Based on restoration first cost, the cost per acre benefited is approximately $654 per acre. Based on these parameters, the C-111 Spreader Canal Western project is justified by the environmental benefits derived by the South Florida ecosystem. The recreation first cost of the recommended plan is $266,000. The average annual cost for recreation is $39,000 and the average annual recreation benefits are $122,000, providing a benefit cost ratio of 3.1 to 1.

11. Of the 12,176 acres of land identified for the Project, approximately 611 acres were provided as items of local cooperation for existing Federal projects and will be used for construction of C-111 Spreader Canal Western Project. Approximately 11,565 acres of land are predicted to be impacted by the Recommended Plan: Approximately 9,688 acres will be provided in fee and have already been purchased by the non-Federal sponsor. Approximately 146 acres of impacted lands will be provided under a supplemental agreement with the State of Florida and Miami-Dade County. Approximately 955 acres will be provided by perpetual flowage/conservation easements by the Florida Power and Light Company. The planning level model predicted that the remaining 776 acres of privately-owned land identified for the Project may be affected by operation of the Project, as indicated in the PIR. WRDA 2000 requires that implementation of the CERP shall not reduce existing levels of service for flood protection. The SFWMD is constructing the majority of the project under its State expedited construction program and as part of its independent effort to implement the Project, the SFWMD will monitor the impacts of the current construction and continually adjust operations to ensure the protection of privately-owned lands. If SFWMD is able to provide new information that these operations provide anticipated ecological benefits without reducing existing levels of service for flood protection for the 776 acres, the Corps will consider this information and accordingly document any changes to its takings analysis and the continued compliance with the statutory requirements regarding maintenance of level of service for flood protection. The reassessment of effects on existing levels of service for flood protection will utilize a method similar to the original method of determination. Like the analysis in the PIR, the reassessment will be conducted in a manner consistent with the CERP Programmatic Regulations and guidance. In addition, the takings analysis will be similarly reassessed. Any reassessment done will be completed prior to the execution of a Project Partnership Agreement (PPA). The new information must document that operational adjustments implemented to avoid a reduction of the level of service for flood protection on a particular property or properties can also provide the anticipated ecological benefits. After the documentation is complete, then those operations may be made permanent and incorporated into the Final Project Operating Manual of the Federally-authorized project. Otherwise, the non-Federal sponsor will acquire the necessary interests in the lands, and will provide real estate certification of those lands to the Corps.

12. In accordance with the Corps Engineering Circular on review of decision documents, all technical, engineering, and scientific work underwent an open, dynamic, and vigorous review

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process to ensure technical quality. This included Agency Technical Review (ATR), and Independent External Peer Review (IEPR), and a Corps Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the final report. The IEPR was completed by Battelle Memorial Institute, a non-profit science and technology organization with experience in establishing and administering peer review panels for the Corps. A total of 23 comments were documented. The comments of high significance were related to current and future conditions, assessment of secondary effects and climatic cycles, and technical sections of the document such as Real Estate and Modeling. In response, sections in the PIR/EIS and appendices were expanded to include additional information. The final IEPR Report was completed in October 2009, and certification from the IEPR Panel was issued 25 November 2009.

13. The Final PIR/EIS was published for State and Agency Review on 4 February 2011. The majority of the comments received were favorable and in support of the project. A letter from the Florida Department of Agriculture and Consumer Services (FDACS), dated 10 March 2011, stated a concern that the proposed project would result in negative impacts to privately-owned agricultural lands in the vicinity of the project. Specifically, the concern was that a rise in groundwater elevations would result in root zone flooding that would be detrimental to crops. The FDACS also expressed concern that any adverse impacts identified after project implementation would be based upon criteria not specified in the Final PIR. In a 29 July 2011 reply letter, the Corps responded to these concerns by describing the monitoring being conducted by the SFWMD as part of its expedited construction program and the Corps' consideration of additional information to reassess the takings analysis and whether the project will reduce the existing levels of service for flood protection on the 776 acres, or a portion thereof, as described previously in Paragraph 11. The final PIR was revised to clarify this position.

14. Section 601(e)(5)(B) of WRDA 2000, as amended by Section 6004 of the WRDA 2007, authorizes credit toward the non-Federal share for non-Federal design and construction work completed during the period of design or construction, subject to execution of the design or project partnership agreement and subject to a determination by the Secretary that the work is integral to the project. As part of its initiative for early implementation of certain CERP projects, the non-Federal sponsor has stated that it is constructing the C-111 Spreader Canal Western project consistent with the PIR, in advance of Congressional authorization and the signing of a project partnership agreement. As such, a separate EIS has been completed and a Department of the Army permit has been issued to the non-Federal sponsor for expedited construction of this project, and construction of the project has already begun by the State of Florida. As required by the February 2008 Implementation Guidance for Section 6004 of WRDA 2007 – CERP Work In-Kind Credits, the non-Federal sponsor entered into a Pre-Partnership Credit Agreement for the C-111 Spreader Canal Western Project on 13 August 2009. The reporting officers believe that it is in the public interest for this Project to be implemented expeditiously due to the early restoration of Federal lands in Everglades National Park and ecological benefits to the wetlands and estuaries in other portions of the South Florida ecosystem. Therefore, the reporting officers recommend that the non-Federal sponsor be credited for all reasonable, allowable, necessary, auditable, and allocable costs applicable to the C-111 Spreader Canal Western project as may be authorized by law including those incurred prior to the execution of a PPA, subject to authorization of the Project by law, a determination by the Assistant Secretary of the Army (Civil Works) or his/her designee that the In-kind work is integral to the authorized CERP Project, that the costs are reasonable, allowable, necessary, auditable, and allocable, and that the In-kind work has been implemented in accordance with government standards and applicable Federal and state laws.

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15. The non-Federal Sponsor and the U.S. Department of the Army entered into an agreement known as the Master Agreement Between the Department of the Army and South Florida Water Management District for Cooperation in Constructing and Operating, Maintaining, Repairing, Replacing and Rehabilitating Projects Authorized to be Undertaken Pursuant to the Comprehensive Everglades Restoration Plan dated 13 August 2009 (hereinafter "Master Agreement"). The Master Agreement sets forth the terms of participation in the construction and OMRR&R of projects under CERP that will apply to any future project for which the non-Federal sponsor and the Government have entered into a PPA. The uniform terms of the Master Agreement will be incorporated by reference into the C-111 Spreader Canal Western Project PPA.

16. Credits for non-Federal design and construction will be evaluated in accordance with the terms of the Master Agreement. All documentation provided by the non-Federal sponsor will be thoroughly reviewed by the Corps to determine reasonable, allowable, necessary, auditable, and allocable costs. Upon completion of this review, a financial audit will be conducted prior to granting final credit. Coordination between the Corps and the Sponsor will occur throughout design and construction via the Corps' Regulatory process. The credit afforded to the non-Federal sponsor will be limited to the lesser of the following: (1) actual costs that are reasonable, allowable, necessary, auditable, and allocable to the Project; or (2) the Corps estimate of the cost of the work allocable to the Project had the Corps performed the work. The non-Federal sponsor intends to implement this work using its own funds and would not use funds originating from other Federal sources unless the Federal granting agency verifies in writing that the expenditure of such funds is expressly authorized by statute and in accordance with Section 601 (e)(3) of WRDA 2000 as amended and the Master Agreement.

17. Washington level review indicates that the plan recommended by the reporting officers is environmentally justified, technically sound, cost effective, and socially acceptable. The plan conforms to essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies and complies with other administration and legislative policies and guidelines. The views of interested parties, including Federal, state and local agencies have been considered.

18. The Project complies with the following requirements of the WRDA 2000, as amended:

a. Project Implementation Report (PIR). The requirements of a PIR as defined by Section 601(h)(4)(A).

b. Reservation or Allocation of Water for the Natural System. Sections 601(h)(4)(A)(iii)(IV) and (V) require identification of the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system and the amount of water to be reserved or allocated for the natural system. In accordance with the regulations, an analysis was conducted to identify water dedicated and managed for the natural system. Accordingly, the non-Federal sponsor will protect the water that was identified as necessary to achieve the benefits of the Project, using water reservation or allocation authority under Florida law.

c. Elimination or Transfer of Existing Legal Sources of Water. Section 601(h)(5)(A) states that existing legal sources of water shall not be eliminated or transferred until a new source

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of water supply of comparable quantity and quality is available to replace the water to be lost as a result of the CERP. An analysis of project effects on existing legal sources of water was conducted and it was determined that implementation of the C-111 Spreader Canal Western project will not result in a transfer or elimination of existing legal sources of water.

d. Maintenance of Flood Protection. Section 601 (h)(5)(B) states that the Plan shall not reduce levels of service for flood protection that are in existence on the date of enactment of WRDA 2000 (December 2000) and in accordance with applicable law. Potential flooding effects as a result of the proposed project were analyzed and the results indicated that the proposed project would have an adverse impact on the level of service for flood protection in the project area. The analysis identified 776 acres of privately-owned lands that may be impacted as a result of the operation of the proposed project. Total impacted lands, including the 776 acres identified above, were approximately 11,565 acres. As such, the non-Federal sponsor will provide the 11,565 acres of lands either in fee, perpetual flowage easements, or by supplemental agreements, and will be responsible for those real estate interests as a project cost. Under the specific circumstances detailed in paragraph 11, the non-Federal sponsor may not be required to provide an interest in all or part of the 776 acres of privately-owned lands identified.

19. I generally concur with the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan described herein for ecosystem restoration and recreation be authorized for implementation as a Federal Project, with such modifications as in the discretion of the Chief of Engineers may be advisable, and subject to cost-sharing, financing, and other applicable requirements of Section 601 of WRDA 2000, as amended. In addition, I recommend that the non-Federal sponsor be authorized to receive credit for work accomplished prior to execution of a PPA for this Project, in accordance with the terms described in paragraphs 14 and 16 of this report.

Further, this recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and the following items of local cooperation:

a. Provide 50 percent of total project costs consistent with the provisions of Section 601(e) of the WRDA 2000, as amended, including authority to perform design and construction of project features consistent with Federal law and regulation.

b. Provide all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform or assure the performance of all relocations that the Government and the non-Federal sponsor jointly determine to be necessary for the construction and OMRR&R of the Project and valuation will be in accordance with the Master Agreement.

c. Shall not use the ecosystem restoration features or lands, easements, and rights-of-way required for such features as a wetlands bank or mitigation credit for any other non-CERP projects.

d. Give the Government a right to enter, at reasonable times and in a reasonable manner, upon land that the non-Federal sponsor owns or controls for access to the Project for the

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purpose of inspection, and, if necessary, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the Project.

e. Assume responsibility for operating, maintaining, repairing, replacing, and rehabilitating the Project or completed functional portions of the Project in a manner compatible with the Project's authorized purposes and in accordance with applicable Federal and State laws and specific directions prescribed in the OMRR&R manuals and any subsequent amendments thereto. Notwithstanding Section 528(e)(3) of WRDA 1996 (110 Stat. 3770), the non-Federal sponsor shall be responsible for 50 percent of the cost of OMRR&R activities authorized under this section.

f. The non-Federal sponsor shall operate, maintain, repair, replace and rehabilitate the recreational features of the Project and is responsible for 100 percent of the costs.

g. Keep the recreation features, and access roads, parking areas, and other associated public use facilities, open and available to all on equal terms.

h. Unless otherwise provided for in the statutory authorization for this Project, comply with Section 221 of PL 91-611, Flood Control Act of 1970, as amended, and Section 103 of the WRDA of 1986, PL 99-662, as amended which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the Project or separable element.

i. Hold and save the Government free from all damages arising from the construction, OMRR&R of the Project, and any project-related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors.

j. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the Project to the extent and in such detail as will properly reflect total project costs and comply with the provisions of the CERP Master Agreement between the Department of Army and the South Florida Water Management District for Cooperation in Constructing and Operating, Maintaining, Repairing, Replacing, and Rehabilitating Projects Authorized to be Undertaken Pursuant to the Comprehensive Everglades Restoration Plan, executed on 13 August 2009, including Article XI Maintenance of Records and Audit.

k. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601-9675, that may exist in, on, or under lands, easements or rights-of-way necessary for the construction and operation and maintenance (O&M) of the Project; except that the non-Federal sponsor shall not perform such investigations on lands, easements, or rights-of-way that the Government determines to be subject to the navigation servitude without prior specific written direction by the Government.

l. Assume complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated materials located in, on or under lands, easements, or right-of-ways

necessary for the construction and OMRR&R.

m. As between the Government and the non-Federal sponsor, the non-Federal sponsor shall be considered the operator of the Project for the purposes of CERCLA liability. To the maximum extent practicable, the non-Federal sponsor shall OMRR&R the Project in a manner that will not cause liability to arise under CERCLA.

n. Prevent obstructions of and encroachments on the Project (including prescribing and enforcing regulations to prevent such obstruction or encroachments) which might reduce ecosystem restoration benefits, hinder O&M, or interfere with the Project's proper function, such as any new developments on Project lands or the addition of facilities which would degrade the benefits of the Project.

o. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, PL 91-646, as amended by the title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (PL 100-17), and Uniform Regulations contained in 49 CFR part 24, in acquiring lands, easements, and rights-of-way, and performing relocations for construction, O&M of the Project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act.

p. Comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, PL 88-352, and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled, "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army," and all applicable Federal labor standards and requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act [formerly 40 U.S.C. 276a et seq.], the Contract Work Hours and Safety Standards Act [formerly 40 U.S.C. 327 et seq.] and the Copeland Anti-Kickback Act [formerly 40 U.S.C. 276c]).

q. Comply with Section 106 of the National Historic Preservation Act in completion of all consultation with Florida's State Historic Preservation Office and, as necessary, the Advisory Council on Historic Preservation prior to construction as part of the Pre-construction Engineering and Design phase of the Project.

r. Provide 50 percent of that portion of total cultural resource preservation mitigation and data recovery costs attributable to the Project that are in excess of one percent of the total amount authorized to be appropriated for the Project.

s. Do not use Federal funds to meet the non-Federal sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is expressly authorized and in accordance with Section 601(e)(3) of WRDA 2000.

t. The non-Federal sponsor agrees to participate in and comply with applicable Federal floodplain management and flood insurance programs consistent with its statutory authority.

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(1) Not less than once each year the non-Federal sponsor shall inform affected interests of the extent of protection afforded by the Project.

(2) The non-Federal sponsor shall publicize flood plain information in the area concerned and shall provide this information to zoning and other regulatory agencies for their use in preventing unwise future development in the flood plain and in adopting such regulations as may be necessary to prevent unwise future development and to ensure compatibility with protection levels provided by the Project.

(3) The non-Federal sponsor shall comply with Section 402 of WRDA 1986, as amended (33 U.S.C. 701b-12), which requires a non-Federal interest to have prepared, within one year after the date of signing a project partnership agreement for the Project, a floodplain management plan. The plan shall be designed to reduce the impacts of future flood events in the project area, including but not limited to, addressing those measures to be undertaken by non-Federal interests to preserve the level of flood protection provided by the Project. As required by Section 402, as amended, the non-Federal interest shall implement such plan not later than one year after completion of construction of the Project. The non-Federal sponsor shall provide an information copy of the plan to the Government upon its preparation.

(4) The non-Federal sponsor shall prescribe and enforce regulations to prevent obstruction of or encroachment on the Project or on the lands, easements, and rights-of-way determined by the Government to be required for the construction, operation, maintenance, repair, replacement, and rehabilitation of the Project, that could reduce the level of protection the Project affords, hinder operation or maintenance of the Project, or interfere with the Project's proper function.

u. The non-Federal Sponsor shall execute under State law the reservation or allocation of water for the natural system as identified in the PIR for this authorized CERP Project as required by Sections 601(h)(4)(B)(ii) of WRDA 2000 and the non-Federal Sponsor shall provide information to the Government regarding such execution. In compliance with 33 CFR 385, the District Engineer will verify such reservation or allocation in writing. Any change to such reservation or allocation of water shall require an amendment to the PPA after the District Engineer verifies in writing in compliance with 33 CFR 385 that the revised reservation or allocation continues to provide for an appropriate quantity, timing, and distribution of water dedicated and managed for the natural system after considering any changed circumstances or new information since completion of the PIR for the authorized CERP Project.

20. The recommendation contained herein reflects the information available at this time and current Departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation

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may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding.

MERDITH W.B. TEMPLE
Major General, USA
Acting Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

MAY 2 2012

CECW-SAD (1105-2-10a)

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THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on ecosystem restoration improvements for Phase I of the Biscayne Bay Coastal Wetlands (BBCW) Project, located in Miami-Dade County, Florida. It is accompanied by the reports of the Jacksonville District Engineer and the South Atlantic Division Engineer. These reports are in response to Section 601 of the Water Resources Development Act (WRDA) of 2000, which authorized the Comprehensive Everglades Restoration Plan (CERP) as a framework for modifications and operational changes to the Central and Southern Florida project that are needed to restore, preserve, and protect the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection. WRDA 2000 identified specific requirements for implementing components of the CERP, including the development of a decision document known as a Project Implementation Report (PIR). The requirements of a PIR are addressed in this report and are subject to review and approval by the Secretary of the Army. Preconstruction engineering and design activities for this project will be continued under the CERP Design Agreement.

2. The proposed Biscayne Bay Coastal Wetlands project was previously identified in CERP and requires specific authorization under Section 601(d) of WRDA 2000. The original scope of the project has been altered in order to better address restoration goals in the study area and the BBCW project was split into two phases. Phase I is the first step toward meeting restoration goals in the study area. By rehydrating coastal wetlands and reducing damaging point source freshwater discharge to Biscayne Bay, the Phase I Recommended Plan is integral to the health of the south Florida ecosystem. Due to changes in scope and intended restoration area, Phase I of the proposed BBCW project is recommended for specific Congressional authorization consistent with WRDA 2000, Section 601(d). The second phase of the project would consider restoration of freshwater wetlands in the Model Lands/Barnes Sound area, the southernmost portion of the study area. It is expected that the second phase will also seek authorization under Section 601(d).

3. Although cost sharing of the ecosystem restoration features for this project is governed by Section 601 of WRDA 2000, as amended, cost sharing of the recreation features is governed by Section 103 of the WRDA 1986, as amended. In particular, in accordance with Section 103(j) of WRDA 1986, 100 percent of the cost of Operation, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) of the recreation features is the non-Federal sponsor's responsibility. In addition, section 601(e)(5)(B) of WRDA 2000, as amended, governs credit for non-Federal sponsor design and construction work on the ecosystem restoration features of the project, whereas

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section 221(a)(4) of the Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b(a)(4)), governs credit for non-Federal sponsor design and construction work on the recreation features of the project.

4. The final PIR and integrated Environmental Impact Statement (EIS) recommends a project that contributes significantly to all of the ecological goals and objectives of the CERP: (1) Increasing the spatial extent of natural areas; (2) improving habitat function and quality; and (3) improving native plant and animal abundance and diversity. In addition, it contributes to the economic values and social well being of the project area by providing recreational opportunities. The historical Everglades ecosystem was previously defined by a mosaic of uplands, freshwater marsh, deepwater sloughs, and estuarine habitats that supported a diverse community of fish and wildlife. Today nearly all aspects of south Florida's flora and fauna have been affected by development, altered hydrology, nutrient input and spread of non-native species that have resulted directly or indirectly from a century of water management for human needs. Significant areas within the project study boundary are characterized by a low-productivity dwarf mangrove forest, known as the "white zone" - due to its appearance on aerial photos - which are caused by salt deposits on the soil surface that are primarily a result of wide seasonal fluctuations in salinity and the absence of freshwater input from upstream sources. The PIR confirms information in the CERP and provides a project-level evaluation of costs and benefits associated with construction and operation of this ecosystem restoration project. The Recommended Plan will improve functional fish and wildlife habitat in Florida Bay and Biscayne Bay. The portion of the Everglades ecosystem directly affected by the BBCW project provides habitat for 21 Federally-listed endangered or threatened species, including the West Indian Manatee, Florida Panther, Cape Sable Seaside Sparrow, and the American Crocodile. Overall, approximately 11,000 acres will benefit from restored overland sheetflow. The South Florida Water Management District (SFWMD), the non-Federal sponsor, has begun land acquisition and construction of the project through its expedited construction program. As such, the BBCW Phase I project can be implemented quickly, substantially advancing the realization of project benefits in an area that has been degraded by past water management practices.

5. The reporting officers recommend a plan for ecosystem restoration and recreation. The Recommended Plan would improve the ecological function of coastal wetlands in Biscayne Bay by redirecting freshwater - currently discharged through man-made canals directly to the Bay - to coastal wetlands adjacent to the Bay. This will provide a more natural and historic flow and restore healthier salinity patterns in Biscayne Bay. Biscayne Bay is located in Miami-Dade County south of the city of Miami on the Atlantic coast and east of the city of Homestead, Florida. The Recommended Plan, Alternative O Phase I, encompasses a footprint of approximately 3,761 acres and includes features in three of the project's four sub-components (hydrologically distinct regions of the study area): Deering Estate, Cutler Wetlands, and L-31 East Flow Way. There are no features in the fourth region, Model Land Basin. A description of the features recommended for the sub-component areas is as follows:

Deering Estate: This region is in the northern part of the project area and includes an approximately 500-foot extension of the C-100A Spur Canal through the Power's Addition Parcel (Power's Parcel), construction of a freshwater wetland on the Power's Parcel and delivery of fresh water to Cutler Creek and ultimately to coastal wetlands along Biscayne Bay.

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Cutler Wetlands: Features in this region, which is in the central portion of the project area, include a pump station, a conveyance canal, a spreader canal, culverts and mosquito control ditch plugs. The pump station, located on C-1, will deliver water to a 6,900-foot lined conveyance canal that will run under SW 97th Avenue, SW 87th Avenue (L-31E Levee), and across the L-31E Borrow Canal via concrete box culverts and deliver water to the spreader canal located in the saltwater wetlands. The spreader canal is divided into four segments.

L-31 East Flow Way: Features in this region, which is in the southern portion of the project area, will isolate the L-31E Borrow Canal from the major discharge canals (C-102, Military Canal and C-103) and allow freshwater flow through the L-31E Levee to the saltwater wetlands. Gated culverts and inverted siphon structures will isolate the L-31E Borrow Canal from these canals, allowing L-31E Borrow Canal to maintain higher water levels. Two pump stations and a series of culverts will move fresh water directly to the saltwater wetlands east of L-31E. Two more pump stations and a spreader canal will deliver water to the freshwater wetlands south of C-103.

Recreational opportunities are also provided at the site within the project footprint.

Recreation Features: The recreation activities proposed include biking/walking trails, environmental interpretation, canoeing/kayaking, bank fishing, tent camping and nature study. Proposed facilities include interpretive signage, shade shelter, handicapped accessible waterless restrooms, handicapped parking, tent platforms, pedestrian bridge, benches, bike rack, trash receptacles, park security gate, trail signage, potable water source and a bird watching platform.

6. The total first cost of the Recommend Plan from the final PIR/EIS, based upon October 2011 (FY12) price levels, is estimated to be $164,070,000. The total first cost for the ecosystem restoration features is estimated to be $162,229,000 and the recreation first cost is estimated to be $1,841,000. The total project cost being sought for authorization is $192,418,000, which includes all costs for construction; lands, easements, rights-of-way, and relocations; recreation facilities; pre-construction, engineering and design (PED) and construction management costs; and sunk PIR costs ($28,348,700).

7. In accordance with the cost-sharing requirements of Section 601(e) of the WRDA 2000, as amended, the Federal cost of the Recommended Plan is $96,209,000 and the non-Federal cost is $96,209,000. The estimated lands, easements, right-of-way, and relocation (LERRs) costs for the Recommended Plan are $80,985,000. Based on FY12 price levels, a 40-year period of economic evaluation and a 4.00% discount rate, the equivalent annual cost of the proposed project is estimated to be $11,126,000, which includes OMRR&R, monitoring, interest during construction and amortization, but not sunk costs. The estimated annual costs for ecosystem restoration OMRR&R, including vegetation management, is $1,873,000. The total project monitoring cost is estimated to be $1,917,000 with an average annual cost of $193,000. The project monitoring period is five years except for endangered species monitoring, which is 10 years. Any costs associated with project monitoring beyond 10 years after completion of construction of the Project (or a component of the Project) shall be a non-Federal responsibility. The annual OMRR&R costs for recreation are estimated at $25,000.

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8. As a component of the CERP program, the interagency/interdisciplinary scientific and technical team, formed to ensure that system-wide goals are met, will participate in the annual monitoring to assess system-wide changes. In accordance with Sections 601(e)(4) and 601(e)(5)(D) of WRDA 2000, OMRR&R costs and adaptive assessment and monitoring costs for ecosystem restoration will be shared equally between the Federal Government and the non-Federal sponsor. The Project Monitoring Plan was developed assuming that major, ongoing monitoring programs that are not funded by the Project would continue to supply data relevant to the Project. The Project Monitoring Plan shall not include items that are already required to be monitored by another Federal agency or other entity as part of their regular responsibilities or required by law. Should any of these monitoring programs be discontinued or significantly curtailed, then monitoring priorities and funding options may be re-evaluated to ensure proper Project evaluation. In accordance with Section 103(j) of the WRDA 1986, as amended, OMRR&R costs related to recreation features will be funded 100 percent by the non-Federal sponsor.

9. To ensure that an effective ecosystem restoration plan was recommended, cost effectiveness/incremental cost analysis techniques were used to evaluate alternative restoration plans. These techniques determined the selected alternative plan to be cost-effective and incrementally justified. The hydraulic model and ecological model utilized to estimate the ecological outputs that were used in the economic analysis were both peer-reviewed and certified for use in the project. The plan recommended for implementation is the National Ecosystem Restoration (NER) plan, supports the Incremental Adaptive Restoration principles established by the National Research Council, and was prepared in a collaborative environment. The Recommended Plan provides benefits by: (1) restoring the quantity, timing, and distribution of water delivered to Biscayne Bay; (2) improving hydroperiods and hydropatterns in the project area; and, (3) restoring coastal zone salinities in Biscayne Bay and its tributaries. The project will restore the overland sheetflow in an approximately 11,000-acre area and improve the ecology of Biscayne Bay, including its freshwater and saltwater wetlands, nearshore bay habitat, marine nursery habitat, and the oyster reef community.

10. In accordance with the WRDA 2000 Section 601(f)(2), individual CERP projects may be justified by the environmental benefits derived by the South Florida ecosystem. Similarly, Section 385.9(a) of the CERP Programmatic Regulations (33 CFR Part 385) requires that individual projects shall be formulated, evaluated, and justified based on their ability to contribute to the goals and purposes of the Plan and on their ability to provide benefits that justify costs on a next-added increment (NAI) basis. Due to the project location at the terminus of the Everglades system, the BBCW Phase I project does not depend on any other CERP or non-CERP projects to achieve the estimated ecological benefits. The NAI analysis evaluates the effects, or outputs, of the Recommended Plan as the next project to be added to the group of already approved CERP projects. The results of the NAI analysis showed that as a stand-alone project, the BBCW Recommended Plan nearly doubles the spatial extent of the functional habitat expected to exist in the future without-project condition. The Recommended Plan will produce an average annual increase of 9,276 habitat units at an annual cost of $11,003,000 for a cost of $1,186 per habitat unit. Based on these parameters, the BBCW Phase I project is justified by the environmental benefits derived by the South Florida ecosystem. The average annual cost for recreation is $123,000 and average annual net benefits are $58,000. The benefit to cost ratio for the proposed recreation features is approximately 2.1 to 1.

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11. Of the total 3,761 acres identified for the Project, approximately 1,421 acres would be required in fee and approximately 149 acres would require perpetual easement interest. Additionally, approximately 1,254 acres would be provided through the execution of Supplemental Agreements between the SFWMD, the State of Florida and local Miami-Dade County government entities. Approximately 937 acres are currently owned by the United States; National Park Service for Biscayne National Park (BNP) which will provide a Memorandum of Agreement to the SFWMD for the use of these lands.

12. In accordance with the Corps of Engineers' (Corps) Engineering Circular on review of decision documents, all technical, engineering, and scientific work underwent an open, dynamic, and vigorous review process to ensure technical quality. This included Agency Technical Review (ATR), Independent External Peer Review (IEPR), and a Corps Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the final report. The IEPR was managed by Battelle Memorial Institute, a non-profit science and technology organization with experience in establishing and administering peer review panels for the Corps. A total of 19 comments were documented. Overall, the Panel found the BBCW PIR/EIS a well-written document that contained adequate information to interpret plan selection and recommendations. The panel also acknowledged the public involvement and collaborative efforts in the development of the report, and encouraged the Corps to document the usage of recent scientific data in the expansion of the project to include additional restoration opportunities. The comments of high significance included requests to expand the discussion and analysis of the future conditions relating to sea level rise and water availability. In response to these comments, the PIR was modified to include an expanded and more quantitative and graphical discussion of the potential impacts of sea level rise and clarification of the relationship between the water available for diversion and the hydrologic regimes needed to achieve the target level of wetlands area and function. The Final Report and Certification from the IEPR Panel was issued 1 December 2009.

13. The Final PIR/EIS was published for State and Agency Review on 7 January 2012. The majority of the comments received were favorable and in support of the project. In response to comments received from the Florida Department of Environmental Protection (FDEP), the Corps sent a letter in April 2012 that clarified the roles and responsibilities of the Corps and the non-Federal sponsor in addressing residual agricultural chemicals on project lands. The Corps also sent a letter in response to comments from Homestead Air Reserve Base (HARB). HARB requested additional information on the potential for bird strikes to aircraft operating from the airbase and expressed concerns regarding increases in bird populations, and specifically whether predatory birds, most implicated in aircraft strikes, would increase due to the ecological improvements. HARB requested that the Corps further research predator/prey avian relationships. The Corps has done this by soliciting information from avian experts at Everglades National Park, Biscayne Bay National Park, U.S. Fish and Wildlife Service, Audubon Florida, Fish and Wildlife Conservation Commission and the University of Florida, all of whom are familiar with the BBCW Phase I project area, the project objectives and the hydrological modeling predictions. There was agreement amongst resource agencies that there will not be an increase in predatory birds such as raptors and vultures as a result of the restoration. Specifically, wetland rehydration achieved by the BBCW Phase I project and resulting wading bird increase are not likely to serve as an additional attractant to predatory birds beyond the geographic features already serving to guide raptors and other migratory birds along Florida coasts. The Corps Jacksonville District staff met with HARB

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representatives to discuss their concerns and the Recommended Plan. The Corps sent a response letter to HARB in April 2012 that provided the Corps' analysis and indicated the Corps' willingness to continue to work through the concerns of the airbase. The letter also requested that HARB continue to share information with the Corps in order to realize opportunities to minimize wildlife risks to aviation and human safety, as necessary, while protecting valuable environmental resources.

14. Section 601(e)(5)(B) of WRDA 2000, as amended by Section 6004 of the WRDA 2007, authorizes credit toward the non-Federal share for non-Federal design and construction work completed during the period of design or construction, subject to execution of the design or project partnership agreement and subject to a determination by the Secretary that the work is integral to the project. As part of its initiative for early implementation of certain CERP projects, the non-Federal sponsor has stated that it is constructing several features of Phase I of the BBCW project consistent with the PIR, in advance of Congressional authorization and the signing of a project partnership agreement. As such, a separate EIS has been completed and a Department of the Army permit has been issued to the non-Federal sponsor for expedited construction of this project; construction of the project has already begun by the State of Florida in the Deering Estates and L-31E Flow Way areas of the project. As required by the February 2008 Implementation Guidance for Section 6004 of WRDA 2007 – CERP Work In-Kind Credits, the non-Federal sponsor entered into a Pre-Partnership Credit Agreement for the BBCW project on 13 August 2009. The reporting officers believe that it is in the public interest for this Project to be implemented expeditiously due to the early restoration of Federal lands in Everglades National Park and ecological benefits to the wetlands and estuaries in other portions of the South Florida ecosystem. Therefore, the reporting officers recommend that the non-Federal sponsor be credited for all reasonable, allowable, necessary, auditable, and allocable costs applicable to the Biscayne Bay Coastal Wetlands Phase I Project, as may be authorized by law including those incurred prior to the execution of a project partnership agreement, subject to authorization of the Project by law, a determination by the Assistant Secretary of the Army (Civil Works) or his/her designee that the In-kind work is integral to the authorized CERP Project, that the costs are reasonable, allowable, necessary, auditable, and allocable, and that the In-kind work has been implemented in accordance with government standards and applicable Federal and state laws.

15. The Non-Federal Sponsor and the U.S. Department of the Army entered into an agreement known as the Master Agreement Between the Department of the Army and South Florida Water Management District for Cooperation in Constructing and Operating, Maintaining, Repairing, Replacing and Rehabilitating Projects Authorized to be Undertaken Pursuant to the Comprehensive Everglades Restoration Plan dated 13 August 2009 (hereinafter "Master Agreement"). The Master Agreement sets forth the terms of participation in the construction and OMRR&R of projects under CERP that will apply to any future project for which the non-Federal sponsor and the Government have entered into a PPA. The uniform terms of the Master Agreement will be incorporated by reference into the BBCW Project, Phase I, PPA.

16. Credits for non-Federal design and construction will be evaluated in accordance with the terms of the Master Agreement. All documentation provided by the non-Federal sponsor will be thoroughly reviewed by the Corps to determine reasonable, allowable, necessary, auditable, and allocable costs. Upon completion of this review, a financial audit will be conducted prior to

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granting final credit. Coordination between Corps and the non-Federal sponsor will occur throughout design and construction via the Corps' Regulatory process. The credit afforded to the non-Federal sponsor will be limited to the lesser of the following: (1) actual costs that are reasonable, allowable, necessary, auditable, and allocable to the Project; or (2) the Corps' estimate of the cost of the work allocable to the Project had the Corps performed the work. The non-Federal sponsor intends to implement this work using its own funds and would not use funds originating from other Federal sources unless the Federal granting agency verifies in writing that the expenditure of such funds is expressly authorized by statute and in accordance with Section 601 (e)(3) of WRDA 2000 as amended and the Master Agreement.

17. Washington level review indicates that the plan recommended by the reporting officers is environmentally justified, technically sound, cost effective, and socially acceptable. The plan conforms to essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies and complies with other administration and legislative policies and guidelines. Also, the views of interested parties, including Federal, State and local agencies, have been considered.

18. The Project complies with the following requirements of the WRDA 2000, as amended:

a. Project Implementation Report (PIR). The requirements of a PIR as defined by Section 601(h)(4)(A).

b. Reservation or Allocation of Water for the Natural System. Sections 601(h)(4)(A)(iii)(IV) and (V) require identification of the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system and the amount of water to be reserved or allocated for the natural system. In accordance with the regulations, an analysis was conducted to identify water dedicated and managed for the natural system. Accordingly, the non-Federal sponsor will protect the water that was identified as necessary to achieve the benefits of the Project, using water reservation or allocation authority under Florida law.

c. Elimination or Transfer of Existing Legal Sources of Water. Section 601(h)(5)(A) states that existing legal sources of water shall not be eliminated or transferred until a new source of water supply of comparable quantity and quality is available to replace the water to be lost as a result of the CERP. An analysis of project effects on existing legal sources of water was conducted and it was determined that implementation of the BBCW Phase I project will not result in a transfer or elimination of existing legal sources of water.

d. Maintenance of Flood Protection. Section 601 (h)(5)(B) states that the Plan shall not reduce levels of service for flood protection that are in existence on the date of enactment of this Act and in accordance with applicable law. Potential flooding effects as a result of the proposed project were analyzed and the results indicated that the proposed project would not have an adverse impact on the level of service for flood protection in the project area.

19. I generally concur with the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan described herein for ecosystem restoration and recreation be authorized for implementation as a Federal Project, with such modifications as in the

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discretion of the Chief of Engineers may be advisable, and subject to cost-sharing, financing, and other applicable requirements of Section 601 of WRDA 2000, as amended. In addition, I recommend that the non-Federal sponsor be authorized to receive credit for work accomplished prior to execution of a PPA for this Project, in accordance with the terms described in paragraphs 14 and 16 of this report.

Further, this recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and the following items of local cooperation:

a. Provide 50 percent of total project costs consistent with the provisions of Section 601(e) of the WRDA 2000, as amended, including authority to perform design and construction of project features consistent with Federal law and regulation.

b. Provide all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform or assure the performance of all relocations that the Government and the non-Federal sponsor jointly determine to be necessary for the construction and OMRR&R of the Project and valuation will be in accordance with the Master Agreement.

c. Shall not use the ecosystem restoration features or lands, easements, and rights-of-way required for such features as a wetlands bank or mitigation credit for any other non-CERP projects.

d. Give the Government a right to enter, at reasonable times and in a reasonable manner, upon land that the non-Federal sponsor owns or controls for access to the Project for the purpose of inspection, and, if necessary, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the Project.

e. Assume responsibility for operating, maintaining, repairing, replacing, and rehabilitating the Project or completed functional portions of the Project in a manner compatible with the Project's authorized purposes and in accordance with applicable Federal and State laws and specific directions prescribed in the OMRR&R manuals and any subsequent amendments thereto. Notwithstanding Section 528(e)(3) of WRDA 1996 (110 Stat. 3770), the non-Federal sponsor shall be responsible for 50 percent of the cost of OMRR&R activities authorized under this section.

f. The non-Federal sponsor shall operate, maintain, repair, replace and rehabilitate the recreational features of the Project and is responsible for 100 percent of the costs.

g. Keep the recreation features, and access roads, parking areas, and other associated public use facilities, open and available to all on equal terms.

h. Unless otherwise provided for in the statutory authorization for this Project, comply with Section 221 of PL 91-611, Flood Control Act of 1970, as amended, and Section 103 of the WRDA of 1986, PL 99-662, as amended which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof,

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until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the Project or separable element.

i. Hold and save the Government free from all damages arising from the construction, OMRR&R of the Project, and any project-related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors.

j. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the Project to the extent and in such detail as will properly reflect total project costs and comply with the provisions of the CERP Master Agreement between the Department of Army and the South Florida Water Management District for Cooperation in Constructing and Operating, Maintaining, Repairing, Replacing, and Rehabilitating Projects Authorized to be Undertaken Pursuant to the Comprehensive Everglades Restoration Plan, executed on 13 August 2009, including Article XI Maintenance of Records and Audit.

k. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601-9675, that may exist in, on, or under lands, easements or rights-of-way necessary for the construction and operation and maintenance (O&M) of the Project; except that the non-Federal sponsor shall not perform such investigations on lands, easements, or rights-of-way that the Government determines to be subject to the navigation servitude without prior specific written direction by the Government.

l. Assume complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated materials located in, on or under lands, easements, or right-of-ways necessary for the construction and OMRR&R.

m. As between the Government and the non-Federal sponsor, the non-Federal sponsor shall be considered the operator of the Project for the purposes of CERCLA liability. To the maximum extent practicable, the non-Federal sponsor shall OMRR&R the Project in a manner that will not cause liability to arise under CERCLA.

n. Prevent obstructions of and encroachments on the Project (including prescribing and enforcing regulations to prevent such obstruction or encroachments) which might reduce ecosystem restoration benefits, hinder O&M, or interfere with the Project's proper function, such as any new developments on Project lands or the addition of facilities which would degrade the benefits of the Project.

o. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, PL 91-646, as amended by the title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (PL 100-17), and Uniform Regulations contained in 49 CFR part 24, in acquiring lands, easements, and rights-of-way, and performing relocations for construction, O&M of the Project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act.

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p. Comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, PL 88-352, and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled, "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army," and all applicable Federal labor standards and requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act [formerly 40 U.S.C. 276a et seq.], the Contract Work Hours and Safety Standards Act [formerly 40 U.S.C. 327 et seq.] and the Copeland Anti-Kickback Act [formerly 40 U.S.C. 276c]).

q. Comply with Section 106 of the National Historic Preservation Act in completion of all consultation with Florida's State Historic Preservation Office and, as necessary, the Advisory Council on Historic Preservation prior to construction as part of the Pre-construction Engineering and Design phase of the Project.

r. Provide 50 percent of that portion of total cultural resource preservation mitigation and data recovery costs attributable to the Project that are in excess of one percent of the total amount authorized to be appropriated for the Project.

s. Do not use Federal funds to meet the non-Federal sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is expressly authorized and in accordance with Section 601(e)(3) of WRDA 2000.

t. The non-Federal sponsor agrees to participate in and comply with applicable Federal floodplain management and flood insurance programs consistent with its statutory authority.

(1) Not less than once each year the non-Federal sponsor shall inform affected interests of the extent of protection afforded by the Project.

(2) The non-Federal sponsor shall publicize flood plain information in the area concerned and shall provide this information to zoning and other regulatory agencies for their use in preventing unwise future development in the flood plain and in adopting such regulations as may be necessary to prevent unwise future development and to ensure compatibility with protection levels provided by the Project.

(3) The non-Federal sponsor shall comply with Section 402 of WRDA 1986, as amended (33 U.S.C. 701b-12), which requires a non-Federal interest to have prepared, within one year after the date of signing a project partnership agreement for the Project, a floodplain management plan. The plan shall be designed to reduce the impacts of future flood events in the project area, including but not limited to, addressing those measures to be undertaken by non-Federal interests to preserve the level of flood protection provided by the Project. As required by Section 402, as amended, the non-Federal interest shall implement such plan not later than one year after completion of construction of the Project. The non-Federal

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sponsor shall provide an information copy of the plan to the Government upon its preparation.

(4) The non-Federal sponsor shall prescribe and enforce regulations to prevent obstruction of or encroachment on the Project or on the lands, easements, and rights-of-way determined by the Government to be required for the construction, operation, maintenance, repair, replacement, and rehabilitation of the Project, that could reduce the level of protection the Project affords, hinder operation or maintenance of the Project, or interfere with the Project's proper function.

u. The non-Federal sponsor shall execute under State law the reservation or allocation of water for the natural system as identified in the PIR for this authorized CERP Project as required by Sections 601(h)(4)(B)(ii) of WRDA 2000 and the non-Federal Sponsor shall provide information to the Government regarding such execution. In compliance with 33 CFR 385, the District Engineer will verify such reservation or allocation in writing. Any change to such reservation or allocation of water shall require an amendment to the PPA after the District Engineer verifies in writing in compliance with 33 CFR 385 that the revised reservation or allocation continues to provide for an appropriate quantity, timing, and distribution of water dedicated and managed for the natural system after considering any changed circumstances or new information since completion of the PIR for the authorized CERP Project.

20. The recommendation contained herein reflects the information available at this time and current Departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities in the formulation of a national Civil Works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding.

MERDITH W.B. TEMPLE
Major General, USA
Acting Commander

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CECW-SAD (1105-2-10a) MAY 2 1 2012

SUBJECT: Broward County Water Preserve Areas Project, Comprehensive Everglades Restoration Plan, Central and Southern Florida Project, Broward and Miami-Dade Counties, Florida

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on ecosystem restoration improvements for the Broward County Water Preserve Areas (BCWPA) Project, located in Broward and Miami-Dade Counties, Florida. It is accompanied by the report of the Jacksonville District Engineer and South Atlantic Division Engineer. These reports are in response to Section 601 of the Water Resources Development Act (WRDA) of 2000, which authorized the Comprehensive Everglades Restoration Plan (CERP) as a framework for modifications and operational changes to the Central and Southern Florida Project that are needed to restore, preserve and protect the south Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection. WRDA 2000 identified specific requirements for implementing components of the CERP, including the development of a decision document known as a Project Implementation Report (PIR). The requirements of a PIR are addressed in this report and are subject to the review and approval by the Secretary of the Army. Preconstruction engineering and design activities for this project will be continued under the CERP Design Agreement.

2. The three components comprising the proposed BCWPA Project were conditionally authorized by Sections 601(b)(2)(C)(iv), 601(b)(2)(C)(v), and 601(b)(2)(C)(vi) of WRDA 2000, but are not being recommended for implementation under those authorities. The PIR recommends a project that combines implementation of three projects identified in the CERP. Due to changes in scope and combining of CERP components, the BCWPA Project is recommended for new specific Congressional authorization consistent with WRDA 2000, Section 601(d). The reporting officers determined that the original authorities for the individual components of the BCWPA Project contained in Sections 601(b)(2)(C)(iv), (v) and (vi) of WRDA 2000, are no longer needed. As such, the reporting officers recommend that the projects authorized in Section 601(b)(2)(C)(iv), (v) and (vi) of WRDA 2000 be deauthorized.

3. Although cost sharing of the ecosystem restoration features for the BCWPA Project is governed by Section 601 of WRDA 2000, as amended, cost sharing of recreation features is governed by Section 103 of WRDA 1986, as amended. In particular, in accordance with Section 103(j) of WRDA 1986, 100 percent of the cost of Operation, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) of the recreation features is the non-federal sponsor's responsibility. In addition, section 601(e)(5)(B) of WRDA 2000, as amended, governs credit for non-federal sponsor design and construction work on the ecosystem restoration features of the project, whereas section 221(a)(4) of the Flood Control Act of 1970, as amended (42 U.S.C.

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1962d-5b(a)(4)), governs credit for non-federal sponsor design and construction work on the recreation features of the project.

4. The final PIR and integrated Environmental Impact Statement (EIS) recommends a project that contributes significantly to all the ecological goals and objectives of the CERP: (1) increasing spatial extent of natural areas; (2) improving habitat function and quality; and (3) improving native plant and animal abundance and diversity. In addition, it contributes to the economic values and social well being of the project area by providing recreational opportunities. The historical Everglades ecosystem was previously defined by a mosaic of uplands, freshwater marsh, deepwater sloughs, and estuarine habitats that supported a diverse community of fish and wildlife. Today nearly all aspects of south Florida's flora and fauna have been affected by development, altered hydrology, nutrient input and spread of non-native species that have resulted directly or indirectly from a century of water management for human needs. Significant areas within the project study boundary are characterized by undesirable dense cattail (Typha spp.) stands, drydowns and degraded ridge and slough habitat. The BCWPA Project addresses loss of ecosystem function within the Everglades as a result of (1) damaging discharges of runoff from developed areas in western Broward County into the Everglades (Water Conservation Area 3A); (2) excessive nutrient loading to the Everglades, and; (3) excessive seepage of water out of the Everglades to developed areas in western Broward County. The project also addresses insufficient quantities of water available in the regional water management system during dry periods to meet municipal, agricultural, and environmental water supply demands. The PIR confirms information in the CERP and provides a project-level evaluation of costs and benefits associated with construction and operation of this ecosystem restoration project. The Recommended Plan will improve functional fish and wildlife habitat in Water Conservation Areas (WCA) 3A/3B, and in Everglades National Park. The portion of the Everglades ecosystem directly affected by the project provides habitat for five federally-listed species: West Indian manatee, Florida panther, wood stork, snail kite and Eastern indigo snake. Overall, an ecological lift of approximately 166,211 average annual habitat units will occur due to improved hydroperiods and hydropatterns in the project area. Overall, approximately 563,000 acres in Water Conservation Area 3 and 200,000 acres in the greater Everglades will benefit from project implementation.

5. The reporting officers recommend a plan for ecosystem restoration and recreation. The Recommended Plan would improve the ecological function of the Everglades ecosystem by capturing and storing the excess surface water runoff from the C-11 watershed and reducing excess releases to the WCA 3A/3B, and will minimize seepage losses during dry periods. The Recommended Plan, Alternative A4, would include a footprint of approximately 7,990 acres based on the three components: C-11 Impoundment, WCA 3A/3B Seepage Management Area (SMA), and C-9 Impoundment, as well as recreation features. A description of the individual components follows:

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C-11 Impoundment: The C-11 Impoundment is located in the northern part of the project area and requires 1,830 acres to construct an above-ground impoundment (interior storage of 1,068 acres). Major elements include canals, levees, water control structures and buffer marsh. Water control structures consist of pump stations, a gated spillway, gated and non-gated culverts and a non-gated fixed weir. The purpose of the C-11 Impoundment is to capture and store surface runoff from the C-11 Basin, reduce pumping of surface water into the WCA 3A/3B, and provide releases for regional benefits.

WCA 3A/3B Seepage Management Area: The WCA 3A/3B SMA makes up the western project border and requires 4,353 acres. Elements include levees, canals, pumps, bridges and water control structures. The C-502A and C-502B conveyance canals are major components that will transfer water between the C-11 and C-9 impoundments, assist with creating a hydraulic ridge, and transfer water to the southern project region for future CERP Projects. The purpose of this rain-driven component is to establish a buffer, reduce seepage to and from the WCA 3A/3B by creating a hydraulic head, and maintain the level of service flood protection.

C-9 Impoundment: The C-9 Impoundment is located north and adjacent to the Snake Creek Canal (C-9) and requires approximately 1,807 acres to construct an above-ground impoundment (storage of 1,641 acres). Elements include levees, canals, pumps, bridges and water control structures. The purpose of the C-9 Impoundment is to capture and store surface runoff from the C-9 Basin, store C-11 Impoundment overflow, assist with WCA 3A/3B seepage management, and provide releases for regional benefits.

Recreation Features: The recreation amenities proposed are ancillary, work harmoniously with the Project and are on fee owned lands. The amenities include 14 miles of improved trail surface, parking areas with ADA accessible waterless toilets, walkway to canoe launch facilities, an information kiosk, shaded benches, footbridges, trash receptacles and signage. Walking, jogging and biking are proposed on the levee crowns. Equestrian use is proposed at the levee base. Nature-based activities and fishing would be allowed.

6. The total first cost of the Recommended Plan from the final PIR/EIS, based on February 2012 price levels, is estimated at $840,657,000. Total first cost for the ecosystem restoration features is estimated to be $834,211,000, and the recreation first cost is estimated to be $6,446,000. The total project cost being sought for authorization is $866,707,000, which includes all costs for construction; lands, easements, rights-of-way and relocations; recreation facilities; pre-construction, engineering and design (PED) and construction management costs; and sunk PIR costs ($26,050,000).

7. In accordance with cost sharing requirements of Section 601(e) of the WRDA 2000, as

amended, the federal cost of the Recommended Plan is $433,353,500 and the non-federal cost is $433,353,500. The estimated lands, easements, rights-of-way and relocation (LERRs) costs for the Recommended Plan are $380,633,000. Based on FY12 price levels, a 38-year period of economic evaluation and a 4.00% discount rate, the equivalent annual cost of the proposed project is estimated at $49,415,000 which includes OMRR&R, interest during construction and amortization, but not sunk costs. The estimated annual costs for ecosystem restoration OMRR&R, including project monitoring costs, vegetation management and endangered species monitoring, are $3,510,000. The project monitoring period is five years except for endangered species monitoring, which is 10 years. Any costs associated with project monitoring beyond 10 years after completion of the construction of the Project (or a component of the Project) shall be a non-federal responsibility. The estimated annual OMRR&R cost for recreation is $412,000.

8. As a component of the CERP program, the interagency/interdisciplinary scientific and technical team, formed to ensure that the system-wide goals are met, will participate in the annual monitoring to assess system-wide changes. In accordance with Section 601(e)(4) and 601(e)(5)(D) of WRDA 2000, as amended, OMRR&R costs and adaptive assessment and monitoring costs for ecosystem restoration will be shared equally between the federal government and the non-federal sponsor. The Project Monitoring Plan was developed assuming that major, ongoing monitoring programs that are not funded by the Project would continue to supply data relevant to the Project. The Project Monitoring Plan shall not include items that are already required to be monitored by another federal agency or other entity as part of their regular responsibilities or required by law. Should any of these monitoring programs be discontinued or significantly curtailed, then monitoring priorities and funding options may be re-evaluated to ensure proper Project evaluations. In accordance with Section 103(j) of the WRDA 1986, as amended, OMRR&R costs related to recreation features will be funded 100 percent by the non-federal sponsor.

9. To ensure that an effective ecosystem restoration plan was recommended, cost effectiveness/ incremental cost analysis (CE/ICA) techniques were used to evaluate alternative restoration plans. These techniques determined the selected alternative plan to be cost effective and incrementally justified. The hydraulic model and ecological model utilized to estimate the ecological outputs that were used in the economic analysis were both peer reviewed and certified for use in the project. The plan recommended for implementation is the National Ecosystem Restoration (NER) plan, supports the Incremental Adaptive Management principles established by the National Research Council and was prepared in a collaborative environment. The Recommended Plan provides benefits by: (1) restoring quantity, timing and distribution of water for the Water Conservation Areas 3A and 3B and Everglades National Park; (2) improving hydroperiods and hydropatterns in the project area; and (3) providing water for other CERP projects within the vicinity of the project area.

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10. In accordance with the WRDA 2000 Section 601(f)(2), individual CERP projects may be justified by the environmental benefits realized in the south Florida ecosystem. Similarly, Section 385.9(a) of the CERP Programmatic Regulations (33 CFR Part 385) requires that individual projects shall be formulated, evaluated, and justified based on their ability to contribute to the goals and purposes of the CERP and on their ability to provide benefits that justify costs on a next-added increment (NAI) basis. Due to the project location at the terminus of the Everglades system, the BCWPA Project does not depend on any other CERP or non-CERP projects to achieve estimated ecological benefits. The NAI analysis evaluates the effects, or outputs, of the Recommended Plan as the next project to be added to the group of already approved CERP projects. The results of the NAI analysis show that as a stand-alone project, the BCWPA Recommended Plan greatly increases the ecological function of the Everglades ecosystem in project area habitats over the expected future without project condition. The Recommended Plan will produce an average annual increase of 166,211 habitat units at an annual cost of $49,415,000, for a cost of $297.00 per habitat unit. The average annual cost for the recreation features is $748,000, the average annual benefit is $1,376,000, and the average annual net benefit of approximately $628,000. The benefit to cost ratio for the recommended recreation plan is approximately 1.8.

11. Of the total 7,990.47 acres of land identified for the Project, approximately 6,607.58 acres would be required in fee, approximately 851.39 acres owned by FPL would be required in perpetual flowage easements, 42 acres owned by FDOT would be provided by Supplemental Agreement, and 490 acres acquired as part of the original Central & Southern Florida Project would be recertified for this Project. No credit shall be afforded and no reimbursement shall be provided for the value of any lands, easements, rights-of-way, or relocations that have been provided previously as an item of cooperation for another federal project. The Recommended Plan will result in some unavoidable impacts to existing mitigation sites required by Department of the Army (DA) Section 404 Permits that are located within both of the impoundment footprints. The Recommended Plan addresses this issue through the acquisition of mitigation bank credits from an established mitigation bank to replace established DA mitigation areas within the impoundment. However, should mitigation bank credits not be available at the time of construction, the optional FDOT wetland mitigation area described in this paragraph and further detailed in the PIR will be constructed. The original plan called for the rehydration of wetland areas on FDOT lands as mitigation to offset wetland impacts resulting from the project. Due to USFWS concerns about selenium tainted soils on the FDOT land and their ecological risk to USFWS trust species, the project will not use these lands for the purpose of wetland mitigation at this time. The current mitigation plan will avoid the FDOT lands, and calls for the purchase of wetland mitigation bank credits (estimated 54 FCUs) to offset the loss of the FDOT lands that would have been used to satisfy project wetland impacts. In order to be ecologically successful, the mitigation areas within the impoundments need additional water (above and beyond what would be provided in a rainfall driven system) which will be supplied by the BCWPA Project.

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The ecological lift that would occur as a result of the replacement mitigation in the impoundments is not being counted for Project benefits. The storage provided by the replacement mitigation areas, though not used to justify federal participation in the Project, would contribute to provide downstream benefits.

12. In accordance with the Corps of Engineers' Engineering Circular on review of decision documents, all technical, engineering, and scientific work underwent an open, dynamic, and vigorous review process to ensure technical quality. This included Agency Technical Review (ATR), external scientific review of CERP through the National Academy of Science at the programmatic level, and Corps Headquarters policy and legal review. Independent External Peer Review is not required for this Project because the study was initiated and an array of alternatives was selected over two years prior to the enactment of WRDA 2007. All concerns have been addressed and incorporated into the final PIR. The final PIR/EIS was published for state and agency review on 4 May 2007. In response to comments received from the Florida Department of Environmental Protection (FDEP), the Corps sent a letter in May 2012 that clarified the roles and responsibilities of the Corps and the non-federal sponsor in addressing residual agricultural chemicals on project lands and a parcel known as the Naval Bomb Target, the same parcel is sometimes referred to as the Fort Lauderdale Bombing Target #7 (tract #W92000-001). The Corps clarified that based on past investigations, concurred in by FDEP, that there is no known contamination requiring remediation at the Naval Bomb Target. A number of interest parties commented on the mitigation plan. The Corps has revised the PIR to further clarify that in accordance with Section 2036(c) of WRDA 2007, the mitigation plan is to purchase mitigation bank credits. However, should mitigation bank credits be unavailable at the time of construction, the mitigation will be accomplished by creating the optional FDOT wetland mitigation area described in the PIR and explained in paragraph 11 of this Report. The agencies supported implementation of the recommended plan. The revised final PIR/EIS was also published in the Federal Register and sent to federal and state agencies in April 2012.

13. Section 601(e)(5)(B) of WRDA 2000, as amended by Section 6004 of WRDA 2007, authorizes credit toward the non-federal share for non-federal design and construction work completed during the period of design or construction, subject to execution of the design or project partnership agreement (PPA) and subject to a determination by the Secretary that the work is integral to the Project. As part of its initiative for early implementation of certain CERP projects, the BCWPA Project was included in the "State Expedited Projects and Program" to allow the non-federal sponsor to execute work expeditiously. The work completed by the non-federal sponsor prior to a PPA has focused on engineering and design aspects now a part of the PIR. At this time, the non-federal sponsor does expect to commence construction prior to signing a PPA. The reporting officers believe that it is in the public interest for the Project to be implemented expeditiously due to the regional restoration of federal lands in the Everglades National Park, Water Conservation Areas 3A/3B, and ecological benefits to the south Florida

ecosystems. Therefore, the reporting officers recommend that the non-federal sponsor be credited for all reasonable, allowable, necessary, auditable and allocable costs applicable to the BCWPA Project as may be authorized by law, including those incurred prior to the execution of a PPA, subject to authorization of the Project by law, a determination by the Assistant Secretary of the Army (Civil Works) or his/her designee that the in-kind work is integral to the authorized CERP project, that the costs are reasonable, allowable, necessary, auditable and allocable, and that the in-kind work has been implemented in accordance with government standards and applicable federal and state laws.

14. The non-federal sponsor and the U.S. Department of the Army entered into an agreement known as the Master Agreement Between the Department of the Army and South Florida Water Management District for Cooperation in Constructing and Operating, Maintaining, Repairing, Replacing and Rehabilitating Projects Authorized to be Undertaken Pursuant to the Comprehensive Everglades Restoration Plan, dated 13 August 2009 (hereinafter "Master Agreement"). The Master Agreement sets forth the terms of participation in the construction and OMRR&R of projects under CERP that will apply to any future project for which the non-federal sponsor and the Government have entered into a PPA. The uniform terms of the Master Agreement will be incorporated by reference into the BCWPA Project PPA.

15. Credits for the non-federal sponsor's design and construction work will be evaluated in accordance with the terms of the Master Agreement and Design Agreement. All documentation provided by the non-federal sponsor will be thoroughly reviewed by the Corps to determine reasonable, allowable, necessary, auditable, and allocable costs. Upon completion of this review, a financial audit will be conducted prior to granting final credit. The credit afforded to the non-federal sponsor will be limited to the lesser of the following: (1) actual costs that are reasonable, allowable, necessary, auditable, and allocable to the Project; or (2) the Corps estimate of the cost of the work allocable to the Project had the Corps performed the work. The non-federal sponsor has completed design work using its own funds and would not use funds originating from other federal sources unless the federal granting agency verifies in writing that the expenditure of such funds is expressly authorized by statute and in accordance with Section 601(e)(3) of WRDA 2000 as amended by the Master Agreement.

16. Washington level review indicates that the plan recommended by the reporting officers is environmentally justified, technically sound, cost effective, and socially acceptable. The plan conforms to essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies and complies with other administration and legislative policies and guidelines. Also, the views of interested parties, including federal, state and local agencies, have been considered.

17. The Project complies with the following requirements of the WRDA 2000, as amended:

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a. Project Implementation Report (PIR). The requirements of a PIR as defined by Section 601(h)(4)(A).

b. Reservation or Allocation of Water for the Natural System. Sections 601(h)(4)(A)(iii)(IV) and (V) require identification of the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system and the amount of water to be reserved or allocated for the natural system. In accordance with the regulations, an analysis was conducted to identify water dedicated and managed for the natural system. Accordingly, the non-federal sponsor will protect the water that was identified as necessary to achieve the benefits of the Project, using water reservation or allocation authority under Florida law.

c. Elimination or Transfer of Existing Legal Sources of Water. Section 601(h)(5)(A) states that existing legal sources of water shall not be eliminated or transferred until a new source of water supply of comparable quantity and quality is available to replace the water to be lost as a result of the CERP. An analysis of project effects on existing legal sources of water was conducted and it was determined that implementation of the Broward County Water Preserve Areas Project will not result in a transfer or elimination of existing legal sources of water.

d. Maintenance of Flood Protection. Section 601 (h)(5)(B) states that the Plan shall not reduce levels of service for flood protection that are in existence on the date of enactment of this Act and in accordance with applicable law. Potential flooding effects as a result of the proposed project were analyzed and the results indicated that the proposed project would not have an adverse impact on the level of service for flood protection in the project area.

18. I generally concur with the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan described herein for ecosystem restoration and recreation be authorized for implementation as a federal project, with such modifications as in the discretion of the Chief of Engineers may be advisable, and subject to cost-sharing, financing, and other applicable requirements of Section 601 of WRDA 2000, as amended. In addition, I recommend that the non-federal sponsor be authorized to receive credit for work accomplished prior to execution of a PPA for this project, in accordance with the terms described in paragraphs 13 and 15 of this report.

Further, this recommendation is subject to the non-federal sponsor agreeing to comply with all applicable federal laws and the following items of local cooperation:

a. Provide 50 percent of total project costs consistent with the provisions of Section 601(e) of the WRDA 2000, as amended, including authority to perform design and construction of project features consistent with federal law and regulation.

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b. Provide all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform or assure the performance of all relocations that the Government and the non-Federal sponsor jointly determine to be necessary for the construction and OMRR&R of the Project and valuation will be in accordance with the Master Agreement.

c. Shall not use the ecosystem restoration features or lands, easements, and rights-of-way required for such features as a wetlands bank or mitigation credit for any other non-CERP projects.

d. Give the Government a right to enter, at reasonable times and in a reasonable manner, upon land that the non-Federal sponsor owns or controls for access to the Project for the purpose of inspection and, if necessary, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the Project.

e. Assume responsibility for operating, maintaining, repairing, replacing, and rehabilitating the Project or completed functional portions of the Project, including mitigation features, in a manner compatible with the Project's authorized purposes and in accordance with applicable Federal and State laws and specific directions prescribed in the OMRR&R manuals and any subsequent amendments thereto. Notwithstanding Section 528(e)(3) of WRDA 1996 (110 Stat. 3770), the non-Federal sponsor shall be responsible for 50 percent of the cost of OMRR&R activities authorized under this section.

f. The non-Federal sponsor shall operate, maintain, repair, replace and rehabilitate the recreational features of the Project and is responsible for 100 percent of the costs.

g. Keep the recreation features, and access roads, parking areas, and other associated public use facilities, open and available to all on equal terms.

h. Unless otherwise provided for in the statutory authorization for this Project, comply with Section 221 of PL 91-611, Flood Control Act of 1970, as amended, and Section 103 of the WRDA of 1986, PL 99-662, as amended which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the Project or separable element.

i. Hold and save the Government free from all damages arising from the construction, OMRR&R of the Project, and any project-related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors.

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j. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the Project to the extent and in such detail as will properly reflect total project costs and comply with the provisions of the CERP Master Agreement between the Department of Army and the South Florida Water Management District for Cooperation in Constructing and Operating, Maintaining, Repairing, Replacing, and Rehabilitating Projects Authorized to be Undertaken Pursuant to the Comprehensive Everglades Restoration Plan, executed on 13 August 2009, including Article XI Maintenance of Records and Audit.

k. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601-9675, that may exist in, on, or under lands, easements or rights-of-way necessary for the construction and operation and maintenance (O&M) of the Project; except that the non-Federal sponsor shall not perform such investigations on lands, easements, or rights-of-way that the Government determines to be subject to the navigation servitude without prior specific written direction by the Government.

l. Assume complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated materials located in, on or under lands, easements, or right-of-ways necessary for the construction and OMRR&R.

m. As between the Government and the non-Federal sponsor, the non-Federal sponsor shall be considered the operator of the Project for the purposes of CERCLA liability. To the maximum extent practicable, the non-Federal sponsor shall OMRR&R the Project in a manner that will not cause liability to arise under CERCLA.

n. Prevent obstructions of and encroachments on the Project (including prescribing and enforcing regulations to prevent such obstruction or encroachments) which might reduce ecosystem restoration benefits, hinder O&M, or interfere with the Project's proper function, such as any new developments on Project lands or the addition of facilities which would degrade the benefits of the Project.

o. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, PL 91-646, as amended by the title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (PL 100-17), and Uniform Regulations contained in 49 CFR part 24, in acquiring lands, easements, and rights-of-way, and performing relocations for construction, O&M of the Project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act.

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p. Comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, PL 88-352, and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled, "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army," and all applicable Federal labor standards and requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act [formerly 40 U.S.C. 276a et seq.], the Contract Work Hours and Safety Standards Act [formerly 40 U.S.C. 327 et seq.] and the Copeland Anti-Kickback Act [formerly 40 U.S.C. 276c]).

q. Comply with Section 106 of the National Historic Preservation Act in completion of all consultation with Florida's State Historic Preservation Office and, as necessary, the Advisory Council on Historic Preservation prior to construction as part of the Pre-construction Engineering and Design phase of the Project.

r. Provide 50 percent of that portion of total cultural resource preservation mitigation and data recovery costs attributable to the Project that are in excess of one percent of the total amount authorized to be appropriated for the Project.

s. Do not use Federal funds to meet the non-Federal sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is expressly authorized and in accordance with Section 601(e)(3) of WRDA 2000.

t. The non-Federal sponsor agrees to participate in and comply with applicable Federal floodplain management and flood insurance programs consistent with its statutory authority.

(1) Not less than once each year the non-Federal sponsor shall inform affected interests of the extent of protection afforded by the Project.

(2) The non-Federal sponsor shall publicize flood plain information in the area concerned and shall provide this information to zoning and other regulatory agencies for their use in preventing unwise future development in the flood plain and in adopting such regulations as may be necessary to prevent unwise future development and to ensure compatibility with protection levels provided by the Project.

(3) The non-Federal sponsor shall comply with Section 402 of WRDA 1986, as amended (33 U.S.C. 701b-12), which requires a non-Federal interest to have prepared, within one year after the date of signing a project partnership agreement for the Project, a floodplain management plan. The plan shall be designed to reduce the impacts of future flood events in the project area, including but not limited to, addressing those measures to be undertaken by non-

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Federal interests to preserve the level of flood protection provided by the Project. As required by Section 402, as amended, the non-Federal interest shall implement such plan not later than one year after completion of construction of the Project. The non-Federal sponsor shall provide an information copy of the plan to the Government upon its preparation.

(4) The non-Federal sponsor shall prescribe and enforce regulations to prevent obstruction of or encroachment on the Project or on the lands, easements, and rights-of-way determined by the Government to be required for the construction, operation, maintenance, repair, replacement, and rehabilitation of the Project, that could reduce the level of protection the Project affords, hinder operation or maintenance of the Project, or interfere with the Project's proper function.

u. The non-federal sponsor shall execute under State law the reservation or allocation of water for the natural system as identified in the PIR for this authorized CERP Project as required by Sections 601(h)(4)(B)(ii) of WRDA 2000 and the non-Federal sponsor shall provide information to the Government regarding such execution. In compliance with 33 CFR 385, the District Engineer will verify such reservation or allocation in writing. Any change to such reservation or allocation of water shall require an amendment to the PPA after the District Engineer verifies in writing in compliance with 33 CFR 385 that the revised reservation or allocation continues to provide for an appropriate quantity, timing, and distribution of water dedicated and managed for the natural system after considering any changed circumstances or new information since completion of the PIR for the authorized CERP Project.

19. The recommendation contained herein reflects the information available at this time and current Departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities in the formulation of a national Civil Works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding.

MERDITH W.B. TEMPLE
Major General, USA
Acting Commander

DEPARTMENT OF THE ARMY
CHIEF OF ENGINEERS
2600 ARMY PENTAGON
WASHINGTON, DC 20310-2600

REPLY TO
ATTENTION OF

CECW-MVD (1105-2-10a)

22 JUN 2012

SUBJECT: Louisiana Coastal Area (LCA), Barataria Basin Barrier Shoreline Restoration Project, Lafourche, Jefferson, and Plaquemines Parishes, Louisiana

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on ecosystem restoration for Barataria Basin Barrier Shoreline (BBBS) in Lafourche, Jefferson, and Plaquemines Parishes, Louisiana. It is accompanied by the report of the New Orleans District Engineer and the Mississippi Valley Division Engineer. These reports are in final response to the authorization for BBBS contained in Section 7006(c)(1)(C) of the Water Resources Development Act of 2007 (WRDA 2007).

2. Section 7006(c)(1) of WRDA 2007 authorizes the Secretary to carry out five projects, including the BBBS project, substantially in accordance with the Report of the Chief of Engineers for ecosystem restoration for the Louisiana Coastal Area dated January 31, 2005. Section 7006(c)(3) states that before beginning construction of any project under Section 7006(c), the Secretary shall submit a report documenting any modifications to the project, including cost changes, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate. Section 7006(c)(4) states that notwithstanding Section 902 of the Water Resources Development Act of 1986, the cost of a project under Section 7006(c), including any modifications to the project, shall not exceed 150 percent of the cost of such project set forth in Section 7006(c)(1). Preconstruction engineering and design activities on the BBBS project will be continued under the authority provided by Section 7006(c)(1)(C). Construction of the recommended plan for BBBS will be undertaken under the Section 7006(c)(1)(C) authority as well, except for construction of the Shell Island component.

3. The Report of the Chief of Engineers for ecosystem restoration for the Louisiana Coastal Area, dated January 31, 2005, (hereinafter referred to as the LCA Chief's report), describes a plan to address the most critical restoration needs in coastal Louisiana. Congress authorized these projects for construction in WRDA 2007 Title VII. This report addresses BBBS, one of the 15 near-term ecosystem restoration features described in the LCA Chief's report.

4. In accordance with Section 7006(c)(1)(C), the reporting officers recommend that the Secretary carry out the Caminada Headland component of the recommended plan for BBBS under the existing authorization. The reporting officers also recommend that the Congress raise the total project cost for the recommended plan for BBBS. The recommended plan for BBBS is consistent

with the authorization in Section 7006(c)(1)(C) of WRDA 2007, but modification of that authorization is required because the total costs for the recommended plan for BBBS, including both the Caminada Headland component and Shell Island component, exceeds the authorized cost for the BBBS project as defined in Section 7006(c)(4) of WRDA 2007.

5. The BBBS is located approximately 55 miles south of New Orleans, Louisiana. It is a key component in regulating estuary hydrology and slowing the rate of wetland loss. Caminada Headland, forming the western portion of the barrier shoreline, has experienced some of the highest rates of shoreline retreat on the Gulf coast. Shell Island forms the eastern portion of the barrier and has disintegrated into several smaller islands and shoals and is gradually converting to a series of bays directly connected to the Gulf of Mexico. The two reaches were identified in the LCA Chief's Report as the most critical to maintaining Barataria shoreline integrity and protecting the interior coast from further degradation. The BBBS project described in the LCA Chief's report consisted of dredging and placing sediments to restore barrier dunes and marshes. At Caminada Headland, about 9-10 million cubic yards (mcy) of sand would be placed to create a dune approximately 6 feet high with a shoreward berm about 1000 feet wide and13 miles long. Approximately 6 mcy of material would be placed to create about 3,000 acres of marsh. The project would provide a net increase of 640 acres of dune/berm habitat and 1,780 acres of saline marsh habitat at Caminada Headland. Shell Island would be restored to a two-island configuration. At Shell Island (west) approximately 3.4 mcy of sand would be placed to create about 139 acres of dune and about 74 acres of marsh. Approximately 6.6 mcy of sand would be placed at Shell Island (east) to create about 223 acres of dune/berm and about 191 acres of marsh. The project would provide about 147 acres of shoreline habitat on Shell Island.

6. The reporting officers reviewed the BBBS project described in the LCA Chief's report, as well as the changed physical conditions of the shoreline. Since 2005 it has continued to degrade and has been heavily impacted by hurricanes and tropical storms. Based on this review the reporting officers developed the recommended plan presented in this report to respond to the changed conditions and to be consistent with the direction provided in WRDA 2007. As in the LCA Chief's Report, this recommended plan includes dune and marsh restoration at Caminada Headland and Shell Island, the barrier system's most critical components. The recommended plan is the National Ecosystem Restoration (NER) plan. It will restore the barrier system's geomorphic and hydrologic form. It will restore critical habitat for the threatened piping plover, as well as valuable stopover habitats for migratory birds and Essential Fish Habitats for a variety of fish and shellfish. It will protect the interior coast from further degradation, and the sediment input will supplement long shore sediment transport processes, increasing the restored area's sustainability.

7. The recommended plan consists of dredging and placing approximately 5.1 mcy of sand to restore and create about 880 acres of dune at Caminada Headland. Dune height would be + 7 feet North American Vertical Datum of 1988 (NAVD88) with a crown width of 290 feet and

slopes of 20 feet horizontal to 1 foot vertical. The proposed borrow source for Caminada dune material is Ship Shoal, located about 40 miles from the project site. Approximately 5.4 mcy of material would be placed landward of the dune to restore and create approximately 1,186 acres of marsh at an elevation of +2.0 feet NAVD88. The proposed borrow source for Caminada marsh material is located approximately 1.5 miles south of the Headland. Approximately 71,500 feet of sand fencing would be installed and a variety of native vegetation species would be planted on approximately 8 foot centers. Shell Island would be restored to its pre-Hurricane Bob (1979) single island configuration. About 5.6 mcy of sand and 23,800 feet of sand fencing would be placed to build approximately 317 acres of dunes to a height of +6 feet NAVD88 with a crown width of 189 feet and slopes of 45 feet horizontal to 1 foot vertical. The proposed borrow source for Shell Island dune material is the Mississippi River, about 11 miles north of the project site. Approximately 2.1 mcy of sediment would be placed to restore about 466 acres of marsh at an elevation of +2 feet NAVD88. The proposed borrow source for marsh material is an offshore site south of the Empire Jetties. A variety of native vegetation species would be planted on approximately 8 foot centers.

8. The recommended plan includes renourishment at staggered intervals to maintain the headland and island over time. As part of the non-Federal sponsor's Operation, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) responsibilities, renourishment of the Caminada Headland would be implemented every 1.5 to 2 years in conjunction with Corps operation and maintenance dredging of the Bayou Lafourche, Louisiana (Belle Pass) navigation project. Shell Island would be renourished by the non-Federal sponsor 20 and 40 years after initial construction to the original construction template, as part of its OMRR&R responsibilities.

9. The recommended plan contains post-construction monitoring and adaptive management at an estimated cost of $1,300,000 to be conducted for a period of no more than ten years to ensure project performance. Monitoring may be cost-shared for a period of no more than ten years. The non-Federal sponsor is responsible for monitoring required beyond ten years. Because the recommended plan is an ecosystem restoration plan, it does not have any significant adverse effects, and no mitigation measures would be required.

10. The State of Louisiana is the non-Federal cost-sharing sponsor for all features and supports the recommended plan described herein. Based on October 2011 price levels, the estimated project first cost for the recommended plan is $428,000,000. In accordance with the cost sharing provisions in WRDA 1986, as amended by Section 210 of WRDA 1996 the Federal share of the total first cost would be about $278,000,000 (65 percent) and the non-Federal share would be about $150,000,000 (35 percent). The project first cost includes an estimated $1,300,000 for environmental monitoring and adaptive management. The State of Louisiana, acting as the non-Federal sponsor, is required to provide all lands, easements, relocations, right-of-ways and dredged or excavated material disposal areas (LERRDs), the costs of which are estimated at $3,660,000. Further, the non-Federal sponsor is responsible for OMRR&R of the project after

construction, including renourishment, currently estimated at about $6,180,000 annually. Based on a 4 percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the recommended plan are estimated to be $27,000,000 including OMRR&R.

11. The reporting officers recommend that the Caminada Headland component of the NER plan be implemented under the existing authority provided in Section 7006(c)(1)(C) of WRDA 2007. The reporting officers also recommend that the Congress increase the authorized total project cost so that the entire recommended (NER) plan can be implemented. Modification of the authorization provided by Section 7006(c)(1)(C) is required because the cost of the recommended NER plan, including both the Caminada Headland and Shell Island components, exceeds the authorized cost limit as defined in Section 7006(c)(4). Costs to accomplish the original goals of the BBBS project have increased because the shoreline system has continued to degrade since the LCA Chief's report was completed. In addition, the cost of dredging and placing material, the largest component of this project, has increased because of increases in fuel and construction costs post-hurricane Katrina. The State of Louisiana, acting as the non-Federal sponsor, supports immediate implementation of the Caminada component.

12. Based on October 2011 price levels, the estimated first cost for the Caminada Headland component is $224,000,000. In accordance with the cost sharing provisions in WRDA 1986, as amended by Section 210 of WRDA 1996, the Federal share of the first cost would be about $146,000,000 (65 percent) and the non-Federal share would be about $78,000,000 (35 percent). The first cost includes an estimated $630,000 for environmental monitoring and adaptive management. The State of Louisiana, acting as the non-Federal sponsor, is required to provide all LERRDs, the costs of which are estimated at $1,650,000. Further, the non-Federal sponsor is responsible for OMRR&R of the project after construction, including renourishment, currently estimated at about $4,250,000 annually. Based on a 4 percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the recommended plan are estimated to be $14,600,000 including OMRR&R.

13. The reporting officers found the recommended plan and each of the components to be cost effective, technically sound, and environmentally and socially acceptable. The cost of the recommended aquatic ecosystem restoration features is justified by the decrease in shoreline erosion and loss of wetlands; the restored barrier system's regulation of salinity gradients and maintenance of the estuary critical to fish and wildlife, such as white and brown shrimp; the maintenance of geomorphic form that attenuates storm surge for interior wetlands and surrounding coastal communities, including Port Fourchon, major oil and gas infrastructure and the regional hurricane evacuation route for residents of southern Lafourche Parish; and the approximately 1719 AAHUs of beach/dune and marsh habitats provided 988 AAHUs on Caminada Headland and 731 AAHUs on Shell Island. The recommended plan conforms to essential elements of the U.S. Water Resources Council's Economic and Environmental Studies and complies with other administration and legislative policies and guidelines. The

recommended plan was developed in coordination and consultation with various Federal, State and local agencies using a systems approach in formulating ecosystem restoration solutions and in evaluating the impacts and benefits of those solutions. Study formulation looked at a wide range of structural and non-structural alternatives. Further refinement and additional analysis of the project will be performed during preconstruction engineering and design, and modifications will be made, as appropriate, prior to project implementation. Such analysis or modifications will continue to be coordinated with Federal, State, and local agencies and other parties.

14. In accordance with the Engineering Circular on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and rigorous review process to ensure technical quality. This included an independent Agency Technical Review (ATR), an Independent External Peer Review (IEPR), and a Corps Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the report. The IEPR was conducted by the Battelle Memorial Institute. IEPR of the draft report was completed on December 2, 2011. A total of 16 comments were generated. No comments were rated high significance, 15 were rated medium, and 1 was rated low significance. All comments from this review have been addressed and incorporated into the final project documents and recommendation as appropriate.

15. I concur in the findings, conclusions, and recommendation of the reporting officers. Accordingly, I recommend project implementation, in accordance with the reporting officers' recommendations with such modifications as in the discretion of the Chief of Engineers may be advisable. I further recommend, in accordance with the reporting officers recommendations, that the authorization be modified to raise the total project cost to allow for construction of the entire NER plan. My recommendations are subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including WRDA 1986, as amended by Section 210 of WRDA 1996. The State of Louisiana, acting as the non-Federal sponsor, would provide the non-Federal cost share and all lands, easements, relocations, right-of-ways and disposals. Further, the non-Federal sponsor would be responsible for all OMRR&R. This recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and policies, including but not limited to its agreeing to:

a. Provide 35 percent of ecosystem restoration project costs as further specified below:

(1) Provide the non-Federal share of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

(2) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material that

the Government determines to be necessary for the construction, operation, maintenance, repair, replacement, and rehabilitation of the project;

(3) Provide, during construction, any additional funds necessary to make its total contribution equal to 35 percent of the total project costs allocated to the project;

b. Provide the non-Federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation, that are in excess of 1 percent of the total amount authorized to be appropriated for the project;

c. Not use funds provided by a Federal agency under any other Federal program, to satisfy, in whole or in part, the non-Federal share of the cost of the project unless the Federal agency that provides the funds determines that the funds are authorized to be used to carry out the study or project;

d. Not use the project or lands, easements, and rights-of-way required for the project as a wetlands bank or mitigation credit for any other project;

e. For as long as the project remains authorized, operate, maintain, repair, replace, and rehabilitate the project, or functional portion of the project, including mitigation, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

f. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor, now or hereafter, owns or controls for access to the project for the purpose of inspecting, operating, maintaining, repairing, replacing, rehabilitating, or completing the project. No completion, operation, maintenance, repair, replacement, or rehabilitation by the Federal Government shall relieve the non-Federal sponsor of responsibility to meet the non-Federal sponsor's obligations, or to preclude the Federal Government from pursuing any other remedy at law or equity to ensure faithful performance;

g. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, replacement, and rehabilitation of the project and any project-related betterments, except for damages due to the fault or negligence of the United States or its contractors;

h. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or

under lands, easements, or rights-of-way that the Federal Government determines to be required for the initial construction, periodic nourishment, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal Government provides the non-Federal sponsor with prior specific written direction, in which case the non-Federal sponsor shall perform such investigations in accordance with such written direction;

i. Assume, as between the Federal Government and the non-Federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated materials located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be necessary for the initial construction, periodic nourishment, operation, or maintenance of the project;

j. Agree that, as between the Federal Government and the non-Federal sponsor, the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, and repair the project in a manner that would not cause liability to arise under CERCLA;

k. Prevent obstructions of or encroachments on the project (including prescribing and enforcing regulations to prevent such obstruction or encroachments) which might reduce ecosystem restoration benefits, hinder operation and maintenance, or interfere with the project's proper function, such as any new developments on project lands or the addition of facilities which would degrade the benefits of the project;

l. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of three years after completion of the accounting for which such books, records, documents, and other evidence is required, to the extent and in such detail as would properly reflect total costs of construction of the project, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations (CFR) Section 33.20;

m. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5), and Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element;

CECW-MVD (1105-2-10a)
SUBJECT: Louisiana Coastal Area (LCA), Barataria Basin Barrier Shoreline Restoration Project, Lafourche, Jefferson, and Plaquemines Parishes, Louisiana

n. Comply with all applicable Federal and state laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army," and all applicable Federal labor standards and requirements, including but not limited to 40 U.S.C. 3141- 3148 and 40 U.S.C. 3701 – 3708 (revising, codifying, and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c et seq.); and

o. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way necessary for the initial construction, periodic nourishment, operation, and maintenance of the project, including those necessary for relocations, borrow materials, and dredged or excavated material disposal, and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

16. The recommendations contained herein reflect the information available at this time and current departmental policies governing the formulation of individual projects. They do not reflect program and budgeting priorities inherent in the formulation of the national civil works construction program or the perspective of higher levels within the executive branch. Consequently, the recommendations may be modified before they are transmitted to Congress for additional authorization and/or implementation funding. However, prior to transmittal to Congress, the State of Louisiana, interested Federal agencies, and other parties will be advised of any significant modifications in the recommendations and will be afforded an opportunity to comment further.

THOMAS P. BOSTICK
Lieutenant General, US Army
Commanding

DEPARTMENT OF THE ARMY
CHIEF OF ENGINEERS
2600 ARMY PENTAGON
WASHINGTON, D.C. 20310-2600

DAEN

APR 2 3 2013

SUBJECT: Neuse River Basin, Ecosystem Restoration Project, North Carolina

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on ecosystem restoration in the Neuse River Basin, North Carolina. It is accompanied by the report of the district and division engineers. These reports are in final response to two resolutions by the Committee of Public Works of the United States House of Representatives, adopted April 15, 1966, and the Committee on Transportation and Infrastructure, adopted July 23, 1997. The 1966 resolution requested a review of the report of the Chief of Engineers on the Neuse River Basin, North Carolina, published as House Document Numbered 175, Eighty-ninth Congress, and other pertinent reports to determine whether any modifications to the recommendations contained in the report are advisable. The 1997 resolution further requested a review of House Document 175 to determine where modifications of the recommendations are advisable in the interest of flood control (flood risk management), environmental protection and restoration, and related purposes. Preconstruction engineering and design activities for the Neuse River Basin ecosystem restoration project will continue under the authority adopted in July 1997.

2. The Neuse River Basin, the third-largest river basin in North Carolina contains a total area of 6,234 square miles, is one of only four watersheds entirely within the state. It originates at the confluence of the Eno and Flat Rivers in north central North Carolina near the city of Durham and flows southeasterly until reaching tidal waters upstream of the city of New Bern, North Carolina where the river broadens dramatically and changes from a unidirectional freshwater regime to a mixed tidal regime of the Neuse River Estuary before flowing out into Pamlico Sound and the Atlantic Ocean. The Neuse River Basin has experienced severe flooding in the past; consequently elements of the Basin ecosystem have shown signs of significant stress and degradation.

The ecosystem significance of the area is demonstrated on the national, regional, and local level. The Neuse River Basin includes 7 essential fish habitats and 12 significant natural heritage areas. The Neuse River Basin feeds one of the nation's largest and most productive coastal estuaries (Albemarle-Pamlico Sounds). The Albemarle-Pamlico estuary system, which is in the National Estuary Program, is a nursery for 90 percent of the commercial seafood species caught in North Carolina. In 2011 the value of seafood landed in North Carolina had an estimated dockside value of $72.8 million.

The federally listed shortnosed sturgeon will directly benefit from the opening of the dam which will improve passage for migration. The Neuse River Basin is also home to 17 species of rare freshwater mussels, two of which are federally listed as endangered, and a rare snail species. The federally listed dwarf wedgemussel and Tar River spinymussel will benefit from the restoration by increasing fish host for transportation. The Neuse River basin also provides habitat for 7 other federally listed

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endangered species which include, the West Indian manatee, Red-cockaded woodpecker, Leatherback sea turtle and the Kemp's Ridley sea turtle.

3. The reporting officers recommend authorization of a plan to restore four components of the Neuse River Basin ecosystem. The plan includes construction of rock sills approximately 3,500 feet long at Gum Thicket Creek and 5,200 feet long at Cedar Creek, built at distances of about 60 feet offshore; regrading a previously filled area within the Kinston East wetland complex to the approximate elevation of the adjacent bottomland hardwood forest and allowing natural revegetation of the site by bottomland hardwood species and limited planting; modifying the Low-head Dam on the Little River to allow migration of anadromous fish; and the creation of 10 acres of 4 foot-high oyster reef within an 80 acre service area. The recommended plan is the National Ecosystem Restoration Plan. Implementation of the recommended plan will have a substantial beneficial impact on biological integrity, freshwater mussel populations, anadromous fish populations, emergent wetlands, and the quantity and quality of oyster reef habitat.

4. Based on an October 2012 (FY13) price level the estimated project first cost is $35,774,000. In accordance with the cost sharing provisions contained in Section 103(c) of the Water Resources Development Act of 1986 (WRDA 1986), as amended (33 U.S.C. 2213(c)), ecosystem restoration features are cost-shared at a rate of 65 percent Federal and 35 percent non-Federal. Thus the Federal share of the project first cost is estimated to be $23,253,100 and the non-Federal share is estimated at $12,520,900, which includes the costs of lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas (LERRD) estimated at $254,000. The non-Federal will receive credit for the costs of LERRD towards the non-Federal share. The North Carolina Department of Environment and Natural Resources (NCDENR) Division of Water Resources (NCDWR) is the non-Federal cost-sharing sponsor for the recommended plan. The State of North Carolina would be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction, an average annual cost currently estimated at $24,000.

5. Based on a 3.75 percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $1,671,000, including monitoring estimated at $312,000 and OMRR&R. All project costs are allocated to the authorized purpose of ecosystem restoration and are justified by the restoration of 241 average annual functional units in the Basin. The plan would restore the habitats in the most cost-effective manner. The restoration would include 1) creating 80 acres of oyster reef sanctuary with approximately 10 acres of reef top resulting in improved water quality and habitat for commercial and recreational seafood, 2) increasing wetland habitat by 14.5 acres of bottomland hardwoods, creating 15 acres of estuarine marsh, preventing degradation of another 60 acres of estuarine march and protecting a 240 acre wetland conservation easement area for wetland species and improved water resource function, and 3) restoring hydrologic connectivity for 46 miles of important spawning habitat for anadromous fish species.

6. The recommended plan was developed in coordination and consultation with various Federal, State, and local agencies using cost effectiveness and incremental cost analysis techniques to formulate ecosystem restoration solutions and evaluate the impacts and benefits of those solutions. Plan formulation evaluated a wide range of non-structural and structural alternatives under Corps policy and guidelines as well as consideration of a variety of economic, social and environmental

goals. The recommended plan delivers a holistic, comprehensive approach to solve water resources challenges in a sustainable manner.

7. In accordance with the Corps Engineering Circular on sea level change, the study performed an analysis of three Sea Level Rise rates, a baseline estimate representing the minimum expected sea level change, an intermediate estimate, and a high estimate representing the maximum expected sea level change. Projecting the three rates of change over a 50 year period provides a predicted low level rise of 0.42 feet (ft), an intermediate level rise of 0.85 ft and a high level rise of 2.2 ft. Accelerated sea level rise is expected to impact only one part of the recommended plan, which is the Gum Thicket/Cedar Creek site. Accelerated rates of future sea level rise may lead to drowning scenarios of North Carolinas tidal coastal wetlands. It is estimated in the without project condition, at the Gum Thicket reach up to 450 ft of erosion could occur under the historical rate of sea level rise, 671 ft of erosion could occur under the baseline estimate and up to 1,381 ft of erosion could occur under the high estimate over the 50 year period of analysis. At the Cedar Creek reach, 100 ft, 149 ft and 306 ft of erosion could occur under historical sea level rise and for baseline, intermediate and high scenarios, respectively, over the 50 year period of analysis. The environmental benefits of the recommended were based on erosion occurring at the historical rate of sea level rise, this means that the environmental benefits from the plan would actually increase with the accelerated sea level rise scenarios. Average annual habitat benefits for the recommended plan at Gum Thicket/Cedar Creek under the baseline scenario are estimated at 52.7 habitat units (a 10.0 habitat unit increase as compared to the historical sea level rate). Both the shoreline stabilization and marsh creation at Gum Thicket and Cedar Creeks would be affected by sea level rise. The project is designed based upon a historical rate of sea level rise. To reduce risks from potential accelerated sea level rise on the plantings, marsh restoration would include both low and high marshes allowing upslope mitigation of low-lying marshes. The sill design accounts for the historical rate of sea level rise applied over 50 years.

8. In accordance with Corps Engineering Circular on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included District Quality Control, Agency Technical Review (ECO-PCX), Policy and Legal Compliance Review, Cost Engineering Directory of Expertise Review and Certification, and Model Review and Approval. Given the nature of the project, an exclusion from the requirement to conduct a Type I Independent External Peer Review was granted on 18 May 2012. Concerns expressed by the ECO-PCX team have been addressed and incorporated in the final report.

9. Washington level review indicates the plan recommended by the reporting officers is technically sound, environmentally and socially acceptable, and on the basis of Congressional directives, economically justified. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principal and Guidelines for Water and Land Related Resources Implementation Studies. The recommended plan complies with other administration and legislative policies and guidelines. The views of interested parties including Federal, State and local agencies have been considered. State and Agency comments received during review of the final report and environmental assessment included concerns raised by the North Carolina Clearinghouse, the Environmental Protection Agency and the United States Coast Guard with design refinements for compliance with regulations and benefit improvements, as well as a request for continued coordination during the Preconstruction, Engineering and Design phase. The concerns were addressed through USACE response letters dated 7 March 2013, 12 February 2013,

DAEN
SUBJECT: Neuse River Basin, Ecosystem Restoration Project, North Carolina

and 26 February 2013, respectively.

10. I concur in the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan for ecosystem restoration in the Neuse River Basin, North Carolina be authorized in accordance with the reporting officers' recommended plan at an October 2012 (FY13) estimated cost of $35,774,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of Federal and State laws and policies, including Section 103 of the Water Resources Development Act (WRDA) of 1986, as amended (33 U.S.C. 2213). Accordingly, the non-Federal sponsor must agree with the following requirements prior to project implementation.

a. Provide 35 percent of total ecosystem restoration costs as further specified below:

(1) Provide 35 percent of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

(2) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of the project;

(3) Provide, during construction, any additional funds necessary to make its total contribution equal to 35 percent of total project costs;

b. Shall not use funds from other Federal programs, including any non-Federal contribution required as a matching share therefore, to meet any of the non-Federal obligations for the project unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is authorized by Federal law;

c. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the outputs produced by the project, hinder operation and maintenance of the project, or interfere with the project's proper function;

d. Shall not use the project or lands, easements, and rights-of-way required for the project as a wetlands bank or mitigation credit for any other project;

e. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 Code of Federal Regulations (CFR) Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

DAEN
SUBJECT: Neuse River Basin, Ecosystem Restoration Project, North Carolina

f. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, including any mitigation features, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and regulations and any specific directions prescribed by the Federal Government;

g. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project;

h. Hold and save the United States free from all damages arising from the design, construction, operation, maintenance, repair, rehabilitation, and replacement of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors;

i. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of three years after completion of the accounting for which such books, records, documents, and other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 CFR Section 33.20;

j. Comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulations 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701 – 3708 (revising, codifying and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*), and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.*));

k. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under the lands, easements, or rights-of-way that the Federal Government determines to be required for construction, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigation unless the Federal Government provides the non-Federal sponsor with prior specific written direction, in which case the non-Federal sponsor shall perform such investigations in accordance with such written direction;

l. Assume, as between the Federal Government and the non-Federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for construction or operation and maintenance of the project;

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SUBJECT: Neuse River Basin, Ecosystem Restoration Project, North Carolina

m. Agree, as between the Federal Government and the non-Federal sponsor, that the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA;

n. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), and Section 103(j) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element.

11. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the sponsor, the State, interested Federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

THOMAS P. BOSTICK
Lieutenant General, USA
Chief of Engineers

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

DAEN

MAR 27 2014

SUBJECT: Lynnhaven River Basin Ecosystem Restoration Project, Virginia

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on ecosystem restoration in the Lynnhaven River Basin, Virginia. It is accompanied by the report of the district and division engineers. These reports are an interim response to a resolution by the Committee on Transportation and Infrastructure of the United States House of Representatives, Docket 2558, adopted May 1998. The resolution requested the review of the report of the Chief of Engineers on the Lynnhaven Inlet, Bay, and Connecting Waters, Virginia, published as House Document 580, 80th Congress, 2nd Session, and other pertinent reports to determine whether any modifications of the recommendations contained therein are advisable at the present time in the interest of environmental restoration and protection and other related water resources purposes for the Lynnhaven River Basin, Virginia. Preconstruction, engineering, and design activities for the Lynnhaven River Basin Ecosystem Restoration Project will continue under the authority provided by the resolution cited above.

2. The Lynnhaven River Basin, the southernmost tributary to the Chesapeake Bay in Virginia, is a 64 square mile tidal estuary in the lower Chesapeake Bay Watershed. The Lynnhaven River's three branches, the Eastern, Western, and the Broad Bay/Linkhorn Bay, represent approximately 0.4 percent of the area of Virginia and approximately 0.2 percent of the Chesapeake Bay Watershed. However, the basin encompasses one-fourth of the area of the city of Virginia Beach and provides vital functions to the city and its residents. As has happened throughout the Chesapeake Bay, the Lynnhaven River Basin has seen declines in essential habitat - submerged aquatic vegetation (SAV), wetlands, oysters and scallops - and an overall reduced water quality from alterations to the ecosystem primarily stemming from increased development and population.

3. The significance of this ecosystem is demonstrated on the national, regional, and local level. Five federal and state endangered species occur or potentially occur in the Lynnhaven River Basin, including the hawksbill, Kemp's Ridley and leatherback sea turtles and the roseate tern. Also within the basin there are four additional state endangered species to include the eastern chicken turtle, Wilson's plover, Rafinesque's big-eared bat, and the canebrake rattlesnake. The Lynnhaven River Basin includes essential fish habitats for 19 species of fin fish, which demonstrates the important of estuaries as rearing grounds not only for fin fish sought by commercial and recreational fishermen, but for shell fish as well. During 2012, more than 149,000 pounds of fin fish, 369,000 pounds of blue crabs, 2,400 pounds of conch and 18,500 pounds of hard shell clams were landed in the Lynnhaven River Basin with an approximate value

DAEN
SUBJECT: Lynnhaven River Basin Ecosystem Restoration Project, Virginia

of $1 million. In 1983, 1987 and 2000, the states of Virginia, Maryland, and Pennsylvania, the District of Columbia, the Chesapeake Bay Commission, and the U.S. Environmental Protection Agency (EPA), representing the federal government, signed historic agreements establishing the Chesapeake Bay Program, a strong partnership to protect and restore the Chesapeake Bay ecosystem. In addition, Section 704(b) of the Water Resources Development Act (WRDA) of 1986, as amended through Section 505 of the WRDA of 1996; the re-authorization of Section 704(b); Section 342 of the WRDA of 2000; and the Section 704(b) as amended by Section 5021 of WRDA 2007 provided for the restoration of oysters within the Chesapeake Bay and its tributaries. Recently, all of the laws and agreements affecting the restoration, protection, and conservation of the Chesapeake Bay have been brought into focus under the Chesapeake Bay Protection and Restoration Executive Order (EO 13508) signed by President Barack Obama on 12 May 2009. Locally, the city of Virginia Beach, The Trust for Public Land, and the Chesapeake Bay Foundation have partnered to purchase and protect 122 acres of natural lands known as Pleasure House Point, one of the largest undeveloped tracts of land on the Lynnhaven River.

4. The reporting officers recommend authorization of a plan to restore approximately 38 acres of wetlands, 94 acres of SAV, reintroduction of the bay scallop on 22 acres of the restored SAV, and construction of 31 acres of artificial reef habitat. The restoration measures, at various sites throughout the basin, will significantly increase three types of habitats, at least two of which are an essential part of the food web for several of the endangered species and form the basis of many of the essential fish habitats. The recommended plan is the National Ecosystem Restoration (NER) Plan. Implementation of the recommended plan will have substantial beneficial impact on the biological integrity, habitat diversity, and resiliency of the Lynnhaven River Basin.

5. Based on an October 2013 FY14 price level, the estimated project first cost of the NER Plan is $35,110,000, which includes a 10-year monitoring and adaptive management program at an estimated cost of $1,750,000, developed to adequately address the uncertainties inherent in a large environmental restoration project and to improve the overall performance of the project. In accordance with the cost sharing provisions contained in Section 103(c) of the WRDA 1986, as amended (33 U.S.C. 2213(c)), ecosystem restoration features are cost-shared at a rate of 65 percent federal and 35 percent non-federal. Thus the federal share of the project first cost is $22,821,500 and the non-federal share is estimated at $12,288,500, which includes the costs of land, easements, rights-of-way, relocations, and dredged or excavated material disposal areas (LERRD) estimated at $740,000. The non-federal sponsor will receive credit for the costs of LERRD toward the non-federal share. The City of Virginia Beach is the non-federal cost-sharing sponsor for the recommended plan. The city would be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction, an average annual cost currently estimated at $2,000.

6. Based on a 3.5 percent discount rate and a 50-year period of analysis, the total equivalent average annual costs of the project are estimated to be $1,554,000, including monitoring estimated at $30,000 and $2,000 for OMRR&R. All project costs are allocated to the authorized purpose of ecosystem restoration and are justified by an increase in species diversity (measured

using a biological index), an increase in secondary production, and an increase in marsh productivity (an average increase of 70 points using the EPA Marsh Assessment Score). The plan would improve essential estuarine habitats in the most cost-effective and sustainable manner.

7. The recommended plan was developed in coordination and consultation with various federal, state, and local agencies using our cost effectiveness and incremental cost analysis techniques to formulate ecosystem restoration solutions and evaluate the impacts and benefits of those solutions. Plan formulation evaluated a wide range of non-structural and structural alternatives under Corps policy and guidelines as well as consideration of a variety of economic, social, and environmental goals. The recommended plan delivers a sustainable approach to solve water resources and ecosystem challenges while contributing towards the goals of the EO 13508 strategy to restore tidal wetlands, enhance degraded wetlands, sustain fish and wildlife by restoring oyster habitat in a tributary of the Chesapeake Bay, and restore priority habitat such as submerged aquatic vegetation.

8. In accordance with the Corps Engineering Circular on sea level change (SLC), three sea level rise rates; a baseline estimate representing the minimum expected SLC, an intermediate estimate, and a high estimate representing the maximum expected SLC were analyzed during the study. Projecting the three rates over the 50-year period provides a predicted low level rise of 0.73 feet (ft), an intermediate level rise of 1.14ft, and a high level rise of 2.48ft. The project is designed based upon the historical, or minimum rate of SLC. The two elements of the project that would be most impacted by SLC are the SAV and wetland restoration, while SLC would have little or no effect on the reef habitat or scallop restoration. Marshes within the Lynnhaven basin have historically sustained themselves from the effect of SLC through vertical accretion, although migration landward is a possibility. Similarly, as the water column becomes deeper due to SLC, the SAV will migrate into shallow waters if allowed by the geography and development of the inundated shoreline. Because a large amount of the Lynnhaven shoreline is developed, the ability of the SAV and marshes to adjust to SLC may be limited.

9. In accordance with Corps Engineering Circular on review of decision documents, all technical, engineering, and scientific work underwent an open, dynamic, and vigorous review process to ensure technical quality. This included District Quality Control, Agency Technical Review (ATR) - coordinated by the Ecosystem Restoration Planning Center of Expertise (ECO-PCX), policy and Legal Compliance Review, Cost Engineering Directory of Expertise Review and Certification, and Model Review and Approval. All concerns of the ATR have been addressed and incorporated in the final report. Given the nature of the project, an exclusion from the requirement to conduct Type I Independent Peer Review was granted on 31 July 2013. Concerns expressed by the ECO-PCX team have been addressed and incorporated in the final report.

10. Washington level review indicates the plan recommended by the reporting officers is technically sound, environmentally and socially acceptable, and on the basis of Congressional directives, economically justified. The plan complies with all essential elements of the U.S. Water Resources Council's 1983 Economic and Environmental Principles and Guidelines for

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Water and Land Related Resources Implementation Studies. The recommended plan complies with other administration and legislative policies and guidelines. The views of interested parties, including federal, state, and local agencies, have been considered. State and agency comments received during review of the final report and environmental assessment were addressed. The EPA inquired whether information on sea level rise from another study in the area was considered. The Commonwealth of Virginia expressed concern regarding whether the required leases would be able to be obtained expeditiously; summarized prior coordination with and commitments to Virginia's regulatory and resource agencies; and made recommendations concerning project methods.

11. I concur with the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan for ecosystem restoration in the Lynnhaven River Basin, Virginia be authorized in accordance with the reporting officers' recommended plan at an estimated cost of $35,110,000 with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost sharing, financing, and other applicable requirements of federal and state laws and policies, including Section 103 of WRDA 1986, as amended (33 U.S.C. 2213). Accordingly, the non-federal sponsor must agree with the following requirements prior to project implementation.

a. Provide 35 percent of total ecosystem restoration costs as further specified below:

(1) Provide 35 percent of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

(2) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements desired on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material as determined by the government to be required or to be necessary for the construction, operation, and maintenance of the project;

(3) Provide, during construction, any additional funds necessary to make its total contribution equal to 35 percent of total project costs.

b. Prior to initiation of construction, obtain approval from the Commonwealth of Virginia of an administrative designation in perpetuity for the river bottom areas required for the artificial reef and aquatic vegetation features of the project that provides sufficient protection to those areas from uses incompatible with the project;

c. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the outputs produced by the project, hinder operation and maintenance of the project, or interfere with the project's proper function;

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d. Shall not use project or lands, easements, and rights-of-way required for the project as a wetlands bank or mitigation credit for any other project;

e. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 Code of Federal Regulations Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

f. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, including any mitigation features, at no cost to the federal government, in a manner compatible with the project's authorized purposes and in accordance with applicable federal and state laws and regulations and any specific directions prescribed by the federal government;

g. Hold and save the United States free from all damages arising from the design, construction, operation, maintenance, repair, rehabilitation, and replacement of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors.

h. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. 9601-9675), that may exist in, on, or under the lands, easements, or rights-of-way that the federal government determines to be required for construction, operation, and maintenance of the project. However, for lands that the federal government determines to be subject to the navigation servitude, only the federal government shall perform such investigation unless the federal government provides the non-federal sponsor with prior specific written direction, in which case the non-federal sponsor shall perform such investigations in accordance with such written direction;

i. Assume, as between the federal government and the non-federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the federal government determines to be required for construction or operation and maintenance of the project;

j. Agree, as between the federal government and the non-federal sponsor, that the non-federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA.

12. The recommendation contained herein reflects the information available at this time and current departmental policies governing the formulation of individual projects. It does not reflect

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program and budgeting priorities inherent in the formulation of a national civil works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the City of Virginia Beach, Virginia (the non-federal sponsor), the state, interested federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.

THOMAS P. BOSTICK
Lieutenant General, USA
Chief of Engineers

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

REPLY TO
ATTENTION OF

DAEN

- 6 JAN 2014

SUBJECT: Willamette River Floodplain Restoration Project, Lower Coast Fork and Middle Fork, Oregon.

THE SECRETARY OF THE ARMY

1. I submit, for transmission to Congress, my report on the study of ecosystem restoration along the Willamette River, Lower Coast and Middle Forks near Eugene, Oregon. It is accompanied by the reports of the district and the division engineers. This report is an interim response to a resolution by the Committee on Public Works of the United States Senate, adopted November 15, 1961. This resolution authorized the Chief of Engineers to determine "whether any modification of the existing project is advisable at the present time, with particular reference to providing additional improvements for flood control, navigation, hydroelectric power development, and other purposes, coordinated with related land resources, on the Willamette River and Tributaries, Oregon." It is further an interim response to a resolution by the Committee on Public Works of the United States House of Representatives, adopted September 8, 1988. This resolution authorized the Chief of Engineers to determine "whether modifications to the existing projects are warranted and determine the need for further improvements within the Willamette River Basin (the Basin) in the interest of water resources improvements." Preconstruction engineering and design activities for the Willamette River Floodplain Restoration project will continue under the authority provided by the resolutions cited above.

2. The reporting officers recommend authorizing a plan to restore floodplain ecosystem functions by reconnecting floodplain habitats to the rivers and improving fish and wildlife habitats in the vicinity of Eugene, Oregon. The recommended plan for ecosystem restoration includes restoration at five project sites along the lower two miles of both the Coast Fork and Middle Fork of Willamette River. Restoration measures include excavation of connection channels, restoration of gravel-mined ponds, installation of large wood and engineered logjams, removal of invasive plant species, revegetation with native plant species, and installation of culverts for channel crossings. The recommended plan provides restoration on a total of 574 acres of floodplain and provides substantial benefits to fish and wildlife and the ecosystem. Minor adverse environmental effects will be avoided and minimized during construction by the use of conservation measures and best management practices. The long-term effects are beneficial. The recommended plan also includes post-construction monitoring and adaptive management for a period of ten years to ensure project performance. Monitoring will measure the following key elements: vegetation, connector channel hydrology and hydraulics, river and floodplain morphology, wildlife, physical habitat, and fish. Since the recommended plan would

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not have any significant adverse effects, no mitigation measures (beyond avoidance and management practices) or compensation measures are required.

3. The recommended plan is the Locally Preferred Plan (LPP) that is smaller scale and lower cost than the National Ecosystem Restoration (NER) plan. All features are located within the State of Oregon. The Nature Conservancy is the non-federal cost-sharing sponsor for all features. Based on October 2013 price levels, the estimated total first cost of the plan is $42,155,000. In accordance with the cost sharing provisions the Water Resources Development Act (WRDA) of 1986, as amended, the federal share of the first costs of the ecosystem restoration features would be $27,401,000 (65 percent) and the non-federal share would be $14,754,000 (35 percent). The cost of lands, easements, rights-of-way, relocations and dredged or excavated material disposal areas is currently estimated at $428,000. The total project cost includes $429,000 for post-construction monitoring and $535,000 for adaptive management. The Nature Conservancy would be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction, a cost currently estimated at approximately $150,000 per year. Based on a 3.5 percent discount rate, October 2013 price levels and a 50-year period of analysis, the total equivalent average annual cost of the project is estimated to be $1,947,000, including OMRR&R.

4. Cost effectiveness and incremental cost analysis techniques were used to evaluate the alternative plans to ensure that a cost effective ecosystem restoration plan was recommended. The cost of the recommended restoration features is justified by restoring 182 average annual habitat units on 574 acres of floodplain and aquatic habitats. The restored aquatic habitat would increase habitat for Upper Willamette River Chinook salmon, bull trout, and Oregon chub listed as threatened under the Endangered Species Act, and would improve floodplain and aquatic habitats for a variety of fish and wildlife species in the Lower Coast and Middle Forks of the Willamette River for approximately 2 miles upstream on each river from their confluence. The restored habitat would increase scarce off-channel rearing and refuge habitat for fish species, and scarce forested riparian and emergent and shrub wetland habitats for sensitive amphibian species, and nesting, feeding, and rearing habitat for migratory waterfowl and neotropical migrant birds using the internationally significant Western Flyway.

5. The recommended plan was developed in coordination and consultation with various federal, state, and local agencies using a systematic and regional approach to formulating solutions and evaluating the benefits and impacts that would result. Risk and uncertainty were addressed during the study by completing a cost and schedule risk analysis and a sensitivity analyses that evaluated the potential impacts of a change in economic assumptions.

6. In accordance with the Corps' guidance on review of decision documents, all technical, engineering, and scientific work underwent an open, dynamic, and rigorous review process to ensure technical quality. This included an Agency Technical Review (ATR), an Independent External Peer Review (IEPR), and a Corps Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the final report. An IEPR was completed by Battelle Memorial Institute in May 2013. A total of 15 comments related to plan

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formulation, economic analysis, and hydrology and hydraulics were documented. All comments were addressed by report revisions, and subsequently closed.

7. Washington level review indicates that the plan recommended by the reporting officers is environmentally justified, technically sound, cost effective and socially acceptable. The plan complies with all essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies. The recommended plan complies with other administration and legislative policies and guidelines. The views of interested parties, including federal, state and local agencies, were considered. Comments received during review of the integrated draft report and environmental assessment included comments by the US Fish and Wildlife Service (USFWS), the Oregon State Historical Preservation Office (SHPO), and the National Marine Fisheries Service (NMFS). The National Environmental Policy Act (NEPA) process resulted in a finding of no significant impacts from this project. The USFWS and NMFS agreed with the use of best management practices and continued coordination during design and implementation, and SHPO concurred with the Area of Potential Effect (APE) and proposed management plan for implementation. During state and agency review of the proposed Report of the Chief of Engineers, no comments were received and agencies were supportive of the recommended plan.

8. I concur with the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan to restore the ecosystem of the Willamette River Floodplain, Lower Coast and Middle Forks near Eugene, Oregon, be authorized in accordance with the reporting officers' recommended plan at an estimated first cost of $42,155,000. My recommendation is subject to cost sharing, financing, and other applicable requirements of federal and state laws and policies, including Public Law 99-662, the Water Resource Development Act of 1986, as amended, and in accordance with the required items of local cooperation that the non-federal sponsor shall, prior to project implementation, agree to perform:

a. Provide 35 percent of total project costs as cash or in-kind services, as further specified below:

(1) Provide the required non-federal share of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

(2) Provide, during the first year of construction, any additional funds necessary to pay the full non-federal share of design costs;

(3) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material as determined by the government to be required or to be necessary for the construction, operation, and maintenance of the project.

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(4) Provide, during construction, any additional funds necessary to make its total contributions equal to 35 percent of total project costs.

b. Provide work-in-kind during final design and construction as well as providing the post-construction monitoring. The value of LERRDs needed for the project are credited against the non-federal sponsor's cost-sharing requirement. The sponsor anticipates contributing the balance of funds from grant funding that will not include funds from federal agencies.

c. Shall not use funds from other federal programs, including any non-federal contribution required as a matching share therefore, to meet any of the non-federal obligations for the project unless the federal agency providing the federal funds verifies in writing that such funds are authorized to be used to carry out the project;

d. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the outputs produced by the project, hinder operation and maintenance of the project, or interfere with the project's proper function;

e. Shall not use the project or lands, easements, and rights-of-way required for the project as a wetlands bank or mitigation credit for any other project;

f. Comply with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. §§ 4601-4655), and the Uniform Regulations contained in 49 C.F.R. part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the disposal of dredged or excavated material; and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act;

g. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, at no cost to the federal government, in a manner compatible with the project's authorized purposes and in accordance with applicable federal and state laws and regulations and any specific directions prescribed by the federal government;

h. Give the federal government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-federal sponsor owns or controls for access to the project for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project;

i. Hold and save the United States free from all damages arising from construction, operation, maintenance, repair, rehabilitation, and replacement of the project and any betterments, except for damages due to the fault or negligence of the United States or its contractors;

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j. Keep and maintain books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to the project, for a minimum of 3 years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for financial management.

k. Comply with all applicable federal and state laws and regulations, including but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. § 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable federal labor standards requirements including, but not limited to, 40 U.S.C. §§ 3141-3148 and 40 U.S.C. §§ 3701-3708;

l. Perform, or ensure performance of, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96-510, as amended (42 U.S.C. §§ 9601-9675), that may exist in, on, or under lands, easements, or rights-of-way that the federal government determines to be required for construction, operation, and maintenance of the project. However, for lands that the federal government determines to be subject to the navigation servitude, only the federal government shall perform such investigations unless the federal government provides the non-federal sponsor with prior specific written direction, in which case the non-federal sponsor shall perform such investigations in accordance with such written direction;

m. Assume, as between the federal government and the non-federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the federal government determines to be required for construction, operation, and maintenance of the project;

n. Agree, as between the federal government and the non-federal sponsor, that the non-federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA; and,

o. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended (42 U.S.C. § 1962d-5b), and Section 103(j) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. § 2213(j)), which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until each non-federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element.

9. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It neither reflects

DAEN
SUBJECT: Willamette River Floodplain Restoration Project, Oregon

program and budgeting priorities inherent in the formulation of a national Civil Works construction program, nor the perspective of higher review levels within the Executive Branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the non-federal sponsor, the state, interested federal agencies and other parties will be advised of any significant modifications, and will be afforded an opportunity to comment further.

THOMAS P. BOSTICK
Lieutenant General, USA
Chief of Engineers

SEC. 7003. AUTHORIZATION OF PROJECT MODIFICATIONS RECOMMENDED BY THE SECRETARY

House § 402, Senate § 1003.—House and Senate agree to an amendment.

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

JAN 24 2013

Honorable John Boehner
Speaker of the House
of Representatives
U.S. Capitol Building, Room H-232
Washington, D.C. 20515-0001

Dear Mr. Speaker:

The Secretary of the Army recommends increasing the authorized total project cost of the Roseau River, Minnesota Flood Damage Reduction Project. The increase is necessary because the construction cost is projected to exceed the maximum project cost established by Section 902 of the Water Resources Development Act (WRDA) of 1986. The enclosed Engineering Documentation Report, dated July 2012, sets forth the cost increase and documents that the project remains economically justified, technically sound and environmentally acceptable.

Section 1001(27) of the WRDA of 2007 authorized the project at a cost of $25,100,000, with an estimated federal cost of $13,820,000 and non-federal cost of $11,280,000. The authorized project consists of a 4.5 mile long diversion channel around the eastern side of the city of Roseau, 5.5 miles of levees with a height of 5 feet or less along the diversion channel, a flow restriction structure on the Roseau River, an inlet control structure, 2 storage areas east and west of the diversion channel and 2 highway bridge channel crossings. Recreation features of the project include 6.7 miles of multipurpose trails, 5.5 miles of off-road vehicle trails, 2 bird watching stations and a trailhead. The maximum cost for the authorized project, adjusted for allowable inflation in accordance with Section 902, is $33,149,000 (October 2012 price level).

The revised estimated project first cost is $41,864,000 (October 2012 price level). In general, the cost increase results from unanticipated site conditions and design refinements. The project cost includes $3,523,000 for separable recreation features. The federal share of the project first cost is estimated at $24,320,000 and the non-federal share is estimated at $17,544,000. The majority of lands, easements, rights-of-way, relocations and excavated material disposal areas required for the project have been acquired. The city of Roseau is the non-federal cost sharing sponsor and will be responsible for the operation, maintenance, repair, replacement and rehabilitation of the project after construction, at a cost currently estimated at $114,000 per year.

The project continues to be economically justified based on the reduction of flood damages. At the October 2012 price level, a 4.0 percent discount rate, and a 50-year period of economic analysis, the U.S. Army Corps of Engineers estimates the total equivalent average annual costs to be $2,223,000 and total equivalent average annual benefits to be $5,324,000. Net benefits are estimated at $3,102,000 and the benefit cost ratio is 2.4 to 1.

With respect to environmental compliance, a Finding of No Significant Impact was signed for the project on August 29, 2006. The Corps has determined that the changes resulting from differing site conditions and design refinements have not resulted in any appreciable change in the environmental consequences as described in the August 2006 Environmental Assessment prepared for the project.

The Office of Management and Budget (OMB) advises that there is no objection to the submission of the report to Congress and concludes that the report recommendation is consistent with the policy and programs of the President. OMB also advises that should Congress increase the project authorization for construction, the project would need to compete with other proposed investments in future budgets. A copy of OMB's letter, dated January 11, 2013, is enclosed. I am providing a copy of this transmittal and the OMB letter to the Subcommittee on Water Resources and the Environment of the House Committee on Transportation and Infrastructure, and the Subcommittee on Energy and Water Development of the House Committee on Appropriations. I am providing an identical letter to the President of the Senate.

Very truly yours,

Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)

Enclosures

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

MAY - 7 2013

Honorable John A. Boehner
Speaker of the House
of Representatives
U.S. Capitol Building, Room H-232
Washington, D.C. 20515-0001

Dear Mr. Speaker:

The Secretary of the Army recommends modifying the cost of the Wood River Levee System Reconstruction, Madison County, Illinois, project that was authorized by Section 1001(20) of the Water Resources Development Act (WRDA) of 2007. Section 1001(20) authorized reconstruction of features of the existing project, which was authorized by the Flood Control Act of 1938. The Flood Control Act of 1938 authorized a project to protect against a Mississippi River flood with a 52-foot stage on the St. Louis, Missouri gage. The river currently has less than a 0.2-percent chance of exceeding this stage in any given year, which equates to approximately a 500-year frequency interval. The recommended cost increase is necessary because the estimated project first cost exceeds the maximum project cost allowed by Section 902 of the WRDA of 1986, as amended. The enclosed report of the Director of Civil Works, Army Corps of Engineers, dated February 11, 2013, explains and supports the cost increase and includes other pertinent documents. The enclosed documents demonstrate that this flood risk management project remains economically justified and environmentally acceptable.

Section 1001(20) authorized the reconstruction or replacement of 38 gravity drains, 26 closure structures (including abandoning three railroad closure structures that are no longer used), and seven pump stations. When completed, this work would restore the existing project's ability to reduce urban flood damages in Madison County, which is across the Mississippi River from the city of St. Louis. Section 1001(20) authorized the work at a total first cost of $17,220,000, with a Federal cost share of $11,193,000 and a non-Federal cost share of $6,027,000. This total first cost equates to $19,870,000 at current (October 2012) price levels. The current maximum authorized cost, adjusted for modifications up to 20 percent and cost index changes in accordance with Section 902, as amended, is $23,414,000.

The project cost has increased primarily because many project features were more severely deteriorated than anticipated in 2007 and have required replacement rather than the planned reconstruction. Based on an October 2012 price level, the estimated project first cost is $25,672,000, which includes $4,873,000 for remaining work. In accordance with Section 103(a) of the WRDA of 1986, as amended, the Federal share of the project first cost would be $16,687,000 and the non-Federal share would be $8,895,000. The Wood River Levee and Drainage District, the non-Federal

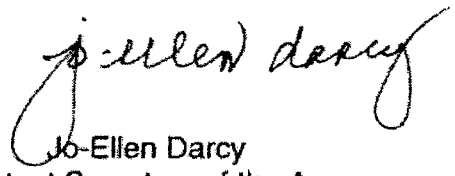
cost sharing sponsor, will be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction. The cost of OMRR&R is currently estimated at $175,000 per year.

The project continues to be economically justified based on reducing urban flood damages. At the October 2012 price level, a 3.75 percent discount rate, and a 50-year period of analysis, the estimated total equivalent average annual cost would be $1,337,000 and total equivalent average annual benefits would be $5,066,000, which includes all OMRR&R costs. Net benefits are estimated at $3,729,000 and the benefit-to-cost ratio would be 3.8 to 1.

A Finding of No Significant Impact (FONSI) was signed for the authorized project on March 23, 2006 based on the Wood River Levee System, Madison County, Illinois, Final General Reevaluation Report and Environmental Assessment dated March 2006. There have been no changes to the project since the FONSI was signed that warrant additional environmental compliance actions. The authorized project does not require any compensatory mitigation. The project continues to be environmentally acceptable.

The Office of Management and Budget (OMB) advises that there is no objection to the submission of the report to Congress and concludes that the report recommendation is consistent with the policy and programs of the President. OMB also advises that should Congress increase the project authorization for construction, the project would need to compete with other proposed investments in future budgets. A copy of OMB's letter, dated May 4, 2013, is enclosed. I am providing a copy of this transmittal and the OMB letter to the Subcommittee on Water Resources and Environment of the House Committee on Transportation and Infrastructure, and the Subcommittee on Energy and Water Development of the House Committee on Appropriations. I am providing an identical letter to the President of the Senate.

Very truly yours,



Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)

Enclosures

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

AUG -8 2013

Honorable Joseph R. Biden, Jr.
President of the Senate
U.S. Capitol Building, Room S-212
Washington, D.C. 20510-0012

Dear Mr. President:

The Secretary of the Army recommends increasing the authorized total project cost of the Corpus Christi Ship Channel (CCSC), Texas, Deep-Draft Navigation and Ecosystem Restoration Project. The increase is necessary because the construction cost is projected to exceed the maximum project cost established by Section 902 of the Water Resources Development Act (WRDA) of 1986. The enclosed Limited Re-evaluation Report, dated December 2012, sets forth the cost increase and documents that the project remains economically justified, technically sound and environmentally acceptable.

Section 1001(40) of the Water Resources Development Act (WRDA) of 2007 originally authorized the project at a project first cost of $188,110,000. The authorized project consists of deepening and widening of the CCSC from -45 feet to -52 feet, mean lower low water (MLLW), construction of Barge Shelves adjacent to the open bay portion of the CCSC, extension of the La Quinta Channel at a depth of 39 feet and construction of two separate ecosystem restoration features. After completion the components would generate measurable savings through reductions in shipping costs. The restoration components would protect and restore productive estuarine habitat. The maximum cost for the authorized project, adjusted for inflation in accordance with Section 902 of the WRDA of 1986, is $283,544,726 (October 2012 price levels). The revised project first cost exceeds the Section 902 limit.

The revised project first cost is $344,610,000 (October 2012 prices). The revised cost is the result of increases in costs for construction materials, fuel, labor, as well as design refinements. There are no changes in project location, purpose or scope. The federal share of the project first cost is estimated to be $169,593,000 and the non-federal share is estimated at $175,016,000. The federal government would be responsible for the operation, maintenance, repair, replacement and rehabilitation (OMRR&R) of the Barge Shelves after construction, at a cost currently estimated at $16,000 per year and would also be responsible for the OMRR&R of the La Quinta Extension after construction, at a cost currently estimated at $1,256,000 per year. The federal government is responsible for 100 percent of the costs of maintaining the main channel to a depth of -45 feet; the added cost of maintaining the channel to depths deeper than -45 feet is shared at the rate of 50 percent by the federal government and

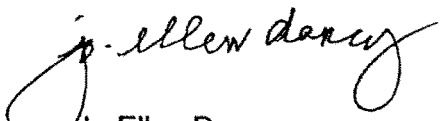
50 percent by the non-federal sponsor in accordance with Section 101 of WRDA 1986. OMRR&R costs for the main channel are estimated at $5,705,000 per year. The non-federal sponsor will be responsible for OMRR&R of the ecosystem restoration features of the project after construction, at a cost currently estimated at $166,260 per year.

The project continues to be economically justified based principally on a reduction in shipping costs and ecosystem restoration benefits. At the October 2012 price level, a 3.75 percent discount rate, and a 50-year period of economic analysis, the estimated total equivalent annual costs for the remaining construction are $23,693,000 and total equivalent annual benefits are $52,685,000. Net benefits are estimated at $28,991,000 and the benefit cost ratio is 2.2 to 1.

There have been no significant changes in the project area or sensitive resources that would result in impacts to resources not previously considered and accounted for in the 2003 Final Environmental Impact Statement. The October 1, 2007 Record of Decision remains applicable to the recommended plan.

The Office of Management and Budget (OMB) advises that there is no objection to the submission of the report to Congress and concludes that the report recommendation is consistent with the policy and programs of the President. OMB also advises that should Congress increase the project authorization for construction, the Corps would need to update and refine its analysis of the benefits and costs before proceeding with the fourth element of the project; and that this element of the project would need to compete as a separable element with other proposed investments in future budgets. A copy of OMB's letter, dated July 31, 2013, is enclosed. I am providing a copy of this transmittal and the OMB letter to the Subcommittee on Transportation and Infrastructure of the Senate Committee on Environment and Public Works, and the Subcommittee on Energy and Water Development of the Senate Committee on Appropriations. I am also providing an identical letter to the Speaker of the House of Representatives.

Very truly yours,



Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)

Enclosures

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

FEB 12 2014

Honorable John Boehner
Speaker of the House
of Representatives
U.S. Capitol Building, Room H-232
Washington, D.C. 20515-0001

Dear Mr. Speaker:

The Secretary of the Army recommends modifying the authorized total project cost of the Des Moines and Raccoon Rivers Project. The increase is necessary because the construction cost is projected to exceed the maximum allowed by Section 902 of the Water Resources Development Act (WRDA) of 1986. The enclosed Post Authorization Change Report (PACR) of the Director of Civil Works, Army Corps of Engineers (Corps), dated August 2013, explains and supports the cost increase and includes other pertinent documents. The enclosed documents demonstrate that the project remains economically justified, technically sound and environmentally acceptable.

Section 1001(27) of the Water Resources Development Act (WRDA) of 2007 authorized the project at a cost of $10,780,000. The Energy and Water Development Appropriations Act of 2010 authorized an increased total project cost to $16,500,000. The authorized project consists of approximately 7,500 feet of earthen levee and associated structures to provide the authorized level of flood risk reduction (FRR) to the Birdland Park area; an asphalt-surfaced recreational trail on a portion of the Birdland Park levee; approximately 5,700 feet of earthen levee; modifications to the Franklin Ave, Clark St, and Indiana Ave Pump Stations and associated structures which provide the authorized level of FRR to the Central Place area; elimination of 7 closures and improvements at 9 closure locations in the existing downtown FRR system; and provision of 18.2 acres of open water, riparian, and wetland habitat as environmental mitigation in the Chichaqua Wildlife Habitat Park. The maximum cost for the authorized project, adjusted for allowable inflation in accordance with Section 902, is $20,836,000 (October 2013 price levels).

Based on an October 2013 price level the updated estimated project first cost is $23,245,000, which includes sunk costs of $20,300,000 including the already constructed features, real estate costs, recreation costs and various pre-construction engineering and design costs associated with the overall Des Moines and Raccoon Rivers project. In general, the increase in the estimated project first cost is the result of increases in material costs and project quantities, and unforeseen subsurface conditions, which required more material, labor and handling. The Corps' Cost Engineering Center of Expertise completed its review of the project cost and certified the cost on 6 June 2013. The federal share of the authorized project is estimated at $14,990,300 and the non-federal share is estimated at $8,254,700. The non-federal

sponsor is responsible for the operation maintenance, repair, replacement and rehabilitation of the project after construction, at a cost currently estimated at $40,000 per year.

In accordance with certified Corps economic updating procedures, the project continues to be economically justified based principally on reduction of flood damages. At the October 2013 price level, a FY 2014 discount rate of 3.5 percent, and a 50-year period of economic analysis, the Corps estimates the total annual costs to be $1,034,000 and total equivalent annual benefits to be $2,357,000. Net benefits are estimated at $1,323,000 and the benefit cost ratio is 2.2 to 1.

A Finding of No Significant Impact (FONSI) was signed for the project on September 7, 2005. The Corps reviewed the PACR and the FONSI, and determined that the changes resulting from increases in material costs, increases in project quantities, and unforeseen subsurface conditions have not altered the project's original purpose, scope, or location; therefore, there is no change in environmental considerations for the project.

The Office of Management and Budget (OMB) advises that there is no objection to the submission of the report to Congress and concludes that the report recommendation is consistent with the policy and programs of the President. OMB also advises that should Congress increase the project authorization for construction, the project would need to compete with other proposed investments in future budgets. A copy of OMB's letter, dated February 3, 2014, is enclosed. I am providing a copy of this transmittal and the OMB letter to the Subcommittee on Water Resources and Environment of the House Committee on Transportation and Infrastructure, and the Subcommittee on Energy and Water Development of the House Committee on Appropriations. I am providing an identical letter to the President of the Senate.

Very truly yours,

Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)

Enclosures

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

FEB 26 2014

Honorable John A. Boehner
Speaker of the House
of Representatives
U.S. Capitol Building, Room H-232
Washington, D.C. 20515-0001

Dear Mr. Speaker:

The Secretary of the Army recommends modifying the cost of the Poplar Island, Maryland, project that was authorized by Section 537 of the Water Resources Development Act (WRDA) of 1996, as amended, and the cost of the expansion of the same project that was authorized by Section 3087 of the WRDA of 2007. The recommended cost increases are necessary because the respective current estimated project first costs exceed the maximum project costs allowed by Section 902 of the WRDA of 1986, as amended. The enclosed report of the Director of Civil Works, Army Corps of Engineers, dated July 22, 2013, explains and supports the cost increases and includes other pertinent documents. The enclosed documents demonstrate that this aquatic ecosystem restoration project remains justified.

The authorized project and expansion consist of restoring and expanding remote island habitat to provide aquatic, wetland and terrestrial habitat for fish, shellfish, reptiles, amphibians, birds and mammals through the beneficial use of approximately 68 million cubic yards of dredged material from the approach channels of the Baltimore Harbor and Channels navigation project and the Chesapeake and Delaware (C&D) Canal navigation project. The dredged material is being used to restore 1,715 acres of remote island habitat, including 840 acres of upland habitat at an elevation of 25 feet above mean lower low water (MLLW), 735 acres of wetland habitat that will be further divided into low marsh and high marsh, approximately 138 acres of open water embayment, and 10 acres of tidal gut leading into the wetlands. This remote island habitat will eventually provide 26,300 island community units at an average cost of $100,500 per unit.

Section 537 authorized the restoration of a 1,140-acre island in Chesapeake Bay at a total first cost of $307,000,000. Section 318 of the WRDA of 2000 modified the authorization to provide that the non-Federal share of the cost of the project may be cash or in-kind services or materials, and to provide credit toward the non-Federal share of the cost of design and construction work carried out by the non-Federal interest before the date of execution of a project cooperation agreement for the project if the Secretary determines that the work is integral to the project. Section 3087 further modified the project to expand the island by 575 acres and raise the elevation five feet at a total first cost of $260,000,000.

The maximum authorized costs, adjusted for modifications up to 20 percent and cost index changes in accordance with Section 902, as amended, are $611,798,000 for the original project and $447,173,000 for the expansion (October 2013 price levels). The total current maximum authorized cost of these two elements is $1,058,971,000. As described in the attached reports, the revised estimated total project first cost is $662,294,000 for the original project and $571,617,000 for the expansion. The total revised cost of these two elements is an estimated $1,233,911,000. The increases are attributed to three major factors: (1) 34 percent of the increase is due to dredged material transportation and placement costs; (2) 36 percent of the increase is due to site operations costs; and (3) 23 percent of the increase is due to project contingency changes. These increases are driven by extending the project's duration, increasing fuel costs, and including risk analysis in the cost engineering process.

In accordance with Section 537, the revised Federal cost share of the original project is about $496,721,000 (75 percent) and the non-Federal share is about $165,574,000 (25 percent). The revised Federal cost share of the expansion is about $371,551,000 (65 percent) and the non-Federal share is about $200,066,000 (35 percent) in accordance with Section 3087. The total revised Federal share of the project is about $868,272,000 and the total non-Federal share is about $365,639,000. At a 3.5 percent discount rate and a 37-year period of economic analysis, the estimated total equivalent annual cost of the original project and expansion is about $54,063,000, including the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R). The Maryland Port Administration is the non-Federal cost sharing sponsor and will be responsible for the OMRR&R of the original project and expansion after construction, currently estimated at $3,200,000 annually.

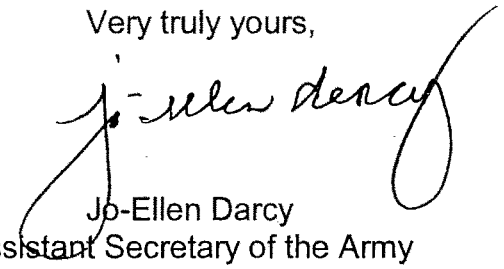
The project and expansion remain justified based on ecosystem restoration benefits. The island habitat is a unique component of the Chesapeake Bay and will directly improve the health, richness and sustainability of aquatic and wildlife species, including the American black duck, a key species named in Executive Order 13508, *Chesapeake Bay Protection and Restoration*. The project has capacity to accept dredged material until about 2029, at which time another disposal site will be needed.

A Record of Decision (ROD) was signed for the existing island project on September 4, 1998, based on the Final Integrated Feasibility Report and Environmental Impact Statement, dated February 1996, and a second ROD was signed for the expansion on October 11, 2006, based on the Final General Reevaluation Report and Supplemental Environmental Impact Statement, dated September 2005. There have been no changes to the project since the RODs were signed that warrant additional environmental compliance actions. The project does not require any compensatory mitigation. The project continues to be environmentally acceptable.

The Office of Management and Budget (OMB) advises that there is no objection to the submission of the report to Congress and concludes that the report recommendation is consistent with the policy and programs of the President. OMB also advises that should Congress increase the project authorization for construction, the

project would need to compete with other proposed investments in future budgets. A copy of OMB's letter, dated February 12, 2014, is enclosed. I am providing a copy of this transmittal and the OMB letter to the Subcommittee on Water Resources and Environment of the House Committee on Transportation and Infrastructure, and the Subcommittee on Energy and Water Development of the House Committee on Appropriations. I am providing an identical letter to the President of the Senate.

Very truly yours,



Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)

Enclosures

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

MAR 18 2014

Honorable John A. Boehner
Speaker of the House
of Representatives
U.S. Capitol Building, Room H-232
Washington, D.C. 20515-0001

Dear Mr. Speaker:

The Secretary of the Army recommends modifying the cost of the Illinois Shoreline Erosion, Interim III, Wilmette, Illinois, to the Illinois-Indiana State Line (Chicago Shoreline) project that was authorized by Section 101(a)(12) of the Water Resources Development Act (WRDA) of 1996, as amended. The recommended cost increases are necessary because the respective current estimated project first cost exceeds the maximum project cost allowed by Section 902 of the WRDA of 1986, as amended. The enclosed report of the Director of Civil Works, Army Corps of Engineers, dated September 10, 2013, explains and supports the cost increases and includes other pertinent documents. The enclosed documents demonstrate that this storm damage risk reduction project remains economically justified and environmentally acceptable.

Section 101(a)(12) authorized the construction of a locally preferred plan that consisted of approximately nine miles of hurricane and storm damage reduction features, including eight miles of new revetment, and reconstruction of an offshore breakwater at a total first cost of $204,000,000, with an estimated Federal cost of $110,000,000 and an estimated non-Federal cost of $94,000,000. Section 318 of the WRDA of 1990 modified the authorization to provide credit or reimbursement for the Federal share of project costs for additional project work undertaken by the non-Federal interests, including certain work that occurred before the signing of the project cooperation agreement.

The maximum authorized cost, adjusted for modifications up to 20 percent and cost index changes in accordance with Section 902, as amended, is $327,350,000 for the project (October 2013 price levels). The revised estimated total project first cost is $540,546,000. The increases are attributed to design changes necessary to address public safety, regulatory concerns, public acceptability, and hazardous waste investigations. In accordance with Section 101(a)(12), the Federal cost share would be about $185,441,000 (34.3 percent) and the non-Federal share would be about $355,105,000 (65.7 percent). The City of Chicago and the Chicago Park District are the non-Federal cost sharing sponsors and will be responsible for the operation, maintenance, repair, replacement, and rehabilitation, currently estimated at $507,000.

At a 3.5 percent discount rate, which is the new rate starting in October, 2013, and a 50-year period of economic analysis, the estimated total equivalent annual cost of the project is about $31,543,000 and the equivalent average annual benefit is about $229,300,000. The equivalent annual net benefits are $197,757,000 and the benefit-to-cost ratio is 7.3-to-1.

A Finding of No Significant Impact was signed for the project on July 2, 1993, based on an Environmental Assessment (EA). Since then, there have been nine supplemental EAs for the project. These National Environmental Policy Act documents adequately address the environmental impacts of the project. The project does not require any compensatory mitigation. The project continues to be environmentally acceptable.

The Office of Management and Budget (OMB) advises that there is no objection to the submission of the report to Congress and concludes that the report recommendation is consistent with the policy and programs of the President. OMB also advises that should Congress increase the project authorization for construction, the project would need to compete with other proposed investments in future budgets. A copy of OMB's letter, dated February 28, 2014, is enclosed. I am providing a copy of this transmittal and the OMB letter to the Subcommittee on Transportation and Infrastructure of the Senate Committee on Environment and Public Works, and the Subcommittee on Energy and Water Development of the Senate Committee on Appropriations. I am providing an identical letter to the Speaker of the House of Representatives.

Very truly yours,

Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)

Enclosures

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

MAR 20 2014

Honorable John Boehner
Speaker of the House
of Representatives
U.S. Capitol Building, Room H-232
Washington, D.C. 20515-0001

Dear Mr. Speaker:

The Secretary of the Army recommends increasing the authorized total project cost of the Western Sarpy and Clear Creek, Nebraska flood risk reduction project. The increase is necessary because the construction costs are projected to exceed the maximum total project cost established by Section 902 of the Water Resources Development Act (WRDA) of 1986, as amended. The enclosed report of the Director of Civil Works, Army Corps of Engineers, dated May 14, 2013, explains and supports the cost increases and includes other pertinent documents. The enclosed documents demonstrate that the project remains economically justified, technically sound and environmentally acceptable.

Section 101(b)(21) of WRDA 2000 contingently authorized the project at a total first cost of $15,643,000. Section 3113 of WRDA 2007 increased the authorized project cost to $21,664,000. The authorized project consists of improving 16 miles of pre-project non-federal levees along the Lower Platte River in Saunders and Sarpy Counties, Nebraska. The project increases and provides a uniform level of protection by improving the existing levees and filling in gaps in the levees. The completed project is expected to provide about $1.9 million annually in flood risk reduction benefits.

The maximum authorized cost, adjusted for modifications up to 20 percent and cost index changes in accordance with Section 902, as amended, is $29,010,000 (October 2013 price levels). Based on cost increases described in the report, the *revised estimated project first cost (without inflation) is $43,275,100. In general,* the increase in estimated total project cost results from low initial estimates, design changes, and unanticipated costs from lengthened design and construction timeframes.

The federal share of the project first cost is estimated to be $28,128,800 and the non-federal share is estimated at $15,146,300. The majority of lands, easements, rights-of-way, relocations, and excavated material disposal areas required for the project have been obtained since initiating construction. The acquisitions required to complete the project total 140 acres. The non-federal cost sharing sponsors of the project are the Papio-Missouri River Natural Resources District, the Lower Platte North

Natural Resources District, and the Lower Platte South Natural Resources District. They will be responsible for the operation, maintenance, repair, replacement, and rehabilitation of the project after construction, at a cost currently estimated at $8,600 per year.

At a 3.5 percent discount rate, which is the new rate starting in October 2013, and a 50-year period of economic analysis, the estimated total equivalent annual cost of the project is about $2,007,100 and the equivalent average annual benefit is about $4,031,900. The equivalent annual net benefits are $2,024,800 and the benefit-to-cost ratio is 2.0 to 1.

With respect to environmental compliance, a Record of Decision was signed for the project in 2003. The Corps has determined that the changes resulting from differing site conditions and design refinements have not altered the project's original purpose and scope, nor have they resulted in any appreciable change in the environmental consequences as described in the December 2003 Environmental Impact Statement prepared for the project.

The Office of Management and Budget (OMB) advises that there is no objection to the submission of the report to Congress and concludes that the report recommendation is consistent with the policy and programs of the President. The project will need to compete with other proposed investments in future Budgets. A copy of OMB's letter dated February 28, 2014, is enclosed. I am providing a copy of this transmittal and the OMB letter to the House Committee on Transportation and Infrastructure Subcommittee on Water Resources and Environment and the House Committee on Appropriations Subcommittee on Energy and Water Development. I am providing an identical letter to the President of the Senate.

Very truly yours,

Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)

Enclosures

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

APR 14 2014

Honorable John A. Boehner
Speaker of the House
of Representatives
U.S. Capitol Building, Room H-232
Washington, D.C. 20515-0001

Dear Mr. Speaker:

The Secretary of the Army recommends modifying the cost of the Cape Girardeau, Missouri, Reconstruction project that was authorized by Title I of the Energy and Water Development Appropriations Act of 2004. The recommended cost increases are necessary because the respective current estimated project first costs exceed the maximum project costs allowed by Section 902 of the Water Resources Development Act of 1986, as amended. The enclosed report of the Director of Civil Works, Army Corps of Engineers, dated November 21, 2013, explains and supports the cost increases and includes other pertinent documents. The enclosed documents demonstrate that this flood risk management project remains economically justified and environmentally acceptable.

The Cape Girardeau project was originally authorized by Section 204 of the Flood Control Act of 1950 (P.L. 81-516) at a cost of $4,756,000 with construction a 100 percent Federal responsibility and lands, easements, and rights-of-way a non-Federal responsibility. Title I of the Energy and Water Development Appropriations Act of 2004 (P.L. 108-137) authorized reconstruction at a total cost of $9,000,000 with cost sharing as originally authorized and subject to a Secretary determination that the reconstruction is technically sound and environmentally acceptable. On December 19, 2007, the Assistant Secretary of the Army (Civil Works) determined that the reconstruction is technically sound and environmentally acceptable based on an Engineering Documentation Report prepared by the Corps of Engineers. The project consists of an approximately 1.2-mile-long floodwall system that protects the City of Cape Girardeau against Mississippi River floods with less than a 0.2 percent chance of exceedance (500-year frequency).

The maximum authorized cost, adjusted for modifications up to 20 percent and cost index changes in accordance with Section 902, as amended, is $14,194,000 for the project (October 2013 price levels). The revised estimated total project first cost is $18,433,000. The increase is attributed to design changes necessary to address differing site conditions and to incorporate design refinements resulting from lessons learned on similar projects. As authorized, the Federal cost share would be about $17,687,000 (96 percent) and the non-Federal share would be about $746,000

(four percent). The City of Cape Girardeau is the non-Federal cost sharing sponsor and will be responsible for the operation, maintenance, repair, replacement, and rehabilitation, currently estimated at $193,000.

Based on a 3.5 percent discount rate, which is the new rate starting in October, 2013, and a 50-year period of economic analysis, the estimated total equivalent average annual cost of the project is about $947,000 and the equivalent average annual benefit is about $1,863,000. The equivalent annual net benefits are $916,000 and the benefit-to-cost ratio is 2.0-to-1.

A Finding of No Significant Impact was signed for the reconstruction project on June 16, 2005, based on an Environmental Assessment. The subsequent design changes would not alter the environmental effects of the project. The existing National Environmental Policy Act documents adequately address the environmental impacts of the project. The project does not require any compensatory mitigation and it continues to be environmentally acceptable.

The Office of Management and Budget (OMB) advises that there is no objection to the submission of the report to Congress and concludes that the report recommendation is consistent with the policy and programs of the President with the exception of the level of non-Federal cost sharing. As noted above and in the report, the reconstruction of this project is authorized with construction a 100 percent Federal responsibility and the cost to acquire land, easements, rights of way, relocations, and disposal a non-Federal responsibility. Administration policy requires 65 percent Federal and 35 percent non-Federal cost sharing for flood risk management projects, including this project. OMB advises that should Congress authorize a cost increase, the project would need to compete with other proposed investments for funding in future budgets. A copy of OMB's letter, dated April 9, 2014, is enclosed. I am providing a copy of this transmittal and the OMB letter to the Subcommittee on Water Resources and Environment of the House Committee on Transportation and Infrastructure, and the Subcommittee on Energy and Water Development of the House Committee on Appropriations. I am providing an identical letter to the President of the Senate.

Very truly yours,

Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)

Enclosures

SEC. 7004. EXPEDITED CONSIDERATION IN THE HOUSE AND SENATE

Senate § 1004. No comparable House section.—House recedes, with an amendment.

ADVISORY OF EARMARKS

''H.R. 3080 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the United States House of Representatives.''

BILL SHUSTER,
JOHN J. DUNCAN, Jr., of Tennessee,
FRANK A. LOBIONDO,
SAM GRAVES of Missouri,
SHELLEY MOORE CAPITO,
CANDICE S. MILLER of Michigan,
DUNCAN HUNTER,
LARRY BUCSHON,
BOB GIBBS,
RICHARD L. HANNA,
DANIEL WEBSTER of Florida,
TOM RICE of South Carolina,
MARKWAYNE MULLIN,
RODNEY DAVIS of Illinois,
NICK J. RAHALL II,
PETER A. DEFAZIO,
CORRINE BROWN of Florida,
EDDIE BERNICE JOHNSON of Texas,
TIMOTHY H. BISHOP of New York,
DONNA F. EDWARDS,
JOHN GARAMENDI,
JANICE HAHN,
LOIS FRANKEL of Florida,
CHERI BUSTOS,

From the Committee on Natural Resources, for consideration of secs. 103, 115, 144, 146, and 220 of the House bill, and secs. 2017, 2027, 2028, 2033, 2051, 3005, 5002, 5003, 5005, 5007, 5012, 5018, 5020, title XII, and sec. 13002 of the Senate amendment, and modifications committed to conference:

DOC HASTINGS of Washington,
ROB BISHOP of Utah,
GRACE F. NAPOLITANO,
Managers on the Part of the House.

BARBARA BOXER,
THOMAS R. CARPER,
BENJAMIN L. CARDIN,
SHELDON WHITEHOUSE,
BERNARD SANDERS,
DAVID VITTER,
JAMES M. INHOFE,
JOHN BARRASSO,
Managers on the Part of the Senate.

COMMUNICATION FROM THE HONORABLE VERN G. BUCHANAN, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable VERN G. BUCHANAN, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 8, 2014.

Hon. JOHN A. BOEHNER,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally pursuant to rule VIII of the Rules of the House of Representatives that I have been served with a subpoena, issued by the Twelfth Judicial Circuit in and for Sarasota County, State of Florida, for documents in a civil case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

VERN G. BUCHANAN,
Member of Congress.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 14, 2014.

Hon. JOHN A. BOEHNER,
The Speaker, U.S. Capitol, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 14, 2014 at 9:59 a.m.:

That the Senate agreed to S. Res. 444.

With best wishes, I am

Sincerely,

KAREN L. HAAS.

PUBLICATION OF BUDGETARY MATERIAL

STATUS REPORT ON CURRENT SPENDING LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2014, FY 2015, AND THE 10-YEAR PERIOD FY 2015 THROUGH FY 2024

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, May 15, 2014.

MR. RYAN of WISCONSIN. Mr. Speaker, To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting an updated status report on the current levels of on-budget spending and revenues for fiscal years 2014, 2015, and for the 10-year period of fiscal year 2015 through fiscal year 2024. The report is current through May 9, 2014.

The term ''current level'' refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature.

Table 1 in the report compares the current levels of total budget authority, outlays, and revenues for fiscal years 2014, 2015, and the 10-year period of fiscal year 2015 through 2024 to the overall limits filed in the Congressional Record on January 27, 2014 for fiscal year 2014 and on April 29, 2014 for fiscal years 2015 and 2015–2024 as required by the Bipartisan Budget Act of 2013.

This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 2015 because appropriations for those years have not yet been considered.

Table 2 compares the current levels of budget authority and outlays for action completed by each authorizing committee with the ''section 302(a)'' allocations filed on January 27, 2014 for fiscal year 2014 and the allocations filed on April 29, 2014 for fiscal years 2015 and the 10–year period 2015 through 2024 as required by the Bipartisan Budget Act of 2013. For fiscal year 2014, ''action'' refers to legislation enacted after the adoption of the levels set forth on January 27, 2014. For fiscal years 2015 and the 10-year period 2015–2024, ''action'' refers to legislation enacted after the adoption of the levels set for on April 29, 2014.

This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) allocation of new budget authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

Tables 3 and 4 compare the current status of discretionary appropriations for fiscal year 2014 and 2015 with the ''section 302(b)'' sub-allocations of discretionary budget authority and outlays among Appropriations subcommittees. The comparison is needed to enforce section 302(f) of the Budget Act because the point of order under that section equally applies to measures that would breach the applicable section 302(b) sub-allocation. The table also provides supplementary information on spending in excess of the base discretionary spending caps allowed under section 251(b) of the Budget Control Act.

Tables 5 and 6 give the current level for fiscal year 2015 and 2016, respectively, of accounts identified for advance appropriations under section 601 of H. Con. Res. 25. This list is needed to enforce section 601 of the budget resolution, which creates a point of order against appropriation bills that contain advance appropriations that are: (i) not identified in the statement of managers or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.

In addition, letters from the Congressional Budget Office are attached that summarize and compare the budget impact of enacted legislation that occurred after adoption of the budget resolution against the budget resolution aggregates in force.

If you have any questions, please contact Paul Restuccia.

Sincerely,

PAUL RYAN,
Chairman.

TABLE 1—STATUS OF THE FISCAL YEAR 2014 AND 2015 CONGRESSIONAL BUDGET AS PROVIDED FOR BY THE BIPARTISAN BUDGET ACT OF 2013

[Reflecting Action Completed as of May 9, 2014 (On-budget amounts, in millions of dollars)]

	Fiscal Year 2014 [1]	Fiscal Year 2015 [2]	Fiscal Years 2015–2024
Appropriate Level:			
Budget Authority	2,924,837	3,025,306	n.a.
Outlays	2,937,044	3,025,032	n.a.
Revenues	2,311,026	2,533,388	31,202,135
Current Level:			
Budget Authority	2,934,189	2,014,204	n.a.
Outlays	2,945,659	2,430,145	n.a.
Revenues	2,311,036	2,533,388	31,202,135

TABLE 1—STATUS OF THE FISCAL YEAR 2014 AND 2015 CONGRESSIONAL BUDGET AS PROVIDED FOR BY THE BIPARTISAN BUDGET ACT OF 2013—Continued

[Reflecting Action Completed as of May 9, 2014 (On-budget amounts, in millions of dollars)]

	Fiscal Year 2014 [1]	Fiscal Year 2015 [2]	Fiscal Years 2015–2024
Current Level over (+)/under (−)			
Appropriate Level:			
Budget Authority	+9,352	−1,011,102	n.a.
Outlays	+8,615	−594,887	n.a.
Revenues	+10	0	0

n.a. = Not applicable because annual appropriations Acts for fiscal years 2016 through 2024 will not be considered until future sessions of Congress.

[1] Section 111(b) of the Bipartisan Budget Act of 2013 required the Chairman of the Committee on the Budget in the House of Representatives to file aggregate budgetary levels for fiscal year 2014 for purposes of enforcing section 311 of the Congressional Budget Act of 1974. The spending and revenue aggregates for fiscal year 2014 were subsequently filed on January 27, 2014. The current level for this report begins with the budgetary levels filed on January 27, 2014 and makes adjustments to those levels for enacted legislation.

[2] Section 115(b) of the Bipartisan Budget Act of 2013 required the Chairman of the Committee on the Budget in the House of Representatives to file aggregate budgetary levels for fiscal year 2015 and for fiscal years 2015–2024 for purposes of enforcing section 311 of the Congressional Budget Act of 1974. The spending and revenue aggregates for fiscal year 2015 were subsequently filed on April 29, 2014. The current level for this report begins with the budgetary levels filed on April 28, 2014 and makes adjustments to those levels for enacted legislation.

TABLE 2—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR RESOLUTION CHANGES

[Reflecting Action Completed as of May 9, 2014 (Fiscal Years, in millions of dollars)]

House Committee	2014		2015		2015–2024	
	BA	Outlays	BA	Outlays	BA	Outlays
Agriculture:						
Allocation	0	0	0	0	0	0
Current Level	+3,243	+2,124	0	0	0	0
Difference	+3,243	+2,124	0	0	0	0
Armed Services:						
Allocation	0	0	0	0	0	0
Current Level	+4	+4	0	0	0	0
Difference	+4	+4	0	0	0	0
Education and the Workforce:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Energy and Commerce:						
Allocation	0	0	0	0	0	0
Current Level	+6,159	+6,157	0	0	0	0
Difference	+6,159	+6,157	0	0	0	0
Financial Services:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Foreign Affairs:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Homeland Security:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
House Administration:						
Allocation	0	0	0	0	0	0
Current Level	−34	0	0	0	0	0
Difference	−34	0	0	0	0	0
Judiciary:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Natural Resources:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Oversight and Government Reform:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Science, Space and Technology:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Transportation and Infrastructure:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Ways and Means:						
Allocation	0	0	0	0	0	0
Current Level	−20	−20	0	0	0	0
Difference	−20	−20	0	0	0	0

TABLE 3—DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2014—COMPARISON OF CURRENT STATUS WITH APPROPRIATIONS COMMITTEE 302(a) ALLOCATION AND APPROPRIATIONS SUBCOMMITTEE 302(a) SUB-ALLOCATIONS AS OF MAY 9, 2014

[Figures in Millions] [1]

	302(b) allocations [1]		302(b) for GWOT [1]		Current status general purpose		Current status GWOT		General purpose less 302(b)		GWOT less 302(b)	
	BA	OT	BA	OT	BA	OT	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development, FDA	n.a.	n.a.	n.a.	n.a.	20,880	22,092	0	0	n.a.	n.a.	n.a.	n.a.
Commerce, Justice, Science	n.a.	n.a.	n.a.	n.a.	51,600	60,756	0	0	n.a.	n.a.	n.a.	n.a.
Defense	n.a.	n.a.	n.a.	n.a.	486,851	528,707	85,191	43,140	n.a.	n.a.	n.a.	n.a.
Energy and Water Development	n.a.	n.a.	n.a.	n.a.	34,060	39,652	0	0	n.a.	n.a.	n.a.	n.a.
Financial Services and General Government	n.a.	n.a.	n.a.	n.a.	21,851	23,054	0	0	n.a.	n.a.	n.a.	n.a.
Homeland Security	n.a.	n.a.	n.a.	n.a.	39,270	46,045	227	182	n.a.	n.a.	n.a.	n.a.
Interior, Environment	n.a.	n.a.	n.a.	n.a.	30,058	32,154	0	0	n.a.	n.a.	n.a.	n.a.
Labor, Health and Human Services, Education	n.a.	n.a.	n.a.	n.a.	156,773	159,953	0	0	n.a.	n.a.	n.a.	n.a.
Legislative Branch	n.a.	n.a.	n.a.	n.a.	4,258	4,192	0	0	n.a.	n.a.	n.a.	n.a.
Military Construction and Veterans Affairs	n.a.	n.a.	n.a.	n.a.	73,299	76,278	0	0	n.a.	n.a.	n.a.	n.a.

TABLE 3—DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2014—COMPARISON OF CURRENT STATUS WITH APPROPRIATIONS COMMITTEE 302(a) ALLOCATION AND APPROPRIATIONS SUBCOMMITTEE 302(a) SUB-ALLOCATIONS AS OF MAY 9, 2014—Continued

[Figures in Millions] [1]

	302(b) allocations [1]		302(b) for GWOT [1]		Current status general purpose		Current status GWOT		General purpose less 302(b)		GWOT less 302(b)	
	BA	OT	BA	OT	BA	OT	BA	OT	BA	OT	BA	OT
State, Foreign Operations	n.a.	n.a.	n.a.	n.a.	42,481	45,818	6,520	1,885	n.a.	n.a.	n.a.	n.a.
Transportation, HUD	n.a.	n.a.	n.a.	n.a.	50,856	116,465	0	0	n.a.	n.a.	n.a.	n.a.
Full Committee Allowance	n.a.	n.a.	n.a.	n.a.	0	0	0	0	n.a.	n.a.	n.a.	n.a.
Total	n.a.	n.a.	n.a.	n.a.	1,012,237	1,155,166	91,938	45,207	n.a.	n.a.	n.a.	n.a.

Comparison of Total Appropriations and 302(a) allocation [2]	General purpose		GWOT	
	BA	OT	BA	OT
302(a) Allocation	1,012,237	1,154,816	91,938	45,207
Total Appropriations	1,012,237	1,155,166	91,938	45,207
Total Appropriations vs. 302(a) Allocation	0	+350	0	0

Memorandum	Amounts assumed in 302(b) [1]		Emergency requirements		Disaster funding		Program integrity	
Spending in Excess of Base Budget Control Act Caps for Sec. 251(b) Designated Categories	BA	OT	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development, FDA	n.a.	n.a.	0	0	0	0	0	0
Commerce, Justice, Science	n.a.	n.a.	0	0	0	0	0	0
Defense	n.a.	n.a.	0	0	0	0	0	0
Energy and Water Development	n.a.	n.a.	0	0	0	0	0	0
Financial Services and General Government	n.a.	n.a.	0	0	0	0	0	0
Homeland Security	n.a.	n.a.	0	0	5,626	281	0	0
Interior, Environment	n.a.	n.a.	0	0	0	0	0	0
Labor, Health and Human Services, Education	n.a.	n.a.	0	0	0	0	924	832
Legislative Branch	n.a.	n.a.	0	0	0	0	0	0
Military Construction and Veterans Affairs	n.a.	n.a.	0	0	0	0	0	0
State, Foreign Operations	n.a.	n.a.	0	0	0	0	0	0
Transportation, HUD	n.a.	n.a.	0	0	0	0	0	0
Totals	n.a.	n.a.	0	0	5,626	281	924	832

[1] The original 302(a) allocation to the Committee on Appropriations contained in H.Rpt. 113–17 for the Concurrent Resolution on the Budget-Fiscal Year 2014 (H. Con. Res. 25) was revised on January 14, 2014, consistent with section 101 of the Bipartisan Budget Act of 2013. The House Committee on Appropriations did not file revised 302(b) allocations after the final 302(a) allocation was provided—hence there are no valid 302(b)'s in force for fiscal year 2014.
[2] Spending designated as emergency is not included in the current status of appropriations shown above.

TABLE 4—DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2015—COMPARISON OF CURRENT STATUS WITH APPROPRIATIONS COMMITTEE 302(a) ALLOCATION AND APPROPRIATIONS SUBCOMMITTEE 302(a) SUB-ALLOCATIONS AS OF MAY 9, 2014

[Figures in Millions] [1]

	302(b) allocations		302(b) for GWOT [1]		Current status general purpose [2]		Current status GWOT		General purpose less 302(b)		GWOT less 302(b)	
	BA	OT	BA	OT	BA	OT	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development, FDA	n.a.	n.a.	n.a.	n.a.	12	6,965	0	0	n.a.	n.a.	n.a.	n.a.
Commerce, Justice, Science	n.a.	n.a.	n.a.	n.a.	0	22,702	0	0	n.a.	n.a.	n.a.	n.a.
Defense	n.a.	n.a.	n.a.	n.a.	39	204,159	0	0	n.a.	n.a.	n.a.	n.a.
Energy and Water Development	n.a.	n.a.	n.a.	n.a.	0	17,690	0	0	n.a.	n.a.	n.a.	n.a.
Financial Services and General Government	n.a.	n.a.	n.a.	n.a.	71	5,670	0	0	n.a.	n.a.	n.a.	n.a.
Homeland Security	n.a.	n.a.	n.a.	n.a.	9	19,346	0	0	n.a.	n.a.	n.a.	n.a.
Interior, Environment	n.a.	n.a.	n.a.	n.a.	0	12,296	0	0	n.a.	n.a.	n.a.	n.a.
Labor, Health and Human Services, Education	n.a.	n.a.	n.a.	n.a.	24,691	115,210	0	0	n.a.	n.a.	n.a.	n.a.
Legislative Branch	4,258	4,332	n.a.	n.a.	3,323	3,491	0	0	−935	−841	n.a.	n.a.
Military Construction and Veterans Affairs	71,499	77,455	n.a.	n.a.	71,499	76,100	0	0	0	−1,355	n.a.	n.a.
State, Foreign Operations	n.a.	n.a.	n.a.	n.a.	0	28,179	0	0	n.a.	n.a.	n.a.	n.a.
Transportation, HUD	n.a.	n.a.	n.a.	n.a.	4,400	80,140	0	0	n.a.	n.a.	n.a.	n.a.
Full Committee Allowance	n.a.	n.a.	n.a.	n.a.	0	0	0	0	n.a.	n.a.	n.a.	n.a.
Total	75,757	81,787	n.a.	n.a.	104,044	591,948	0	0	n.a.	n.a.	n.a.	n.a.

Comparison of Total Appropriations and 302(a) allocation	General purpose		GWOT	
	BA	OT	BA	OT
302(a) Allocation	1,013,628	1,141,432	85,357	39,981
Total Appropriations	104,044	591,948	0	0
Total Appropriations vs. 302(a) Allocation	−909,584	−549,484	85,357	39,981

Memorandum	Amounts assumed in 302(b) [1]		Emergency requirements		Disaster funding		Program integrity	
Spending in Excess of Base Budget Control Act Caps for Sec. 251(b) Designated Categories	BA	OT	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development, FDA	n.a.	n.a.	0	0	0	0	0	0
Commerce, Justice, Science	n.a.	n.a.	0	0	0	0	0	0
Defense	n.a.	n.a.	0	0	0	0	0	0
Energy and Water Development	n.a.	n.a.	0	0	0	0	0	0
Financial Services and General Government	n.a.	n.a.	0	0	0	0	0	0
Homeland Security	n.a.	n.a.	0	0	0	0	0	0
Interior, Environment	n.a.	n.a.	0	0	0	0	0	0
Labor, Health and Human Services, Education	n.a.	n.a.	0	0	0	0	0	0
Legislative Branch	0	0	0	0	0	0	0	0
Military Construction and Veterans Affairs	0	0	0	0	0	0	0	0
State, Foreign Operations	n.a.	n.a.	0	0	0	0	0	0
Transportation, HUD	n.a.	n.a.	0	0	0	0	0	0
Totals	n.a.	n.a.	0	0	0	0	0	0

[1] The Committee on Appropriations filed interim 302(b) allocations for the Legislative Branch and Military Construction and Veterans Affairs subcommittees only on April 29, 2014. The Committee has announced it will file the remaining 302(b) sub-allocations at a later date.
[2] Spending designated as emergency is not included in the current status of appropriations shown in this table.

TABLE 5—2015 ADVANCE APPROPRIATIONS PURSUANT TO H.CON.RES. 25 AS OF MAY 9, 2014

[Budget Authority in Millions]

Section 601(d)(1) Limits	2,015
Appropriate Level	55,634
Enacted Advances:	
Accounts Identified for Advances:	
Department of Veterans Affairs	
Medical Services	45,016
Medical Support and Compliance	5,880
Medical Facilities	4,739
Subtotal, enacted advances [1]	55,635
Enacted Advances vs. Section 601(d)(1) Limit	+1
Section 601(d)(2) Limits	2,015
Appropriate Level	28,852
Enacted Advances:	
Accounts Identified for Advances:	
Payment to Postal Service	71
Employment and Training Administration	1,772
Education for the Disadvantaged	10,841
School Improvement Programs	1,681
Special Education	9,283
Career, Technical and Adult Education	791
Tenant-based Rental Assistance	4,000
Project-based Rental Assistance	400
Subtotal, enacted advances [1]	28,839
Enacted Advances vs. Section 601(d)(2) Limit	−13
Previously Enacted Advance Appropriations [2]	2,015
Corporation for Public Broadcasting	445
Total, enacted advances [1]	84,919

[1] Line items may not add to total due to rounding.
[2] Funds were appropriated in Public Law 113–6.

TABLE 6—2016 ADVANCE APPROPRIATIONS PURSUANT TO SECTION 115(c) OF THE BIPARTISAN BUDGET ACT OF 2013 AS OF MAY 9, 2014

[Budget Authority]

Section 601(d)(1) Limits	2,016
Appropriate Level	58,662,202,000
Enacted Advances:	
Accounts Identified for Advances:	
Department of Veterans Affairs	
Medical Services	0
Medical Support and Compliance	0
Medical Facilities	0
Subtotal, enacted advances [1]	0
Enacted Advances vs. Section 601(d)(1) Limit	−58,662,202,000
Section 601(d)(2) Limits	2016
Appropriate Level	28,781,000,000
Enacted Advances:	
Accounts Identified for Advances:	
Employment and Training Administration	0
Education for the Disadvantaged	0
School Improvement Programs	0
Special Education	0
Career, Technical and Adult Education	0
Tenant-based Rental Assistance	0
Project-based Rental Assistance	0
Subtotal, enacted advances [1]	0
Enacted Advances vs. Section 601(d)(2) Limit	−28,781,000,000
Previously Enacted Advance Appropriations	2,016
Corporation for Public Broadcasting [2]	445,000,000
Total, enacted advances [1]	445,000,000

[1] Line items may not add to total due to rounding.
[2] Funds were appropriated in Public Law 113–76.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 15, 2014.

Hon. PAUL RYAN,
Chairman, Committee on the Budget,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2014 budget and is current through May 9, 2014. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 25, the Concurrent Resolution on the Budget for Fiscal Year 2014, as approved by the House of Representatives and subsequently revised.

Since my last letter dated October 24, 2013, the Congress has cleared and the President has signed the following acts that affect budget authority, outlays, or revenues for fiscal year 2014:

National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66);

Bipartisan Budget Act of 2013/Pathway for SGR Reform Act of 2013 (Public Law 113–67);

Consolidated Appropriations Act, 2014 (Public Law 113–76);

Agricultural Act of 2014 (Public Law 113–79);

Protecting Access to Medicare Act of 2014 (Public Law 113–93);

Gabriella Miller Kids First Research Act (Public Law 113–94);

Support for Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 (Public Law 113–95); and

Cooperative and Small Employer Charity Pension Flexibility Act (Public Law 113–97).

Sincerely,

ROBERT A. SUNSHINE
(For *Douglas W. Elmendorf*, Director).

Enclosure.

FISCAL YEAR 2014 HOUSE CURRENT LEVEL REPORT THROUGH MAY 9, 2014

[In millions of dollars]

	Budget authority	Outlays	Revenues
Previously Enacted: [a]			
Revenues	n.a.	n.a.	2,310,972
Permanents and other spending legislation [b]	1,849,079	1,778,854	n.a.
Appropriation legislation	0	504,662	n.a.
Offsetting receipts	−707,692	−707,792	n.a.
Total, Previously enacted	1,141,387	1,575,724	2,310,972
Enacted Legislation: [c]			
Authorizing Legislation:			
Bipartisan Student Loan Certainty Act of 2013 (P.L. 113–28)	14,400	12,670	0
Department of Veterans Affairs Expiring Authorities Act of 2013 (P.L. 113–37)	−1	−1	0
Helium Stewardship Act of 2013 (P.L. 113–40)	−16	−58	0
An act to extend the period during which Iraqis who were employed by the United States Government in Iraq may be granted special immigrant status and to temporarily increase the fee or surcharge for processing machine-readable nonimmigrant visas (P.L. 113–42)	2	2	5
National Defense Authorization Act for Fiscal Year 2014 (P.L. 113–66)	66	68	0
Bipartisan Budget Act of 2013/Pathway for SGR Reform Act of 2013 (P.L. 113–67)	−3,207	985	49
Agricultural Act of 2014 (P.L. 113–79)	3,243	2,124	5
Protecting Access to Medicare Act of 2014 (P.L. 113–93)	6,143	6,141	0
Gabriella Miller Kids First Research Act (P.L. 113–94)	−34	0	0
Cooperative and Small Employer Charity Pension Flexibility Act (P.L. 113–97)	0	0	5
Total, Authorizing Legislation	20,596	21,931	64
Appropriations Legislation:			
Continuing Appropriations Act, 2014 (P.L. 113–46) [d]	635	635	0

FISCAL YEAR 2014 HOUSE CURRENT LEVEL REPORT THROUGH MAY 9, 2014—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Consolidated Appropriations Act, 2014 (P.L. 113–76)	1,869,637	1,421,565	0
Support for Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 (P.L. 113–95)	0	350	0
Total, Appropriations Legislation	1,870,272	1,422,550	0
Total, Enacted Legislation	1,890,868	1,444,481	64
Entitlements and Mandatories:			
Budget resolution estimates of appropriated entitlements and other mandatory programs	−98,066	−74,546	0
Total Current Level [e]	2,934,189	2,945,659	2,311,036
Total House Resolution [f]	2,924,837	2,937,044	2,311,026
Current Level Over House Resolution	9,352	8,615	10
Current Level Under House Resolution	n.a.	n.a.	n.a.
Memorandum:			
Revenues, 2014–2023:.			
House Current Level	n.a.	n.a.	31,095,979
House Resolution [g]	n.a.	n.a.	31,095,742
Current Level Over House Resolution	n.a.	n.a.	237
Current Level Under House Resolution	n.a.	n.a.	n.a.

Source: Congressional Budget Office.

Note: n.a. = not applicable; P.L. = Public Law.

[a] Includes the following acts that affect budget authority, outlays, or revenues, and were cleared by the Congress during last session, but before adoption of the Concurrent Resolution on the Budget for Fiscal Year 2014 (H. Con. Res. 25): an act to temporarily increase the borrowing authority of the FEMA for carrying out the National Flood Insurance Program (P.L. 113–1), the Disaster Relief Appropriations Act, 2013 (P.L. 113–2), the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (P.L. 113–5), the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113–6), and the Reducing Flight Delays Act of 2013 (P.L. 113–9).

[b] Relative to the House Current Level Report dated October 24, 2013, House Current Level has increased by $361 million in 2014 because of assumptions related to the interest on the public debt that were revised pursuant to the Bipartisan Budget Act of 2013 (P.L. 113–67).

[c] Pursuant to section 314(d) of the Congressional Budget Act of 1974, amounts designated as an emergency requirement pursuant to 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not count for purposes of Title III and Title IV of the Congressional Budget Act. The amounts so designated for 2014, which are not included in the current level totals, are as follows:

	Budget authority	Outlays	Revenues
Continuing Appropriations Act, 2014 (Sec. 155)	0	50	n.a.

[d] Sections 135 and 136 of the Continuing Appropriations Act, 2014 (P.L. 113–46) provide $636 million for fire suppression activities, available until expended. Section 146 of the act freezes the pay of Members of Congress, which is estimated to result in a reduction in spending of $1 million in 2014.

[e] For purposes of enforcing section 311 of the Congressional Budget Act in the House, the resolution, as approved by the House of Representatives, does not include budget authority, outlays, or revenues for off-budget amounts. As a result, current level does not include these items.

[f] Periodically, the House Committee on the Budget revises the totals in H. Con. Res. 25, pursuant to various provisions of the resolution:

	Budget authority	Outlays	Revenues
Original House Resolution:	2,769,406	2,815,079	2,270,932
Revisions:			
Pursuant to section 603 of H. Con. Res. 25	−14,089	−4,100	40,040
Adjustment for Disaster Designated Spending	6,079	230	0
Adjustment for Technical Correction to the Budget Control Act Spending Caps	549	308	0
Pursuant to section 111 of the Bipartisan Budget Act	162,892	125,527	54
Revised House Resolution	2,924,837	2,937,044	2,311,026

[g] Periodically, the House Committee on the Budget revises the 2014–2023 revenue totals in H. Con. Res. 25, pursuant to various provisions of the resolution. The total shown in the table reflects those revisions.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 15, 2013.

Hon. PAUL RYAN,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2015 budget and is current through May 9, 2014. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the allocations, aggregates, and other budgetary levels printed in the Congressional Record on April 29, 2014, pursuant to section 115 of the Bipartisan Budget Act (Public Law 113–67).

This is CBO's first current level report for fiscal year 2015.

Sincerely,

ROBERT A. SUNSHINE
(For Douglas W. Elmendorf).

Enclosure.

FISCAL YEAR 2015 HOUSE CURRENT LEVEL REPORT THROUGH MAY 9, 2014

[In millions of dollars]

	Budget Authority	Outlays	Revenues
Previously Enacted [a]			
Revenues	n.a.	n.a.	2,533,388
Permanents and other spending legislation	1,882,631	1,805,294	n.a.
Appropriation legislation	0	508,261	n.a.
Offsetting receipts	−735,195	−734,481	n.a.
Total, Previously enacted	1,147,436	1,579,074	2,533,388
Entitlements and Mandatories:			
Budget resolution estimates of appropriated entitlements and other mandatory programs	866,768	851,071	0
Total Current Level [b]	2,014,204	2,430,145	2,533,388
Total House Resolution	3,025,306	3,025,032	2,533,388
Current Level Over House Resolution	n.a,	n.a.	n.a.
Current Level Under House Resolution	1,011,102	594,887	n.a.
Memorandum:			
Revenues, 2015–2024:			
House Current Level	n.a.	n.a.	31,202,135
House Resolution	n.a.	n.a.	31,202,135
Current Level Over House Resolution	n.a.	n.a.	n.a.
Current Level Under House Resolution	n.a.	n.a.	n.a.

Source: Congressional Budget Office.

Note: n.a. = not applicable; P.L. = Public Law.

[a] Includes the following acts that affect budget authority, outlays, or revenues, and were cleared by the Congress during this session, but before publication in the Congressional Record of the statement of the allocations and aggregates pursuant to section 115 of the Bipartisan Budget Act of 2013 (P.L. 113–67): the Agricultural Act of 2014 (P.L. 113–79), the Homeowner Flood Insurance Affordability Act of 2014 (P.L. 113–89), the Gabriella Miller Kids First Research Act (P.L. 113–94), and the Cooperative and Small Employer Charity Pension Flexibility Act (P.L. 113–97).

[b] For purposes of enforcing section 311 of the Congressional Budget Act in the House, the resolution, as approved by the House of Representatives, does not include budget authority, outlays, or revenues for off-budget amounts. As a result, current level does not include these items.

BILL PRESENTED TO THE PRESIDENT

Karen L. Haas, Clerk of the House, reported that on May 12, 2014, she presented to the President of the United States, for his approval, the following bill:

H.R. 3627. To require the Attorney General to report on State law penalties for certain child abusers, and for other purposes.

ADJOURNMENT

The SPEAKER pro tempore. Pursuant to section 2(b) of House Resolution 576, the House stands adjourned until noon on Monday, May 19, 2014, for morning-hour debate and 2 p.m. for legislative business.

Thereupon (at 2 o'clock and 4 minutes p.m.), under its previous order, the House adjourned until Monday, May 19, 2014, at noon for morning-hour debate.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5665. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement: Photovoltaic Devices (DFARS Case 2014-D006) (RIN: 0750-AI18) received April 16, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5666. A letter from the Under Secretary, Department of Defense, transmitting account balance in the Defense Cooperation Account as of March 31, 2014; to the Committee on Armed Services.

5667. A letter from the Senior Procurement Executive, GSA, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Federal Acquisition Circular 2005-73; Introduction [Docket No.: FAR 2014-0051; Sequence No. 1] received April 30, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5668. A letter from the Acting Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility (LaSalle County, IL, et al.) [Docket ID: FEMA-2013-0002] [Internal Agency Docket No.: FEMA-8329] received April 30, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5669. A letter from the Secretary, Department of Health and Human Services, transmitting the thirty-fourth annual report on the implementation of the Age Discrimination Act of 1975 by departments and agencies which administer programs of Federal financial assistance, pursuant to 42 U.S.C. 6106a(b); to the Committee on Education and the Workforce.

5670. A letter from the Secretary, Department of Health and Human Services, transmitting the Interim Report to Congress on the Medicaid Health Home States Plan Option; to the Committee on Energy and Commerce.

5671. A letter from the Chief, Policy and Rules Division, OET, Federal Communications Commission, transmitting the Commission's final rule — Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band [ET Docket No.: 13–49] received April 28, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5672. A communication from the President of the United States, transmitting notification that the national emergency declared with respect to Burma is to continue beyond May 20, 2014, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 113–112); to the Committee on Foreign Affairs and ordered to be printed.

5673. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Addition of Person to the Entity List [Docket No.: 140331295-4324-01] (RIN: 0694-AG14) received April 30, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

5674. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a report on progress toward a negotiated solution of the Cyprus question covering the period December 1, 2013 through January 31, 2014; to the Committee on Foreign Affairs.

5675. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Certification Related to Daelim (of the Republic of Korea) under Section 4(e) of the Iran Sanctions Act of 1996, as amended by the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010; to the Committee on Foreign Affairs.

5676. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergency Act, 50 U.S.C. 16441(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), a six-month periodic report on the national emergency with respect to the situation in or in relation to the Democratic Republic of the Congo that was declared in Executive Order 13413 of October 27, 2006; to the Committee on Foreign Affairs.

5677. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

5678. A letter from the Attorney Advisor, Federal Retirement Thrift Investment Board, transmitting the Board's final rule — Administrative Wage Garnishment received April 24, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

5679. A letter from the Administrator, General Services Administration, transmitting the Administration's annual report for FY 2013 prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174; to the Committee on Oversight and Government Reform.

5680. A letter from the Clerk, Court of Appeals, transmitting an opinion of the United States Court of Appeals for the Eleventh Circuit for James Joseph Brown v. United States, Nos. 11-15149 and 12-10293; to the Committee on the Judiciary.

5681. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — Removal of Procedures for Closeout of Grants and Cooperative Agreements (RIN: 2700-AE06) received April 28, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science, Space, and Technology.

5682. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation (RIN: 3245-AG20) received April 28, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

5683. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Treatment of United States Persons That Own Stock of Passive Foreign Investment Companies Through Certain Organizations and Accounts That Are Tax Exempt [Notice 2014-28] received April 16, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5684. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Extension of Notice 2012-45 Treatment of Income from Certain Government Bonds for Purposes of the Passive Foreign Investment Company Rules [Notice 2014-31] received April 29, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5685. A letter from the Principal Deputy Assistant Attorney General, Department of Justice, transmitting second quarterly report of FY 2014 on Uniformed Services Employment and Reemployment Rights Act of 1994; jointly to the Committees on the Judiciary and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WOLF: Committee on Appropriations. H.R. 4660. A bill making appropriations for the Departments of Commerce and Justice, Science, and Related Agencies for the fiscal year ending September 30, 2015, and for other purposes (Rept. 113–448). Referred to the Committee of the Whole House on the state of the Union.

Mr. SHUSTER: Committee of Conference. Conference report on H.R. 3080. A bill to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, and for other purposes (Rept. 113–449). Ordered to be printed.

Mr. GOODLATTE: Committee on the Judiciary. H.R. 3530. A bill to provide justice for the victims of trafficking; with an amendment (Rept. 113–450). Referred to the Committee of the Whole House on the state of the Union.

Mr. GOODLATTE: Committee on the Judiciary. H.R. 4225. A bill to amend title 18, United States Code, to provide a penalty for knowingly selling advertising that offers certain commercial sex acts; with an amendment (Rept. 113–451). Referred to the Committee of the Whole House on the state of the Union.

Mr. GOODLATTE: Committee on the Judiciary. H.R. 3361. A bill to reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence, counterterrorism, and criminal purposes, and for other purpose; with an amendment (Rept. 113–452, Pt. 1). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROGERS of Michigan: Permanent Select Committee on Intelligence. H.R. 3361. A bill to reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence,

counterterrorism, and criminal purposes, and for other purposes; with an amendment (Rept. 113–452, Pt. 2). Referred to the Committee of the Whole House on the state of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XIII, the following action was taken by the Speaker:

The Committee on Financial Services discharged from further consideration. H.R. 3361 referred to the Committee of the Whole House on the state of the Union, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ROGERS of Michigan:

H.R. 4661. A bill to authorize appropriations for fiscal year 2015 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. POSEY:

H.R. 4662. A bill to amend the Consumer Financial Protection Act of 2010 to establish an advisory opinion process for the Bureau of Consumer Financial Protection, and for other purposes; to the Committee on Financial Services.

By Mrs. BLACK (for herself and Ms. SCHAKOWSKY):

H.R. 4663. A bill to amend title XVIII of the Social Security Act to permit certain nurse practitioners, clinical nurse specialists, physician assistants, and certified nurse-midwives to provide certain certifications with respect to inpatient hospital services under the Medicare program; to the Committee on Ways and Means.

By Mr. KIND (for himself, Ms. SCHWARTZ, and Ms. ESTY):

H.R. 4664. A bill to amend the method by which the Social Security Administration determines the validity of marriages under title II of the Social Security Act; to the Committee on Ways and Means.

By Ms. MENG:

H.R. 4665. A bill to provide for the eligibility of the Republic of Korea for the license exception for encryption commodities, software and technology under the Export Administration Regulations; to the Committee on Foreign Affairs.

By Ms. LINDA T. SÁNCHEZ of California:

H.R. 4666. A bill to provide for the conveyance of a portion of the former Air Force Norwalk Defense Fuel Supply Point in Norwalk, California; to the Committee on Armed Services.

By Mr. WELCH:

H.R. 4667. A bill to amend the Atomic Energy Act of 1954 to provide for consultation with State and local governments, the consideration of State and local concerns, and the approval of post-shutdown decommissioning activities reports by the Nuclear Regulatory Commission; to the Committee on Energy and Commerce.

By Mr. YOUNG of Alaska (for himself and Mr. HUNTER):

H.R. 4668. A bill to provide for the retention and future use of certain land on Point Spencer in Alaska, to support the statutory missions and duties of the Coast Guard, to convey certain land on Point Spencer to the Bering Straits Native Corporation, to convey certain land on Point Spencer to the State of Alaska, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FARENTHOLD:

H. Con. Res. 98. Concurrent resolution urging the President to immediately request the resignation of Secretary of Veterans Affairs Eric Shinseki; to the Committee on Veterans' Affairs.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. WOLF:

H.R. 4660.

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.

By Mr. ROGERS of Michigan:

H.R. 4661.

Congress has the power to enact this legislation pursuant to the following:

The intelligence and intelligence-related activities of the United States government are carried out to support the national security interests of the United States, to support and assist the armed forces of the United States, and to support the President in the execution of the foreign policy of the United States.

Article I, section 8 of the Constitution of the United States provides, in pertinent part, that ''Congress shall have power . . . to pay the debts and provide for the common defense and general welfare of the United States''; ''. . . to raise and support armies . . .''; ''To provide and maintain a Navy''; ''To make Rules for the Government and Regulation of the land and naval Forces''; and ''To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested in this Constitution in the Government of the United States, or in any Department or Officer thereof:''

By Mr. POSEY:

H.R. 4662.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3

By Mrs. BLACK:

H.R. 4663.

Congress has the power to enact this legislation pursuant to the following:

Section. 8 of the U.S. Constitution which states, ''(t)he Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States . . .''

By Mr. KIND:

H.R. 4664.

Congress has the power to enact this legislation pursuant to the following:

Article I Section 8.

By Ms. MENG:

H.R. 4665.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the Constitution

By Ms. SÁNCHEZ of California:

H.R. 4666.

Congress has the power to enact this legislation pursuant to the following:

Article One of the United States Constitution, section 8, clause 18:

The Congress shall have Power—To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof

By Mr. WELCH:

H.R. 4667.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 18: The Congress shall have Power To . . . make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

By Mr. YOUNG of Alaska:

H.R. 4668.

Congress has the power to enact this legislation pursuant to the following:

Article IV, Section 3, Clause 2 and Article 1, Section 8, Clause 3.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions, as follows:

H.R. 60: Mr. DELANEY.
H.R. 498: Ms. SLAUGHTER.
H.R. 713: Ms. JACKSON LEE.
H.R. 988: Mr. REICHERT.
H.R. 1317: Mr. SMITH of New Jersey.
H.R. 1507: Mr. CONAWAY.
H.R. 1518: Mrs. KIRKPATRICK, Ms. KAPTUR, and Mr. FRANKS of Arizona.
H.R. 1728: Ms. DELAURO.
H.R. 1732: Ms. SHEA-PORTER.
H.R. 1750: Mr. GUTHRIE.
H.R. 2181: Mr. BISHOP of Georgia.
H.R. 3279: Mr. GRAVES of Georgia.
H.R. 3320: Mr. HUDSON, Mr. YOUNG of Indiana, and Mr. DIAZ-BALART.
H.R. 3361: Mr. WITTMAN.
H.R. 3431: Mr. TAKANO.
H.R. 3461: Mr. GENE GREEN of Texas.
H.R. 3530: Mr. CRAMER and Ms. SHEA-PORTER.
H.R. 3708: Mr. WALDEN, Mr. GARRETT, Mr. RYAN of Ohio, and Mr. SIMPSON.
H.R. 3722: Mr. TONKO and Mrs. HARTZLER.
H.R. 3747: Mr. DOYLE, Mr. ENYART, and Mr. LANCE.
H.R. 3971: Mr. RANGEL.
H.R. 3992: Mr. KILMER, Mr. FATTAH, Mr. PERLMUTTER, Mr. HECK of Washington, and Mr. WOMACK.
H.R. 4035: Ms. NORTON and Ms. SHEA-PORTER.
H.R. 4060: Mr. FLORES, Mr. RIGELL, Mr. HUIZENGA of Michigan, and Mr. STEWART.
H.R. 4069: Mr. BARTON.

H.R. 4200: Mr. ROTHFUS and Mr. FOSTER.
H.R. 4227: Mr. SCHIFF.
H.R. 4234: Mr. RYAN of Ohio.
H.R. 4365: Mr. RYAN of Ohio and Mr. DIAZ-BALART.
H.R. 4443: Ms. SLAUGHTER, Mr. ENGEL, Mr. MEEKS, Mr. OWENS, Mr. ISRAEL, Mrs. MCCARTHY of New York, Mr. GIBSON, and Mr. SERRANO.
H.R. 4450: Mr. TONKO, Mr. BEN RAY LUJÁN of New Mexico, and Mr. CASSIDY.
H.R. 4492: Mr. MCDERMOTT.
H.R. 4521: Mr. NEUGEBAUER.
H.R. 4587: Ms. WILSON of Florida and Mr. HASTINGS of Florida.
H.R. 4619: Mr. TIBERI.
H.R. 4628: Ms. EDWARDS, Mr. HINOJOSA, Ms. WASSERMAN SCHULTZ, Mr. AL GREEN of Texas, Mr. PETERS of Michigan, Mr. SHIMKUS, Mr. ENGEL, Mr. ENYART, Mr. BISHOP of Georgia, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCGOVERN, Mr. HECK of Washington, and Mr. MURPHY of Florida.
H.R. 4629: Mr. BEN RAY LUJÁN of New Mexico, Ms. JACKSON LEE, and Mr. HASTINGS of Florida.
H.R. 4631: Mr. DAVID SCOTT of Georgia, Mr. GRIMM, Mr. FORTENBERRY, and Mr. BISHOP of Georgia.
H.R. 4636: Mr. GRIJALVA, Mr. VARGAS, Ms. BROWN of Florida, Mr. COHEN, Mr. FRANKS of Arizona, Mr. CHABOT, and Ms. DELAURO.
H.R. 4659: Ms. GABBARD.
H.J. Res. 68: Mr. THOMPSON of California and Mr. CAPUANO.
H. Res. 522: Mr. MCGOVERN, Ms. SHEA-PORTER, and Mrs. CAROLYN B. MALONEY of New York.
H. Res. 527: Ms. LOFGREN.
H. Res. 570: Ms. BROWN of Florida.
H. Res. 577: Mr. LEVIN, Mrs. BLACK, and Mr. BARROW of Georgia.
H. Res. 578: Mr. SIRES and Mr. GUTHRIE.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 113th CONGRESS, SECOND SESSION

Vol. 160 WASHINGTON, THURSDAY, MAY 15, 2014 *No. 74*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. WALSH, a Senator from the State of Montana.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Heavenly Father, thank You for a land where we believe that our rights and freedoms come from You. We are grateful for the gifts of life, liberty, and dreams, and for those who make daily sacrifices to protect our liberties. Empower our lawmakers to protect and guard the foundations of our freedoms so that America may bless the world. When our Senators are weary, replenish their spirits, permitting their light of patriotism, vision, service, and hope to continue to burn. Forgive them when they fail to live up to their high heritage, as Your grace transforms them into instruments of Your purposes.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. LEAHY).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 15, 2014.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. WALSH, a Senator from the State of Montana, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

Mr. WALSH thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

JUSTICE AND MENTAL HEALTH COLLABORATION ACT OF 2013—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 92, S. 162, the Franken Mentally Ill Offender Treatment and Crime Reduction Act.

The ACTING PRESIDENT pro tempore. The clerk will report the motion.

The assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 92, S. 162, a bill to reauthorize and improve the Mentally Ill Offender Treatment and Crime Reduction Act of 2004.

SCHEDULE

Mr. REID. Mr. President, following my remarks and those of the Republican leader, the time until 11:15 a.m. will be equally divided and controlled between the two leaders or their designees. At 11:15 a.m. there will be a series of rollcall votes in relation to several nominations. Following those votes, the Senate will recess until 1:45 p.m. to allow for the caucus meetings we are having today. At 1:45 p.m. there will be another series of rollcall votes in relation to nominations as well as a cloture vote on the Wyden substitute amendment to the tax extenders legislation. The filing deadline for first-degree amendments to the substitute and the bill is 1 p.m. and the filing deadline for second-degree amendments to the substitute is 3 p.m. today.

CAMPAIGN FINANCE

Mr. President, a memo from the Koch-funded political organization Americans for Prosperity found its way into the national press last week. The memo details Americans for Prosperity's plan to spend at least $125 million—and more if necessary—ensuring the Koch brothers' hand-picked candidates win elections this November. This memo was sent to a select group—the ultrarich, the megarich. That is who got it. The memo was entitled ''Confidential Investor Update.''

How fitting for the Koch brothers' hostile takeover of the American electoral system to call something ''investor update''—investor update. You see, these billionaires are dumping unseemly amounts of money into a shadowy political organization. Their donation is an investment in an America rigged to benefit themselves at the expense of the middle class.

The Kochs' political expenditures are investments—investments—similar to any other that is listed in their financial portfolios, and they absolutely expect monetary returns on their investments in buying America. That is what this is all about.

The Kochs' bid for a hostile takeover of American democracy is calculated to make themselves even richer. Yet the Kochs and their Republican followers in Congress continue to assert that these hundreds of millions of dollars are free speech.

For evidence of that look no further than the Republican leader, who has flatout said: ''In our society, spending is speech.''

Let me pose a question to everyone, including my friend the Republican leader. If this unprecedented spending is free speech, where does that leave our middle-class constituents, the poor? It leaves them out in the cold. How could everyday working American families afford to make their voices heard if money equals free speech? Should voters mortgage their homes if

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

they are worried about climate change? If they are concerned about their children's education, should they max out all their credit cards making political contributions?

Is our involvement in government completely dependent on financial resources? The answer should be a resounding no, but the shadowy Koch brothers and all their different organizations, in attempting to buy America—if they succeed—the answer to that question is yes. Involvement in government, according to them, would be on how much money they spent.

There should be no million-dollar entry fee for participation in our democracy. As retired Supreme Court Justice John Paul Stevens noted very recently—he did this before a Senate panel just a couple weeks ago—''money is not speech.'' He went on to say:

Speech is only one of the activities that are financed by campaign contributions and expenditures. Those financial activities should not receive the same constitutional protection as speech itself. After all, campaign funds were used to finance the Watergate burglaries—actions that clearly were not protected by the First Amendment.

At its core the Constitution of our great country is the great equalizer. The Constitution gives all Americans, regardless of race, background or financial status, the same freedoms and rights. The U.S. Constitution levels the playing field—but not so calculated by the Koch brothers. According to them, lots of money is their name and it is their game.

The playing field of campaign finance is skewed in favor of interest groups and corporations. The more money there is, the more skewed it becomes. Justice Stevens rightly labeled these massive campaign contributors as ''non-voters.''

Elections in the United States should be decided by voters—Americans who have a constitutional, fundamental right to elect their representatives. Yet more and more we see Koch Industries and Americans for Prosperity—one of their shadowy front groups—dictating the results of primaries and elections across the country. Behind these nonvoting organizations are massively wealthy men, hoping for a big monetary return on their political donations. When the candidates they bankroll get into office, the winners inevitably begin to legislate their sponsors' business plans—less regulation and less oversight for corporations.

Remember, the Koch brothers' dad was one of the inventors of many other strange organizations. It is hard to believe that one of these men ran for Vice President in 1980 as a Libertarian, and the views he pronounced at that time were so radical—doing away with Social Security, no taxes whatsoever, no power to enforce the laws, doing away with all environmental regulations. They have now become part of the main stream of the Republican Party. That should frighten everyone. Their dad was one of the beginners of the John Birch Society. Think about that.

Let me be very plain for all to hear: No one should be able to pump unlimited funds into political campaigns, whether they are a Democrat, a Republican or an Independent. As one political observer noted, we currently have a campaign finance system in place which compels each party to pick which billionaires they like best. What a shame. That is exactly why the system needs to change.

There is absolutely no question the Koch brothers are in a category of their own, in both degree and kind. No one else is pumping money into shadowy campaign organizations and campaigns like they are. There is not even a close second. They are doing this to promote issues that make themselves even richer. One hundred million dollars is not enough for the Koch brothers. No other individuals are recreating the role of a national political party. That is what they are doing. They are recreating the Republican Party.

I say why not level the playing field for everyone? Let's get this money out of our political system. Let's undo the damage done by the Citizens United decision. We should do it now. The Supreme Court has equated money with speech, so the more money, the more speech you get, and the more influence in our democracy. What kind of a system is that? It is wrong.

Every American should have the same ability to influence our political system: One American, one vote. That is what the Constitution guarantees. The Constitution does not give corporations a vote, and the Constitution does not give dollar bills a vote.

From what I have heard recently, my Republican colleagues seem to have a different view. Republicans seem to think billionaires, corporations, and special interests should be allowed to drown out the voices of all Americans. That is wrong and it should end.

I oppose the notion that a big bank account should give billionaires, corporations or special interest groups a greater place in government than American voters. That is why I support the constitutional amendment proposed by two Democratic Senators, Senators TOM UDALL of New Mexico and MICHAEL BENNET of Colorado. Their amendment curbs unlimited campaign spending. This amendment grants Congress the authority to regulate and limit the raising and spending of money for Federal political campaigns. That is not a bad idea.

Senators UDALL and BENNET's amendment reins in the massive spending of super PACs, which have grown so much since the Citizens United decision. It also provides States with the authority to institute campaign spending limits at the State level. I know in the State of Montana that was in effect for decade after decade after decade. The courts knocked that out because of the Citizens United opinion. It is such a shame.

The proposed amendment makes our Nation's campaigns fairer and allows candidates to represent their voting constituents instead of big-spending special interest groups.

Here is something else that Justice Stevens said:

Unlimited campaign expenditures impair the process of democratic self-government. They create a risk that successful candidates will pay more attention to the interests of non-voters who provided them with money than to the interests of the voters who elected them.

''That risk is unacceptable,'' Justice Stevens said.

So it is unacceptable that the recent Supreme Court decisions have taken away power from the American voter; instead, giving it to a select few megabillionaires.

Soon Chairman LEAHY and the Senate Judiciary Committee will hold a hearing on Senators UDALL and BENNET's constitutional amendment. The Senate will vote on that legislation.

I urge my colleagues to support this constitutional amendment, to rally behind our democracy. I understand we Senate Democrats are proposing something that is no small thing. Amending our Constitution is not something any of us should take lightly, but the flood of special interest money into our American democracy is one of the most glaring threats our system of government has ever faced.

Let's keep our elections from becoming speculative ventures for the wealthy and put a stop to the hostile takeover of our democratic system by a couple of billionaire oil barons.

It is time we revive our constituents' faith in our electoral system and let them know their voices are being heard because the American people clearly deserve a fair shot.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

VA HEALTH CARE

Mr. MCCONNELL. Mr. President, our All-Volunteer military relies upon several critical factors to recruit young Americans who are sufficiently well educated, physically and mentally qualified, and adequately motivated to wear the uniform. Our recruits expect to be well led, well trained, adequately compensated, effectively challenged, and fairly treated. Critically, they also expected to receive the health care promised to them while they were on Active Duty or as veterans.

Later this morning Secretary Shinseki will testify on stories that emerged several weeks ago about administrators at the VA hospital in Phoenix falsifying medical records to conceal delays in providing care to veterans. In the wake of these reports similar stories from Wyoming, North Carolina, Missouri, and Texas have come to light about employees using similar tactics to conceal backlogs in medical care. The questions awaiting the Secretary will be tough, but this is his job. The American people are demanding and deserve answers to these questions.

To his credit, Secretary Shinseki has ordered an inspector general review of the Phoenix VA health care system. It would not surprise me in the least if additional inspector general reviews end up being required at other VA hospitals.

One thing I will be listening for today is whether Secretary Shinseki states a belief that the VA is, in fact, facing a systemic crisis because just this morning the Wall Street Journal reported that his Department has made ''minimal progress at best'' on a host of problems identified in 2012 by the nonpartisan Government Accountability Office—''minimal progress at best.'' That is how a nonpartisan GAO official described it.

Many letters have come into my office on this issue. Kentuckians are really concerned. Let me read what one Kentuckian had to say:

As a veteran, I have read the recent revelations of events in Phoenix with horror. These [Americans] . . . sacrificed for their country . . . In return, we owed them competent care and treatment as a person, and not an obstacle to a ''good evaluation.'' In order to regain the trust of our veterans, it is vital that we hold those responsible accountable . . .

This Kentucky veteran could not be more right.

Last year I called the Obama administration's veterans backlog a ''national disgrace.'' I have also made several appeals to the Secretary. I know, of course, I was not the only one. Yet the initial reports of the shocking situation in Phoenix indicate that things have only gotten worse. With similar stories now filtering in from other parts of the country, it is getting harder to believe this is not more of a sort of systemic, administration-wide crisis. The Veterans' Administration needs to get to the bottom of how widespread the problem has become.

My concern is that the Obama administration will treat this scandal the way it does all the others—like a political crisis to get past rather than a serious problem to be solved. We know the President appointed a member of his staff yesterday to look into it. That is a start, but if the President is truly serious, he needs to treat these stories at least as seriously as he did the ObamaCare Web site fiasco when he pledged his complete attention and the full force of his administration to do whatever needed to be done. That was on the Web site fiasco when he let it be known that his people would not rest until a solution was worked out. Incredibly, so far the President has made no such pledge when it comes to the treatment of our veterans. The President needs to understand that our veterans deserve at least as much attention as a Web site—at least as much attention as a Web site. In fact, they deserve a heck of a lot more.

This is a really big deal. It is our job as Senators to get to the bottom of it. We need to ask the tough questions. We need to uncover the truth. Any misconduct found at VA hospitals should be met with swift punishment.

Administration officials need to be held accountable because America's ill and wounded veterans have already paid a price. They have already paid a price. They have a right to expect that our country will be there when they need help. If we break faith with them, we are breaking faith with the recruiters who made commitments to the next generation of American military leaders. All of those people have made commitments. The recruiters, the military leaders have all made commitments. As one of my colleagues put it, American veterans ought to be first in line—first in line—for the best care, not pushed to the back of the line for what they are getting.

So our joint mission, whether we are Democrats or Republicans, should be to get to the bottom of the Obama administration's veteran crisis swiftly and fix it. It means holding officials accountable. It means getting serious about solutions, such as Senator RUBIO's bill that would make it easier to remove high-level VA employees for performance failures. I am proud to cosponsor that legislation. I know some of my colleagues will have other good ideas in the coming days and weeks too. The point is, that is where our focus needs to be. We owe it to every veteran who has served.

50TH ANNIVERSARY OF THE BOURBON RESOLUTION

Mr. President, I wish to pay tribute to the spirit of Kentucky literally. This month marks the 50th anniversary since the U.S. Congress passed S. Con. Res. 19, which recognized bourbon whiskey as a distinctive product of the United States and unlike any other type of distilled spirit, whether foreign or domestic.

On May 4, 1964, Congress declared that bourbon whiskey had achieved recognition and acceptance throughout the world as a distinctive product of the United States and expressed a sense of Congress that the United States should prohibit the importation of any other whiskey purporting to call itself bourbon. This resolution helped to promote the thriving bourbon distillery industry that we can be thankful is located in the United States today.

Kentucky is, of course, the birthplace of bourbon. The drink itself is named for Bourbon County, KY. Bourbon County, KY, is in the heart of the Bluegrass State, where the product first emerged. Kentucky produces 95 percent of the world's bourbon supply, and Kentucky's iconic bourbon brands ship more than 30 million gallons of the spirit to 126 countries, making bourbon the largest export category among all U.S. distilled spirits.

Not only is Kentucky the overwhelming producer of the world's bourbon, bourbon gives much back to Kentucky. It is a vital part of our State's tourism and economy. The industry generates close to 9,000 jobs and contributed almost $2 billion to Kentucky's economy in 2010. Production of bourbon in Kentucky has increased by more than 120 percent since 1999. Not to go unnoticed, the bourbon industry has taken an active role in promoting the responsible and moderate use of its product by everyone.

S. Con. Res. 19 was originally introduced 50 years ago by Kentucky Senator Thruston Morton, and a companion measure was introduced in the House by Representative John C. Watts. They recognized that just as Scotch whisky is a distinctive product of Scotland, Canadian whiskey a distinctive product of Canada, and cognac a distinctive product of the Cognac region of France, all with official government recognition, bourbon deserved the distinction that comes with official recognition as well. However, the International Federation of Manufacturing Industries and Wholesale Trades in Wines, Spirits, and Liqueurs could only enforce the protection of the bourbon appellation if Congress passed a resolution declaring such. Therefore, on May 4, 1964, Congress adopted the original bourbon resolution.

Fifty years later, I rise to introduce, along with my friend and colleague Senator PAUL, a new Senate resolution to recognize the 50th anniversary of this original declaration of independence for bourbon.

Kentucky is celebrating this 50th anniversary in appropriate fashion through various exhibits, events, and tastings. Perhaps the most exciting of these events is the display of the original bourbon resolution, which has been released from the National Archives and Records Administration in Washington. For the first time since its adoption, it is to be exhibited in Louisville at the Frazier History Museum. I was proud to be able to work with my friend and fellow Kentucky Representative ANDY BARR to assist in bringing the original resolution to Kentucky. I thank the Kentucky Distillers Association and the Frazier History Museum for their efforts to honor the anniversary of the bourbon resolution. I am also proud today to follow in the footsteps of Kentucky leaders from the past in honoring and recognizing the original bourbon resolution with this 50th anniversary resolution.

Bourbon production in Kentucky has grown strong and thrived over the last half century, and I am sure it will continue to do the same for the next 50 years. I thank and congratulate all the hard-working Kentuckians who contributed to building our State's vibrant bourbon industry.

I urge my Senate colleagues to support this resolution and look forward to its swift adoption.

RECOGNIZING THE 50TH ANNIVERSARY OF THE CONGRESSIONAL DECLARATION OF BOURBON WHISKEY

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 446, submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 446), recognizing the 50th anniversary of the Congressional declaration of bourbon whiskey as a distinctive product of the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed, the preamble be agreed to, and that the motions to reconsider be laid upon the table, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 446) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

Mr. MCCONNELL. I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 11:15 a.m. will be equally divided between the two leaders or their designees.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

TAX EXTENDERS

Mr. GRASSLEY. Mr. President, I am glad the Senate is finally getting serious about passing tax extenders this year. Congress has put off the extension of the expired tax provisions until the last minute all too frequently. In 2012 provisions remained expired for an entire year before finally being extended in January of 2013. Similarly, the previous extension of the expired provisions did not occur until the middle of December. Such late action by Congress results in complications come filing season for taxpayers, particularly for people who hire tax preparers; tax forms are not ready and as a result refunds are delayed. So we owe it to our constituents to see to it that these added complications are not a factor this year. Tax season is unpleasant enough without our adding to it by failing to do our job in a timely fashion.

Already, by allowing these tax provisions to expire for more than 5 months, we have created a lot of headaches and uncertainty for individuals and businesses. The current expiration causes headaches for teachers purchasing school supplies, college students paying for higher education, and seniors making charitable donations from their IRAs. Those are only 3 of some 53 provisions we are considering extending. These should have been extended 4 months ago.

Furthermore, it creates uncertainty for businesses, which harms investment and business growth. The enhanced expensing rules under section 179 are of particular importance to small businesses and farmers. I regularly hear from my constituents who are putting off purchasing a new truck or tractor for their business operation because they do not know the fate of that provision. This is bad for economic growth, and it obviously has something to do with us having a high unemployment rate and jobs not being created.

The lapse of renewable energy incentives has already created a lot of uncertainty and slow growth in the renewable industry. This serves only to hamper the strides made toward a viable self-sustainable renewable energy and fuel sector.

I am aware that some of my colleagues have expressed extreme opposition to some of the provisions in the package. I would like to specifically respond to claims that some of my colleagues have made about wind energy and the wind production tax credit.

I am sympathetic to the argument that the Tax Code has gotten too cluttered with too many special interest provisions. That is the reason many of us for a long period of time have been clamoring for tax reform. But just because we haven't cleaned up the Tax Code in a comprehensive way doesn't mean we should pull the rug out from under domestic renewable energy producers. Doing so would cost jobs, harm our economy, harm the environment, and even enhance problems for national security.

I am glad to defend the wind production tax credit and wind energy. Wind energy provides more than 4 percent of U.S. electricity, supports 80,000 American jobs, spurred $105 billion in private investment in the United States just since 2005, and that source of energy displaces more expensive and more polluting sources of energy, lowering electricity prices for consumers.

More than 70 percent of U.S. wind turbine value is now produced right here in the United States, compared to just 25 percent prior to 2005. More than 550 industrial facilities across 44 States manufacture for the wind energy industry. The wind industry today supports 80,000 American jobs. The tax incentive has spurred $105 billion in private investment in the United States since 2005.

Opponents of the renewable energy provisions want to have this debate in a vacuum. They disregard the many incentives and subsidies that exist for other sources of energy and are permanent law, but they don't seem to talk about those much.

For example, the 100-year-old oil and gas industry continues to benefit from tax preferences that benefit only their industry. These are not general business tax provisions, as we are led to believe, no different from what other industries have. These are specific to the oil and gas business, the same way a wind energy tax credit is specific to wind. I will give a few examples of these tax provisions: expensing for intangible drilling costs, deductions for tertiary injectants, percentage depletion for oil wells, and special amortization for geological costs. These four tax preferences for this single industry result in the loss of more than $4 billion annually in tax revenue.

Nuclear energy would be another example—in fact, a very great example. The first nuclear powerplant came online in the United States in 1958—56 years ago. Nuclear receives special tax treatment for interest from decommissioning trust funds. Congress created a production tax credit for this mature industry in 2005, and that production tax credit is going to be available until 2020. Nuclear also benefits from the Price-Anderson Federal liability insurance provisions. Congress provided that as a temporary measure in 1958, but it is still here and it was renewed, as I said, through 2025. Nuclear energy has also received $74 billion in Federal research and development dollars since 1950.

Are these crony capitalist handouts? I haven't heard it from the same colleagues who talk about wind energy. Is it time to end market distortion for nuclear power? I haven't heard my colleagues talk about that.

A Cato study found that ''in truth, nuclear power has never made economic sense and exists purely as a creature of government.''

There is also no truth to the claim that wind energy is somehow undercutting baseload power. Baseload nuclear and coal energy are being harmed by cheap natural gas, transmission congestion, and stagnant electricity demand.

The chairman and CEO of NextEra Energy James Robo addressed this issue in an op-ed recently. NextEra operates significant wind generation but also a large nuclear operation. He stated:

We do not merely advocate for an ''all-of-the-above'' energy strategy—we live it. And from our perspective, nuclear plants in competitive markets are not challenged by wind energy but by low natural gas prices caused by the shale gas revolution.

Blaming the wind industry for the challenges in the merchant nuclear business may be politically expedient, but it will not help any company or technology operate more successfully in a low natural gas price environment.

Wind energy and its incentives are not to blame for the market conditions affecting the economics of nuclear energy.

So I would ask my colleagues a very simple question: Why is repealing a subsidy for oil and gas or nuclear energy a tax increase on energy producers and consumers, while repealing an incentive for alternative or renewable energy is not? It is not intellectually honest.

I authored the wind energy incentive in 1992. We know there is no justification for it to go on forever. It was never meant to, and it shouldn't. I am happy to discuss a responsible multiyear phaseout of the wind tax

credit. In 2012 the wind industry was the only industry to put forward a phaseout plan. But any phaseout must be done in the context of comprehensive tax reform where all energy tax provisions are on the table at the same time. It should be done responsibly over a few years to provide certainty and ensure a viable industry.

Thank God Chairman WYDEN has expressed his determination that this will be the last tax extenders bill prior to comprehensive tax reform. I share Senator WYDEN's sentiment in favor of putting an end to the annual kabuki dance that is what we call tax extenders, the bill before the Senate we are going to be voting on shortly. Good tax policy requires certainty that can only come from long-term predictable tax policy. Businesses need certainty in the Tax Code so that they can plan and invest accordingly. Moreover, taxpayers deserve to know that the Tax Code is not just being used for another way to dole out funds to politically favored groups. However, the only sound way to reach this goal is through comprehensive tax reform, and Senator WYDEN, as chairman of the Finance Committee, can make that happen, and he said he is going to.

I agree that there are provisions in extenders that ultimately should be left on the cutting-room floor, but it is in a tax reform environment where we should consider the relative merits of individual provisions.

Targeting certain provisions for elimination now makes little sense for those of us who want to reduce tax rates as much as possible. Tax reform provides an opportunity to use a realistic baseline that will allow the revenue generated from cutting back provisions to be used to pay for reductions in individual and corporate tax rates.

I look forward to working with my colleagues in the future to enact that tax reform and put an end to the headaches and uncertainty created by the regular expiration of the tax provisions we are considering right now on the Senate floor. Right now our focus must be on extending current expired or expiring provisions that will end up giving us room in the baseline—the baseline CBO always talks about—to work toward that goal of tax reform.

It is my hope that we can move quickly to reach a bipartisan agreement in the Senate and come to a timely agreement with the House. Taxpayers should not have to wait until December or January for us to act.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. KAINE. I thank the Chair.

(The remarks of Mr. KAINE pertaining to the introduction of S. 2341 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. KAINE. I thank the Chair. I yield the floor.

Mr. COATS. Mr. President, what is the current status of the floor?

The ACTING PRESIDENT pro tempore. The Senate is in divided time until 11:15.

Mr. COATS. I ask to be recognized for part of that time.

The ACTING PRESIDENT pro tempore. The Senator from Indiana is recognized.

MAJORITY LEADERSHIP

Mr. COATS. Mr. President, citizens of Indiana sent me to Washington to be their voice. As I travel across the State and listen—whether at coffee shops or factories, small businesses, local schools or people on the street—I hear a lot of good advice about what they think we ought to be doing. There are regulations and taxes and policies being imposed on their businesses and their personal lives. They would like to see some changes, some reforms.

Many of their ideas are very sensible because what we do affects their livelihoods. That is what the Senate is all about. That is why we have a Congress. That is why we have representatives—so we can represent the voices of the people who sent us—but right now Republicans, as we are in the minority, are being shut out of our ability to represent their voices.

The tradition of the Senate since its inception has been a place described as ''the world's greatest deliberative body.'' A place where we can take time to deliberate ideas, reforms, to be able to offer amendments to legislation brought forward, to talk to our colleagues and encourage bipartisan support, work to achieve a majority so the ideas we bring can be passed into law—coordinated with the House and sent to the President to sign and become law.

A strange thing has happened under the current leadership of our majority leader; that is, he has found a way to procedurally gag us from representing the voice of the people of our States. In the last 10 months, Republicans have been offered a vote on the substitute policy measure or amendment to a policy measure only nine times.

I had the great privilege of serving in the Senate at a previous time in my life. I had committed to term limits. So after my two terms were fulfilled, I honored those term limits and stepped down. I was out for 12 years. I was asked to come back at a time when many thought our country was going in the wrong direction, and they wanted a voice to stand for their interests and feelings about what our country ought to be and the kind of policies we ought to have enacted. I had the great fortune of being sent back to serve this Senate, only to find, to my shock and amazement, that under the procedures used by the majority leader, this is no longer the greatest deliberative body. It has turned into the least deliberative body because we haven't been able to deliberate anything.

I have served under Republican and Democratic majority leaders: Senator Mitchell, a Democratic majority leader; Senator Daschle, a Democratic majority leader; Trent Lott and Bob Dole, Republican majority leaders. Whether Republican or Democratic, they honored the traditions of the Senate. They honored what the Senate was designed to be.

No one was more eloquent in allowing the minority to play a role, to offer amendments to bills, to debate those bills, and to vote—sometimes we won, sometimes we lost, but we at least had an opportunity for our voices to be heard and for our colleagues to cast their yea or to cast their nay on what we were offering. No one was a greater defender of those minority rights than then-majority leader Robert Byrd from West Virginia.

Robert Byrd is lionized here in terms of his long service and remembered most for the fact that he was so faithful to the Constitution of the United States and so faithful to the traditions of the Senate, the rules of the Senate, and the procedures of the Senate. Whether one was a Republican or Democrat, liberal or conservative, no one was a greater defender of the traditions of the Senate allowing full and open debate than Robert Byrd.

I had many disagreements with Robert Byrd but great respect for his respect for this institution. We don't see that today. There is no Robert Byrd here. There is no one standing on the other side saying: Wait a minute. This is not what we are here for.

The procedures the majority leader has undertaken affect Democrats as well as Republicans. I know many of my friends across the aisle—some of them are cosponsors of some of the legislation proposals and amendment proposals I have made—they are not allowed to offer their amendments either. We are frozen out by someone who has taken a dictatorial position, saying: It is my way or the highway.

We see that foreign policy enacted now coming out of Russia with Vladimir Putin, but that is not what the United States is about. That is not what the Senate of the United States is about. We are a democratic institution. A democratic institution means voices of the people can be heard.

The voices of the people I represent are not being heard because I can come down here and talk about my amendments, but I am not allowed the opportunity to have full debate and a vote on those amendments. The same is true for my 44 colleagues on the Republican side.

It is unprecedented. It has never happened before. It is dictatorial. Even the news media are scratching their heads, saying: We have never seen this before. It is a tragedy that this is the case.

Here we are coming up to yet another major piece of legislation, the so-called tax extenders. These are provisions within the Tax Code that allow certain exemptions or credits or special provisions—for instance, research and development. There is a deduction allowed, bonus depreciation for businesses, any number of things that we are going to be talking about that need to be legislated because they expire at the end of

this year. Normally we would have open debate from those of us who support some of those, from those of us who oppose some of those, and what changes might be made. In the end, that debate turns to a vote, and the vote determines where the Senate stands.

I know some of the things I would be proposing may not be passed by the Senate, but I would like to put it to the test. I would like to have my colleagues have an opportunity to not only hear what they were but to vote on them, let their yea be yea and nay be nay.

That is a Biblical injunction that goes back to the beginning of time: Let your yes be a yes and your no be a no. But don't use procedural devices to prevent us from going to yes or going to no.

I will mention three provisions I would like to see incorporated in, debated, and voted on in this legislation coming before us.

We will find out shortly, but we are told that once again the majority leader will come down and say: I am not allowing Republicans to offer any amendments, even if they are sensible, even if they are reasonable, even if they are relevant.

That is a repetitive process which has been undertaken, and it is tragic, it is unfortunate, and it is not the Senate. We all ought to be ashamed that this is the procedure we are operating under.

I want to help Indiana charities. There are a number of small charities—individuals or small groups of individuals with a big heart trying to do the right thing and reach out and provide support. As the Federal Government budget is ever shrinking because of our debt and deficit and runaway entitlement spending, much less for other spending that we have control over, these charities have found themselves somewhat in a bind. Some of them are small. They don't have the backroom, the accountants, the lawyers, and so forth and so on to read through all the regulations. Many of them have lost their nonprofit status for a very simple reason that can be easily corrected.

There are certain procedures which require certain amounts of information to be provided to the Internal Revenue Service. If it is not provided, the Internal Revenue Service has the authority to close down those charities. Many of them have not realized that this certain amount of information needs to be provided on an annual basis. All of a sudden they get a notice in the mail that their 501(c)(3) or tax-exempt status has been revoked. Then they call my office and ask: What is going on here?

The IRS says you didn't comply with all the regulations.

What regulations?

These people are not making a profit. They are trying to provide social services and needed help to the low-income, poverty, people in need. They don't have the expertise, they don't have the time, they don't have the understanding of what it takes to comply with all of the thousands and thousands of pages of regulations.

All I am asking with this amendment—and it seems something everybody would agree to and we could do by unanimous consent—is that the IRS notify these people with a special notification basically saying: This is what you haven't complied with. You have a certain amount of time to do this or we will have to take away your tax-exempt status.

Some of these things are no-brainers. Can we ask the IRS to simply send a notice if they are going to terminate a 501(c)(3) because they didn't fulfill a particular regulation? Can we give them notice so they then can take it to their tax accountant or take whatever actions it needs in order to meet the test and not lose that status? Losing that status means they are out of business. They are not able to receive contributions that are tax deductible. Many of them will lose that.

The ObamaCare bill incorporates a provision that increases the threshold over which someone can deduct medical expenses. Currently, it is 7.5 percent of total adjusted gross income. The ObamaCare health care law, unbeknownst to many, raised that level from 7.5 percent to 10 percent. I am simply wanting to offer an amendment that would go back to the status quo or go back to the current law and keep it at 7.5 percent. I believe that could gather and garner bipartisan support. I would like to put that for a vote.

Third is a medical device tax repeal which I have been talking about ad nauseam for 3 years. One of the most egregious things in the ObamaCare act was the taxing of gross sales in an industry that is dynamic, provides high-paying jobs, and is leading edge in terms of innovation and creativity, and providing much needed help for those who have health conditions that can be addressed through certain medical devices. I know we have bipartisan support for the passage of this provision and this repeal because in our nonbinding budget vote—the chance when we did have the vote—34 Democrats joined 45 Republicans for a total of 79 out of 100. That is a majority that overrides a veto, and that is a majority of bipartisan—near consensus—as to how we ought to move forward. Yet once again we have been denied despite every effort over a period of years by the majority leader from having a binding vote on that. Clearly someone is afraid that this is going to pass. Therefore on a decision solely made by the majority leader, perhaps encouraged by the President, we are not even allowed an opportunity to take that vote. So the voice of the people—whether it is Indiana or the voice of the people from this country—is being gagged, and there is a big gag put on everything that we are trying to do here.

I got pretty worked up about this yesterday. I guess I have calmed down a little bit today, maybe going from total frustration yesterday to pleading with some sense of reason that the procedures here could be changed so that we at least have the opportunity to state our case and to take a vote. That is all we are asking for on this—these tax extender provisions coming before us. We are willing to address and offer a limited number of totally relevant amendments. Give us the chance to make our case. Take the vote and let the yea be yea and the nay be nay on it and see who prevails on it. Yet the word is that the majority leader once again is going to deny us this opportunity. It is more than tragic because it turns this institution which was venerated for being a deliberative body into a nondeliberative body. None of us ever thought we would see this happen.

As I said, had Robert Byrd been here or had George Mitchell been here or had a number of other people been here, they never would have allowed this. This is not what the Senate has been traditionally, and it is something today that none of us recognize and it is just a shame. I am not exactly sure how we should best go forward now that the majority leader is apparently going to stifle our efforts. There are very important provisions here that need to be addressed because they expire at the end of the year.

I see my colleague Senator WYDEN, a Democrat from Oregon, with whom I have worked on comprehensive tax reform. These provisions today are essential to our moving to where we really need to go, and that is full comprehensive reform—lowering our corporate tax rate, lowering our individual tax rates, and making our Tax Code simpler and more fair and more growth oriented. Those are the provisions of the Wyden-Coats bill. We have to move with that; we have to deal with this first. But we need to deal with this in a way that doesn't leave a lot of rancor and a lot of frustration on our side that we haven't had an opportunity to have a voice in the matter.

So once again, I am pleading with the Senate majority leader and my colleagues on other side of the aisle that we work to find a way to turn the Senate back into the Senate. What are we afraid of?

Mr. President, with that I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

TAX EXTENDERS

Mr. WYDEN. Mr. President, in beginning my remarks on these extenders, I want my colleague from Indiana to know that in the Finance Committee we have done everything we could—all 24 of us—to avoid the rancor and polarization that has so often accompanied the big economic debates, and we passed the bill out of the Finance Committee overwhelmingly on a bipartisan basis.

Today the Senate is going to have the opportunity to vote against a big

tax increase—actually, a bunch of big tax increases—that would slam our fragile economy hard and would punish innovators, punish our small businesses, punish homeowners who are underwater with their mortgages, punish returning veterans looking for jobs, and punish students and classroom teachers.

Colleagues, who here thinks it makes sense to tax innovation? That is what will happen if the tax extender bill fails to pass today. Who here thinks it makes sense to tax millions of hard-working homeowners who are underwater on their mortgages and were lucky enough to get a break from their lender? That is what will happen if the tax extender bill fails to pass today. Who here thinks it makes sense to make it more difficult for our employers to hire veterans? Colleagues, that is what will happen if the tax extender bill fails to pass today. And who here thinks it makes sense to sock college students already drowning in debt with even higher tuition bills? Once again, colleagues, that is what happens if the tax extender bill fails to pass today.

I am very much aware that this bill is not exactly what every Senator wants. Little secret: It is not my first choice either.

For years I have had the honor to work with my colleague from Indiana on comprehensive tax reform. We were joined by our former colleague Senator Gregg. Senator BEGICH has done good work. That has long been my first choice. When Chairman Baucus went to China, I realized it wouldn't be possible in the few months that remain in this session to enact comprehensive reform, and the Senate shouldn't hit our economy once again with immediate—I say, immediate—tax hikes as work goes forward on the broader reforms that Senator COATS and I feel so strongly about.

Senator HATCH and all the members of the Finance Committee worked cooperatively and helped produce a bipartisan tax extender bill. This is essentially the first piece of legislation on my watch as chair of the committee. The process was totally open. Every member of the Finance Committee had the opportunity to weigh in and offer proposals.

I want to just briefly describe some of the extraordinary bipartisanship that went into the bill that we will have an opportunity to vote on today. Senators SCHUMER and ROBERTS built on the good work of another bipartisan duo, Senator MORAN and Senator COONS, and improved the research and development credit to make it available to those startups out there in garages who have a dream. The research and development credit is essentially the premiere part of this legislation because we saw a need for those innovation-driven jobs. We have four Senators—two of them Democrats, two of them Republicans—in effect coming together to improve significantly the research and development credit to ensure that it was available to even more of the startups—even more of those innovators—the ones just getting out of the gate. We know a lot of our big businesses started that way—the Microsofts, the Intels, and others.

Next Senator CARDIN and Senator PORTMAN added important provisions to help the long-term unemployed. We all understand that the nature of those who are unemployed has changed significantly in recent years. We have many more who are long-term unemployed Americans and we had two Senators—by the way, two Senators who started working in a bipartisan way when they were House members. I remember their good work on the Ways and Means Committee. They came up with a very promising approach to help the long-term unemployed. Senators HATCH, GRASSLEY, and ROBERTS—three Republicans—joined a whole host of Democrats in supporting conservation, which I know the distinguished Senator from Montana knows a great deal about. Senator Baucus had a long interest in it. What this measure does—again on a bipartisan basis—is protect open spaces and outdoor recreation businesses.

On the charity front, I heard my good friend from Indiana speak on this, and he has done wonderful work standing up for our charities. He and I and Senator THUNE feel so strongly about making sure charities get a fair shake in tax policy. I would say to my good friend, I am very pleased that there is a provision in what we will vote on today that would allow retirees who choose to use some of their IRA savings and give those IRA savings to charity. This legislation today would give a break to those retirees. In effect, as my friend and I have talked about, it is the IRA rollover concept to help our charities. That too is in this legislation and has long had bipartisan support.

I could go even further, but I will simply wrap up by saying that today the Senate has a chance to push back hard against big tax increases—tax increases that I have indicated punish everyone from innovators to classroom teachers and would hit our small businesses hard when the economy is so fragile. The Senate would have the opportunity today to push back against those immediate—immediate—tax increases, as well as future tax increases and to support the bipartisan work of the 24 members of this body who serve on the Finance Committee.

So I hope that my colleagues will see that even though this bill is not everything each Senator wants—and it is very fitting that my good friend from Indiana is on the floor because he knows that I strongly prefer the idea of comprehensive reform—it became clear to me that it wouldn't be possible to do that in the few short months before the end of the year. So the question was, are we going to stop immediate tax hikes, which I hope the Senate will vote today to do, or are we just going to say we will sit by and watch Americans get hurt and in effect have a lot of Americans say, if the Senate can't do this, how are they possibly going to go on to the comprehensive tax reform that I and others would like to accomplish.

So I hope my colleagues will vote today to advance this bill, vote for cloture, vote to break the gridlock, vote to prevent a massive tax increase, and show that when a committee like the Senate Finance Committee comes together with almost a quarter of the Senate on an overwhelming basis, it can set an example for the Senate. I am so appreciative of Senator HATCH who has consistently met me half way. I, in effect, parachuted into this job as the new chair of the Finance Committee—when certainly I didn't expect it—and was fortunate to be received with the graciousness of Senator HATCH. This is essentially the first bill on my watch. We had an overwhelmingly bipartisan vote, and I hope my colleagues later this afternoon will vote to advance it.

With that Mr. President, I yield the floor.

Mr. COATS. Mr. President, I ask through the Chair, if the Senator from Oregon would be willing to enter into a dialogue with me.

I have a couple of questions, but I also want to respond to the efforts he has made in a bipartisan way so we were able to move forward with this comprehensive reform.

The PRESIDING OFFICER (Mr. BOOKER). The Chair recognizes the Senator from Indiana.

Without objection, it is so ordered.

Mr. COATS. First of all, it has been a delight to work with the Senator from Oregon. Comprehensive tax reform is not easy, and it has not happened in 25 years. This is not what we are talking about today. But we are setting the stage for that, and I think that is important.

I agree with the Senator from Oregon when he spoke about the bipartisan product that came out of committee. It has been negotiated, and Members of the committee had an opportunity to make adjustments and get their provisions looked at and voted on. Some provisions were voted down and some were voted up. Now it has moved to the Senate floor, and there are those of us who don't serve on that committee that have some suggestions as to how we think we can make the bill even better.

I laid out three provisions that I am interested in. One addition I have for the bill is a very simple piece of legislation that would give notice to charities that are being terminated from their 501(c)3 tax exempt status so they have a chance to rectify the error or problem. I feel that is very sensible and totally relevant. Yet I am prohibited—unless the majority leader comes forward and allows us to offer amendments—from offering that specific provision.

We all know there are many good things in here we support. There are

some provisions we might agree on and other provisions we don't support, but all we are asking for is the opportunity to enter into the procedure that the Senator and I have both enjoyed in the past so we can debate some of this on the floor.

Could the Senator give me an indication as to whether or not they have shut down the process of any additions, modifications or reforms to this bill that we can have a vote on?

I know the Senator knows this, but I have to say that obviously people are not going to get these higher taxes imposed on them tomorrow if we don't pass this today. These provisions will expire at the end of the year. The House is on a different path in terms of dealing with these issues. We are going to have to reconcile the differences.

The real issue doesn't take effect—I mean the concern doesn't take effect until the end of the year. So that gives us plenty of time to debate and talk about reforms as well as some constructive additions that I have mentioned.

I ask my friend from Oregon this. Would he be willing to encourage the majority leader to offer us that opportunity to make some relevant—and hopefully constructive—adjustments, even a limited amount, to the legislation so we feel we at least had the opportunity to represent the voices of the people we represent here in Washington?

Mr. WYDEN. First, I want to be clear on a couple of points. This idea that there really are not any immediate consequences—I know my friend from Indiana spends a lot of time talking to businesses, as I do, and these businesses are up in arms about the fact that the Senate cannot deal with this because it doesn't give them the certainty and predictability they need to go out and make those orders and hire those workers. As my friend knows, so many of those businesses make quarterly payments—April, June, et cetera.

I want my colleagues to understand that the idea that maybe this is going to get worked out at another time is not in anyone's best interest.

When you are home for this recess, walking down Main Street and talking to people who are going to pay those higher taxes and are not able to make those investments and hire those workers and make those decisions now, they are not going to be happy that the Senate said: Oh, we will see if maybe it will work out some other time or retroactive or something like that. They are making quarterly payments and decisions right now.

Second, the Senator from Indiana knows—because of our work—how much I want to do comprehensive reform. One of the reasons that Senator HATCH and I made the judgment together that we were going to focus on extenders is because these are provisions that have essentially already expired. I didn't get a chance to hear all of my friend's presentation, but I know, for example, that he cares a great deal about the medical device tax. I joined him in voting to repeal the medical device tax when we had a vote earlier. I think it has real implications, as I know my friend does, for innovation and for jobs.

It is not an extender. It is not in line with the framework that Senator HATCH and I agreed on a bipartisan basis to do now. We said: We are going to do extenders now. To tell you the truth, if we can get through the extenders, starting with a favorable vote today, it will give us even more time to do what my friend from Indiana is talking about both in terms of comprehensive reform and looking at other issues.

If, however, we can't deal with the extenders, the message is going to go out far and wide: How are they going to address comprehensive tax reform on the Senate floor when they couldn't even pass this legislation which got such overwhelming support in the Senate Finance Committee?

So I renew my pledge to work very closely with my colleague from Indiana and repeat that the idea that somehow everything is going to turn out fine down the road, I just don't buy that. In a fragile economy when businesses can't plan and don't have the certainty of knowing what the rules are going to be and when they are going to kick in, that affects business decisions today in a negative way. When people are making those quarterly payments, you better believe there are going to be small businesses, and others, very unhappy if we see a tax increase, which is what will happen today.

I have to apologize to my colleague from Indiana because I have to be somewhere else and I am late, but I will just close by saying that I know the sincerity of my colleague. That is why I mentioned that charitable provision that allows for the IRA rollover into charity. No one has done more good work advocating for charities during my time in public service than the distinguished Senator from Indiana. I simply wanted him to know that at least we were making a beginning in this legislation, and I am committed to working with him in the days ahead.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I appreciate the accolades from my partner in dealing with comprehensive tax reform. I appreciate and understand where he is trying to come from. It is true that some of the amendments that have been proposed don't directly apply to the extenders, but they do apply to taxes, and they are sensible. If the majority leader would agree, we can limit it to those that directly apply to the extenders.

Look, everyone knows that even if the majority leader prevents us from having amendments, we are going to finish this bill by the end of next week—before the recess period. We are not talking about: Do it today or it is a ''done forever'' situation. This is going to be resolved in the Senate within the next several business days, probably moving into next week.

All we are really asking for is the opportunity to make some improvements to this. There are some Members who say: I can't vote for this bill because this piece that the committee has agreed to is so egregious, and it overwhelms all the good that I see in it. Others will simply say: Well, OK, sometimes you have to take the less good—perfect being the enemy of the good—because it is the only way we can get to a bipartisan position. So, yes, I will lean forward even though I object to this particular provision. But at least they can say: I had the opportunity to make the point to my colleagues as to why certain provisions are in there. I can ask: Why is something that is this egregious? This doesn't fit the model of what we are looking for in terms of growth and innovation and sensible tax policy. Let's put that to a vote.

In the end we will still have a bill that will either have it in or out, but we will have had the opportunity to debate it with our colleagues, and not just simply carte blanche say: Here is what we decided in committee. By doing that, nobody else will have an opportunity to have their input in a way that they think will make it better.

Let's put these issues up for a vote. Let's debate it on both sides so we can ask: How did it get in there? Why did it get in there? What good does it do? If they can't make the case, they lose the vote. If they make the case, they win the vote.

Isn't that what we are here for? Aren't we here to make our case and put it to a vote so the American people can look at it and say: At least I know how my Senator voted on this particular issue which is very important to me.

When we go home, we can either defend our vote successfully or we don't. If we don't, and enough people think we are on the wrong track, they have the opportunity to go to the polls and send somebody else in place of us.

What are my colleagues afraid of? Are they afraid of taking any kind of vote that someone back home might not think is the right thing to do?

We were sent here to exercise our best judgment, to represent the people who sent us here, to stand up for their interests, and then to take the consequence at the next election—yea or nay. Either they will send us back or they will find someone else to stand here.

The gag rule imposed by the majority leader—not my friend from Oregon—simply says: You are in the minority. You didn't win the election; therefore, you have no rights.

Despite what the Senate has done for over 200 years, and despite what other Democratic leaders have honored in terms of the rights of the Senate, the

majority leader is saying: I am shutting all of that off. You have no rights. You can't offer any amendments. You can't offer any improvements to this bill.

We were taught from the beginning—in terms of how laws are made—that it is a process, and the process is that everybody gets their input and then we decide what we want to support. If you can cobble together a majority for supporting your issue, you end up winning.

All of this will be determined here in the next week. A vote today in protest of our inability to be gagged and shut down by the majority leader doesn't mean we are opposed to good provisions that my colleague from Oregon has said have bipartisan and nearly unanimous consent.

The vote today is about whether we are going to have the opportunity to say and do anything to make this a better bill and allow us an opportunity to have our input. I listed three items here that I think directly relates to taxes. If the parliamentarian determines that those are not relevant to the particular bill, I will accept that even if I think they are relevant. My colleagues will also accept that. We are tailoring items we think will go directly to what the issue of the day is; yet we are not offered the opportunity to do anything about it.

I cannot understand why my Democratic colleagues can't see the injustice and unfairness of that. If they were in the minority, they would be standing where I am and basically making the same point. How can Republicans conceivably say: I have been elected here, but I have no way of representing the voice of the people who sent me here. I have no way of offering a means of improving this bill or taking on something that I find totally egregious, but I am willing to accept how the vote turns out. I am not necessarily trying to stop the bill from going forward, but I am trying to make it better.

I think if the shoe was on the other foot, my colleagues would simply say: That is not the way the Senate is supposed to work. That is not why I came here. I came here to be a participant. I didn't come here to be told by the majority leader that I have no right to offer a relevant amendment to legislation that is before us. It is a total neuterization of the minority rights in a body that was conceived by our Founders—and a tradition that has been held for more than 200 years—to be a deliberative body. Deliberative doesn't mean the majority leader walks over from his office and says: You have no right to offer an amendment. We are taking that right away from you. Deliberative means we stand and talk to each other as we just did. It is pretty rare for two of us to be on the same page on comprehensive tax reform and probably on the extenders, but the two of us have the chance to go back and forth with each other.

I know the time has run out and it is time to call for a vote.

No one should mistake a vote against this as a vote against tax extenders. It could be a protest. I am not sure where we will end up, but it could be a protest vote on the basis of the fact that we want to have our rights honored. We want to be able to participate. We want to be able to go home and say: I had a chance to take your voice to the Senate and debate it. It was voted on. It either passed or it didn't pass, but I gave it everything I had. I don't want to go home and say: I didn't have a chance to even raise my voice on behalf of your voice and achieve any kind of debate, deliberation or vote on this amendment. That is not why we are sent here. My Democratic colleagues need to understand that continuing to support what the majority leader is doing impacts their rights and their people's rights as much as it does ours.

With that I know the time has expired and I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, there is 2 minutes of debate equally divided before the cloture vote.

Mr. TESTER. I ask unanimous consent to yield back all time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. We yield back time as well.

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Rosemary Marquez, of Arizona, to be United States District Judge for the District of Arizona.

Harry Reid, Patrick J. Leahy, Robert Menendez, Christopher Murphy, Elizabeth Warren, Christopher A. Coons, Angus S. King, Jr., Richard Blumenthal, Jeff Merkley, Cory A. Booker, Amy Klobuchar, Dianne Feinstein, Richard J. Durbin, Tom Udall, Sheldon Whitehouse, Charles E. Schumer, Edward J. Markey.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Rosemary Marquez, of Arizona, to be United States District Judge for the District of Arizona, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Michigan (Mr. LEVIN), the Senator from West Virginia (Mr. MANCHIN), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Arkansas (Mr. BOOZMAN), the Senator from North Carolina (Mr. BURR), and the Senator from Nebraska (Mr. JOHANNS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 58, nays 35, as follows:

[Rollcall Vote No. 150 Ex.]

YEAS—58

Ayotte	Gillibrand	Murphy
Baldwin	Graham	Murray
Begich	Hagan	Nelson
Bennet	Harkin	Pryor
Blumenthal	Heinrich	Reed
Booker	Heitkamp	Reid
Boxer	Hirono	Schatz
Brown	Johnson (SD)	Schumer
Cantwell	Kaine	Shaheen
Cardin	King	Stabenow
Carper	Klobuchar	Tester
Casey	Landrieu	Udall (CO)
Chambliss	Leahy	Udall (NM)
Collins	Markey	Walsh
Coons	McCain	Warner
Donnelly	McCaskill	Warren
Durbin	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Flake	Mikulski	
Franken	Murkowski	

NAYS—35

Alexander	Grassley	Portman
Barrasso	Hatch	Risch
Blunt	Heller	Roberts
Coats	Hoeven	Rubio
Coburn	Inhofe	Scott
Cochran	Isakson	Sessions
Corker	Johnson (WI)	Shelby
Cornyn	Kirk	Thune
Crapo	Lee	Toomey
Cruz	McConnell	Vitter
Enzi	Moran	Wicker
Fischer	Paul	

NOT VOTING—7

Boozman	Levin	Sanders
Burr	Manchin	
Johanns	Rockefeller	

The PRESIDING OFFICER. On this vote the yeas are 58, the nays are 35. The motion is agreed to.

EXECUTIVE SESSION

NOMINATION OF ROSEMARY MARQUEZ TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

The PRESIDING OFFICER. Cloture having been invoked, the clerk will report the nomination.

The legislative clerk read the nomination of Rosemary Marquez, of Arizona, to be United States Judge for the District of Arizona.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided.

The Senator from Oregon.

Mr. WYDEN. Mr. President, to use our time, my colleague from Indiana spoke earlier as though the cloture vote on the extenders determines whether the Senate will have any amendments to the extenders bill. That is not the case. A ''yes'' vote today is a vote to move the debate forward.

In that vein I simply want to announce that if cloture is invoked, I would be happy to work with Senator HATCH and the two leaders to develop

an agreed-upon list of amendments, narrowly related to the bill that the Finance Committee did in its consideration of the bill in the committee.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I certainly want to thank my good friend, the chairman of the Finance Committee, for his observation. He is moving in the right direction. As everyone is clearly aware, the issue of not allowing amendments is a highly sensitive matter. The Senate has been changed dramatically in recent years.

The time to have a negotiation over amendments is before cloture is invoked, not after. If there is an indication on the other side that we are willing to have that negotiation, the time to do it is now because our experience postcloture with the ability to offer amendments has not been good, to put it mildly.

So I think the chairman of the Finance Committee is headed in the right direction. The timing is a little off. We would like to have this negotiation over amendments before cloture is invoked on the bill.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Douglas L. Rayes, of Arizona, to be United States District Judge for the District of Arizona.

Harry Reid, Patrick J. Leahy, Robert Menendez, Christopher Murphy, Elizabeth Warren, Christopher A. Coons, Angus S. King, Jr., Richard Blumenthal, Jeff Merkley, Amy Klobuchar, Dianne Feinstein, Richard J. Durbin, Cory A. Booker , Tom Udall, Sheldon Whitehouse, Charles E. Schumer, Edward J. Markey.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Douglas L. Rayes, of Arizona, to be United States District Judge for the District of Arizona shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET), the Senator from West Virginia (Mr. MANCHIN), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Arkansas (Mr. BOOZMAN) and the Senator from North Carolina (Mr. BURR).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 59, nays 35, as follows:

[Rollcall Vote No. 151 Ex.]

YEAS—59

Ayotte	Graham	Murkowski
Baldwin	Hagan	Murphy
Begich	Harkin	Murray
Blumenthal	Heinrich	Nelson
Booker	Heitkamp	Pryor
Boxer	Hirono	Reed
Brown	Isakson	Reid
Cantwell	Johnson (SD)	Schatz
Cardin	Kaine	Schumer
Carper	King	Shaheen
Casey	Klobuchar	Stabenow
Chambliss	Landrieu	Tester
Collins	Leahy	Udall (CO)
Coons	Levin	Udall (NM)
Donnelly	Markey	Walsh
Durbin	McCain	Warner
Feinstein	McCaskill	Warren
Flake	Menendez	Whitehouse
Franken	Merkley	Wyden
Gillibrand	Mikulski	

NAYS—35

Alexander	Grassley	Portman
Barrasso	Hatch	Risch
Blunt	Heller	Roberts
Coats	Hoeven	Rubio
Coburn	Inhofe	Scott
Cochran	Johanns	Sessions
Corker	Johnson (WI)	Shelby
Cornyn	Kirk	Thune
Crapo	Lee	Toomey
Cruz	McConnell	Vitter
Enzi	Moran	Wicker
Fischer	Paul	

NOT VOTING—6

Bennet	Burr	Rockefeller
Boozman	Manchin	Sanders

The PRESIDING OFFICER. On this vote the ayes are 59, the nays are 35. The motion is agreed to.

NOMINATION OF DOUGLAS L. RAYES TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Douglas L. Rayes, of Arizona, to be United States District Judge for the District of Arizona.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided.

Mr. MCCAIN. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, all time is yielded back.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of James Alan Soto, of Arizona, to be United States District Judge for the District of Arizona.

Harry Reid, Patrick J. Leahy, Robert Menendez, Christopher Murphy, Elizabeth Warren, Christopher A. Coons, Angus S. King, Jr., Richard Blumenthal, Jeff Merkley, Amy Klobuchar, Dianne Feinstein, Richard J. Durbin, Tom Udall, Sheldon Whitehouse, Charles E. Schumer, Edward J. Markey, Cory A. Booker.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of James Alan Soto, of Arizona, to be United States District Judge for the District of Arizona, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arkansas (Mr. BOOZMAN).

The PRESIDING OFFICER. (Mr. KING). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 61, nays 35, as follows:

[Rollcall Vote No. 152 Ex.]

YEAS—61

Ayotte	Gillibrand	Murkowski
Baldwin	Graham	Murphy
Barrasso	Hagan	Murray
Begich	Harkin	Nelson
Bennet	Heinrich	Pryor
Blumenthal	Heitkamp	Reed
Booker	Hirono	Reid
Boxer	Isakson	Schatz
Brown	Johnson (SD)	Schumer
Cantwell	Kaine	Shaheen
Cardin	King	Stabenow
Carper	Klobuchar	Tester
Casey	Landrieu	Udall (CO)
Chambliss	Leahy	Udall (NM)
Collins	Levin	Walsh
Coons	Markey	Warner
Donnelly	McCain	Warren
Durbin	McCaskill	Whitehouse
Feinstein	Menendez	Wyden
Flake	Merkley	
Franken	Mikulski	

NAYS—35

Alexander	Grassley	Portman
Blunt	Hatch	Risch
Burr	Heller	Roberts
Coats	Hoeven	Rubio
Coburn	Inhofe	Scott
Cochran	Johanns	Sessions
Corker	Johnson (WI)	Shelby
Cornyn	Kirk	Thune
Crapo	Lee	Toomey
Cruz	McConnell	Vitter
Enzi	Moran	Wicker
Fischer	Paul	

NOT VOTING—4

Boozman	Rockefeller
Manchin	Sanders

The PRESIDING OFFICER. On this vote the yeas are 61, the nays are 35. The motion is agreed to.

NOMINATION OF JAMES ALAN SOTO TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

The PRESIDING OFFICER. Cloture having been invoked, the clerk will report the nomination.

The assistant bill clerk read the nomination of James Alan Soto, of Arizona, to be United States District Judge for the District of Arizona.

NOMINATION OF LESLIE RAGON CALDWELL TO BE AN ASSISTANT ATTORNEY GENERAL

NOMINATION OF HELEN MEAGHER LA LIME TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ANGOLA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the following nominations, which the clerk will report.

The assistant bill clerk read the nominations of Leslie Ragon Caldwell, of New York, to be an Assistant Attorney General and Helen Meagher La Lime, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Angola.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent that all time be yielded back on both nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON CALDWELL NOMINATION

Under the previous order, the question is, Will the Senate advise and consent to the nomination of Leslie Ragon Caldwell, of New York, to be an Assistant Attorney General?

The nomination was confirmed.

VOTE ON LA LIME NOMINATION

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Helen Meagher La Lime, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Angola?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table, and the President will be immediately notified of the Senate's actions.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 1:45 p.m.

Thereupon, the Senate, at 12:36 p.m., recessed until 1:45 p.m. and reassembled when called to order by the Presiding Officer (Mrs. MCCASKILL).

NOMINATION OF ROSEMARY MARQUEZ TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA—Continued

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate prior to the vote on the Marquez nomination.

Neither side yielding the time, the time will be equally divided.

The PRESIDING OFFICER. The Senator from Hawaii.

Ms. HIRONO. Madam President, I ask unanimous consent that all time be yielded back.

Mrs. MCCASKILL. Without objection, all time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Rosemary Marquez, of Arizona, to be United States District Judge for the District of Arizona?

Ms. HIRONO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Arkansas (Mr. BOOZMAN) and the Senator from Georgia (Mr. ISAKSON).

The PRESIDING OFFICER (Ms. HIRONO). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 15, as follows:

[Rollcall Vote No. 153 Ex.]

YEAS—81

Alexander	Gillibrand	Mikulski
Ayotte	Graham	Murkowski
Baldwin	Grassley	Murphy
Begich	Hagan	Murray
Bennet	Harkin	Nelson
Blumenthal	Hatch	Paul
Blunt	Heinrich	Portman
Booker	Heitkamp	Pryor
Boxer	Heller	Reed
Brown	Hirono	Reid
Cantwell	Hoeven	Sanders
Cardin	Johanns	Schatz
Carper	Johnson (SD)	Schumer
Casey	Johnson (WI)	Sessions
Chambliss	Kaine	Shaheen
Coats	King	Stabenow
Cochran	Kirk	Tester
Collins	Klobuchar	Thune
Coons	Landrieu	Toomey
Corker	Leahy	Udall (CO)
Cornyn	Levin	Udall (NM)
Donnelly	Markey	Walsh
Durbin	McCain	Warner
Feinstein	McCaskill	Warren
Fischer	McConnell	Whitehouse
Flake	Menendez	Wicker
Franken	Merkley	Wyden

NAYS—15

Barrasso	Enzi	Roberts
Burr	Inhofe	Rubio
Coburn	Lee	Scott
Crapo	Moran	Shelby
Cruz	Risch	Vitter

NOT VOTING—4

Boozman	Manchin
Isakson	Rockefeller

The nomination was confirmed.

NOMINATION OF DOUGLAS L. RAYES TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA—Continued

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate prior to a vote on the Rayes nomination.

Who yields time?

Mr. PORTMAN. Madam President, we yield back all time.

The PRESIDING OFFICER. Without objection, all time is yielded back.

The question occurs on the nomination.

Mr. PORTMAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Douglas L. Rayes, of Arizona, to be United States District Judge for the District of Arizona?

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Arkansas (Mr. BOOZMAN) and the Senator from Georgia (Mr. ISAKSON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 77, nays 19, as follows:

[Rollcall Vote No. 154 Ex.]

YEAS—77

Alexander	Fischer	McCaskill
Ayotte	Flake	McConnell
Baldwin	Franken	Menendez
Begich	Gillibrand	Merkley
Bennet	Graham	Mikulski
Blumenthal	Grassley	Murkowski
Blunt	Hagan	Murphy
Booker	Harkin	Murray
Boxer	Hatch	Nelson
Brown	Heinrich	Paul
Cantwell	Heitkamp	Pryor
Cardin	Heller	Reed
Carper	Hirono	Reid
Casey	Hoeven	Sanders
Chambliss	Johnson (SD)	Schatz
Coats	Kaine	Schumer
Cochran	King	Sessions
Collins	Kirk	Shaheen
Coons	Klobuchar	Stabenow
Corker	Landrieu	Tester
Cornyn	Leahy	Toomey
Donnelly	Levin	Udall (CO)
Durbin	Markey	Udall (NM)
Feinstein	McCain	

Walsh	Warren	Wicker
Warner	Whitehouse	Wyden

NAYS—19

Barrasso	Johanns	Rubio
Burr	Johnson (WI)	Scott
Coburn	Lee	Shelby
Crapo	Moran	Thune
Cruz	Portman	Vitter
Enzi	Risch	
Inhofe	Roberts	

NOT VOTING—4

Boozman	Manchin
Isakson	Rockefeller

The nomination was confirmed.

NOMINATION OF JAMES ALAN SOTO TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA—Continued

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate prior to a vote on the Soto nomination.

Mr. LEAHY. Madam President, I ask unanimous consent that all time be yielded back.

The PRESIDING OFFICER. Without objection, all time is yielded back.

The question is, Will the Senate advise and consent to the nomination of James Alan Soto, of Arizona, to be United States District Judge for the District of Arizona?

Mr. BLUNT. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from New Hampshire (Ms. AYOTTE), the Senator from Arkansas (Mr. BOOZMAN), the Senator from Georgia (Mr. ISAKSON), and the Senator from Kansas (Mr. MORAN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 1, as follows:

[Rollcall Vote No. 155 Ex.]

YEAS—93

Alexander	Cornyn	Inhofe
Baldwin	Crapo	Johanns
Barrasso	Cruz	Johnson (SD)
Begich	Donnelly	Johnson (WI)
Bennet	Durbin	Kaine
Blumenthal	Enzi	King
Blunt	Feinstein	Kirk
Booker	Fischer	Klobuchar
Boxer	Flake	Landrieu
Brown	Franken	Leahy
Burr	Gillibrand	Lee
Cantwell	Graham	Levin
Cardin	Grassley	Markey
Carper	Hagan	McCain
Casey	Harkin	McCaskill
Chambliss	Hatch	McConnell
Coats	Heinrich	Menendez
Cochran	Heitkamp	Merkley
Collins	Heller	Mikulski
Coons	Hirono	Murkowski
Corker	Hoeven	Murphy
Murray	Sanders	Toomey
Nelson	Schatz	Udall (CO)
Paul	Schumer	Udall (NM)
Portman	Scott	Vitter
Pryor	Sessions	Walsh
Reed	Shaheen	Warner
Reid	Shelby	Warren
Risch	Stabenow	Whitehouse
Roberts	Tester	Wicker
Rubio	Thune	Wyden

NAYS—1

Coburn

NOT VOTING—6

Ayotte	Isakson	Moran
Boozman	Manchin	Rockefeller

The nomination was confirmed.

CLOTURE MOTION

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided prior to the vote to invoke cloture on the Costa nomination.

Mr. REID. Madam President, I yield back all time.

The PRESIDING OFFICER. Without objection, all time is yielded back.

The cloture motion having presented under rule XXII, the Chair directs the clerk to report the motion.

The assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Gregg Jeffrey Costa, of Texas, to be United States Circuit Judge for the 5th Circuit.

Harry Reid, Patrick J. Leahy, Robert Menendez, Christopher Murphy, Elizabeth Warren, Christopher A. Coons, Angus S. King, Jr., Richard Blumenthal, Jeff Merkley, Cory A. Booker , Amy Klobuchar, Dianne Feinstein, Richard J. Durbin, Tom Udall, Sheldon Whitehouse, Charles E. Schumer, Edward J. Markey.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that the debate on the nomination of Gregg Jeffrey Costa, of Texas, to be the United States Circuit Judge for the Fifth Circuit shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from New Hampshire (Ms. AYOTTE), the Senator from Arkansas (Mr. BOOZMAN), the Senator from Georgia (Mr. ISAKSON), and the Senator from Kansas (Mr. MORAN).

The PRESIDING OFFICER. (Ms. WARREN.) Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 58, nays 36, as follows:

[Rollcall Vote No. 156 Ex.]

YEAS—58

Baldwin	Gillibrand	Murray
Begich	Hagan	Nelson
Bennet	Harkin	Pryor
Blumenthal	Heinrich	Reed
Booker	Heitkamp	Reid
Boxer	Hirono	Sanders
Brown	Johnson (SD)	Schatz
Cantwell	Kaine	Schumer
Cardin	King	Shaheen
Carper	Klobuchar	Stabenow
Casey	Landrieu	Tester
Collins	Leahy	Udall (CO)
Coons	Levin	Udall (NM)
Cornyn	Markey	Walsh
Cruz	McCaskill	Warner
Donnelly	Menendez	Warren
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Flake	Murkowski	
Franken	Murphy	

NAYS—36

Alexander	Graham	Paul
Barrasso	Grassley	Portman
Blunt	Hatch	Risch
Burr	Heller	Roberts
Chambliss	Hoeven	Rubio
Coats	Inhofe	Scott
Coburn	Johanns	Sessions
Cochran	Johnson (WI)	Shelby
Corker	Kirk	Thune
Crapo	Lee	Toomey
Enzi	McCain	Vitter
Fischer	McConnell	Wicker

NOT VOTING—6

Ayotte	Isakson	Moran
Boozman	Manchin	Rockefeller

The PRESIDING OFFICER. On the motion to invoke cloture on Gregg Jeffrey Costa, of Texas, to be United States Circuit Judge for the Fifth Circuit, the yeas are 58, the nays are 36. The motion is agreed to.

The Republican leader.

UNANIMOUS CONSENT REQUEST—H.R. 3474

Mr. MCCONNELL. Madam President, is the next vote in order on the underlying tax extender bill?

The PRESIDING OFFICER. The next vote will be on the motion to invoke cloture on amendment No. 3060 to the tax extenders bill.

Mr. MCCONNELL. Thank you, Madam President.

The American people actually need to know what is happening in their Senate. This body exists to ensure that the citizens of this country have a say in what our government does. The Senate is supposed to be the citadel of our democracy, the place where we guarantee that no one in the country is cut out of the legislative process. The whole purpose of this body is to make sure that nobody is left out or left behind.

Yet today we have a Democratic majority that has turned this body literally on its head. Instead of preserving the Senate's prerogatives, they have systematically weakened or destroyed them all together. They have turned the Senate into a graveyard of good ideas and open democratic debate.

It is a gag order on the American people we represent. Instead of robust, freewheeling debates about the important issues of the day, we get bizarre monologues about the Democrats' latest villain.

We get silly, shameful attacks on private citizens. So in one sense it is fitting that the majority leader announced today he wants to rewrite the Constitution. I mean, at least you have to give them marks for consistency.

They are already muzzling our constituents by blocking amendments, and now they want to muzzle them even more by changing the Bill of Rights. This is completely out of control.

Even if the Democratic majority doesn't like our ideas or those of our constituents, the answer isn't to take away their constitutionally guaranteed right to speak their minds. The answer isn't to shut down their representatives' ability to influence legislation through amendments. The answer, my friends, is to come up with better arguments. The answer is to actually convince people in a free and open marketplace of ideas that you are right.

Why are Washington Democrats so afraid of a free and open exchange of ideas? What are they afraid of? Do they have that little faith in the judgment of the people we represent? Over the past few weeks we have seen just how scared our friends on the other side are of a free and open debate.

A big majority wants to repeal President Obama's medical device tax; 79 people in this body voted for it. They won't allow a vote on it.

The American people want to see a vote on the Keystone Pipeline. Most Senators say they want to vote on it too, but we are not allowed to vote on it.

We have a tax bill that Members on both sides want to improve and Members on both sides want to support. Yet we don't get a chance to amend it.

We should have certainty in our Tax Code instead of these endless expirations that only make it harder for people to prepare and for businesses to plan and to compete. They don't want to do that either. They are completely allergic—completely and totally allergic—to anything that is constructive.

What they are doing is muzzling the people of this country, a gag order on the people we were sent to the Senate to represent—all presumably to protect their power. This is really quite scandalous. The American people need to know what is happening in their Senate because this is bigger than any one bill. It is about protecting the right of the American people to have a say in what goes on in Washington.

We represent millions of people on this side of the aisle. They represent many of the people on their side of the aisle. I think there are something like 40 or so Democratic amendments pending to this bill—Democratic Senators who offered amendments to this bill who will not be heard.

This is all about protecting the one opportunity they have to shut us out. It is about a party that has become so afraid of losing its hold on power that they are willing to do just about anything to hold onto it—even if it means, as I said earlier, to try to amend the Bill of Rights.

We have a lot of smart people on the Democratic side, but I expect none of them are smarter than James Madison. Yet apparently they decided—after a couple of hundred years—Madison's work is not sufficient. They want to recommend we amend the Bill of Rights. What is before us today is not that; it is a tax extender bill.

Therefore, I ask unanimous consent that if cloture is invoked on Senate amendment No. 3060, the Wyden substitute, the amendment be considered original text for the purpose of amendment; and notwithstanding the provisions of rule XXII, it be in order for the Republican leader or his designee to offer the Toomey amendment related to the medical device tax, and that amendments then be offered in alternating fashion between the majority and the minority, with all amendments being related to tax policy.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Everyone listen. The selfpronounced guardian of gridlock just gave us his presentation. That is what the Republican leader calls himself, and that is a good name that he got for himself—the guardian of gridlock. That is what we have in the Senate. That is what we have had here for 5½ years. We have struggled through parts of it, but it has been difficult.

It is no surprise to me or to us that, of course, when something is said about the Koch brothers, there are people who run down to the floor to defend them. This time we have the Republican leader defending the Koch brothers.

What I talked about today is something so radical—listen to what it is—that we should have restrictions on how much money people can spend in political campaigns and not have the government purchased by the two richest people in America—the Koch brothers. So it is no surprise we have someone running to their rescue.

I would also suggest this. My friend, the Republican leader, wants a vote on Keystone. They had a vote. They wouldn't take it. As one of my Democratic Senators said, my friend the Republican leader is more interested in an issue than getting the pipeline done.

So here is where we are. The Republican leader has asked for alternating amendments. That is a buzzword for ''we are going to continue our filibusters.''

The chairman of the Finance Committee, RON WYDEN, as the new chair—and we all have great expectations from RON WYDEN. He is an experienced legislator. He spent many years in the House, and now he is a veteran here in the Senate. He made a reasonable proposal—it was done before the world—saying: OK, you want amendments, let's do them in relation to this bill; that is, the tax extenders bill.

But I will go even a step further than that. First of all, everyone should understand that this is a bill which was done by the Finance Committee on a bipartisan basis. But if they are interested in more amendments, why don't we have Senator WYDEN and Senator HATCH see what they can come up with? And if that is good enough for me, it is good enough for my caucus.

I object.

The PRESIDING OFFICER. Objection is heard.

NOMINATION OF GREGG JEFFREY COSTA TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant bill clerk read the nomination of Gregg Jeffrey Costa, of Texas, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

CLOTURE MOTION

The PRESIDING OFFICER. The Senate will resume legislative session.

There is now 2 minutes of debate.

The Senator from Oregon.

Mr. WYDEN. Madam President, I said before that I am willing to debate and have votes on amendments related to tax extenders, and we heard Senator REID essentially extend the olive branch once more. That is exactly what Senator HATCH and I did on a bipartisan basis in the Finance Committee, and I am ready and willing to do that again in the full Senate. But the Senate can't do that if action on the tax extenders bill is blocked today.

So now the Senate has the opportunity to vote against a big tax increase—actually, a bunch of big tax increases—that would slam our fragile economy hard and would punish innovators, punish our small businesses, punish homeowners who are underwater on their mortgages, punish returning veterans looking for jobs, and punish students and classroom teachers.

Colleagues, who here thinks it makes sense to tax innovation? That is what is going to happen if the tax extenders bill fails to pass today. Who here thinks it makes sense—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WYDEN. Madam President, I urge that we not let students, veterans, homeowners, and innovators be hurt today. Let's vote for cloture this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I compliment the distinguished Senator from Oregon for the work, the wide-open work he did for the committee because we did have an open process, but we only comprise a little less than 25 percent of the Senate. To have a bill this important and be foreclosed from amendments I think makes the case for the minority leader and for this side.

I know there are many people on the other side who would like to have an open process, who would like to see amendments, who would like to have this be a real debating society from time to time rather than just have a slam-dunk type of approach to everything. I have to say I think there are a lot of people who aren't on the Finance Committee who had no say at all on this bill and who might possibly want to participate in the process.

We have just had, time after time——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Time after time we have been foreclosed. It is time to end that and start acting as the U.S. Senate should act and allow both sides at least an opportunity to express their views and allow every Senator that opportunity, not just the ones on the Finance Committee.

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 3060 to H.R. 3474, an act to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

Harry Reid, Ron Wyden, Angus S. King, Jr., Richard J. Durbin, Robert Menendez, Mark R. Warner, Benjamin L. Cardin, Robert P. Casey, Jr., Christopher A. Coons, Bill Nelson, Michael F. Bennet, Heidi Heitkamp, Barbara Boxer, Debbie Stabenow, Maria Cantwell, Charles E. Schumer, Thomas R. Carper.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 3060 to H.R. 3474, an act to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from New Hampshire (Ms. AYOTTE), the Senator from Arkansas (Mr. BOOZMAN), the Senator from Georgia (Mr. ISAKSON), the Senator from Kansas (Mr. MORAN), and the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 40, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—53

Baldwin	Harkin	Murray
Begich	Heinrich	Nelson
Bennet	Heitkamp	Pryor
Blumenthal	Hirono	Reed
Booker	Johnson (SD)	Sanders
Boxer	Kaine	Schatz
Brown	King	Schumer
Cantwell	Kirk	Shaheen
Cardin	Klobuchar	Stabenow
Carper	Landrieu	Tester
Casey	Leahy	Udall (CO)
Coons	Levin	Udall (NM)
Donnelly	Markey	Walsh
Durbin	McCaskill	Warner
Feinstein	Menendez	Warren
Franken	Merkley	Whitehouse
Gillibrand	Mikulski	Wyden
Hagan	Murphy	

NAYS—40

Alexander	Fischer	Paul
Barrasso	Flake	Portman
Blunt	Graham	Reid
Burr	Grassley	Risch
Chambliss	Hatch	Roberts
Coats	Heller	Rubio
Coburn	Hoeven	Scott
Cochran	Inhofe	Sessions
Collins	Johanns	Shelby
Corker	Johnson (WI)	Thune
Cornyn	Lee	Toomey
Crapo	McCain	Wicker
Cruz	McConnell	
Enzi	Murkowski	

NOT VOTING—7

Ayotte	Manchin	Vitter
Boozman	Moran	
Isakson	Rockefeller	

The PRESIDING OFFICER. On this vote the yeas are 53, the nays are 40.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. I enter a motion to reconsider the vote by which cloture was not invoked on the substitute amendment.

The PRESIDING OFFICER. The motion is entered.

The majority leader.

Mr. REID. Madam President, would you repeat the vote?

Ms. WARREN. The vote was 53 in favor and 40 opposed.

Mr. REID. Madam President, once again the Republicans cannot take yes for an answer. They just voted against the second bipartisan bill in less than a week. It is hard to comprehend, but that is true.

But we have learned on the energy efficiency—with all the different agreements that were violated by the Republicans—we learned in the last 24 hours the reason for this. Scott Brown, who is running for the Senate—he is from Massachusetts but running for the Senate in New Hampshire—he asked the Republican caucus: Make sure you don't give SHAHEEN a victory on this.

So that is what it is all about on that bipartisan bill. That was a bill to conserve energy; 200,000 jobs—something really important for the country. They worked on it since last September.

Stunningly, my friend the Republican leader today is lamenting how things are going around here: Why won't they give us a vote on Keystone?

All he has to do is think back a couple days. They were offered an up-or-down vote on Keystone. They refused to take it. Talk about double-talk—triple-talk. And, of course—of course—whom do they come running to for help? The Koch brothers.

I was criticized for thinking that we should do something about this obscene campaign spending that is going on. And what, lo and behold, is the first suggestion they have that they want to do on tax extenders? They want to do something about ObamaCare. That is the only mention that is listed there—ObamaCare. Even though it has fallen significantly as an issue they are going to win anything on, that is part of their mindset.

Today the Republicans' excuse is they need to vote once again to roll back part of ObamaCare, just as I said. And I already went over the Scott Brown episode. So I wonder who called them today to tell them to kill this bill? Maybe Scott Brown has something to do with this also or maybe it is one of the other Republican candidates who are desiring to be in the Senate. No matter the excuse, Republicans continue to wage war against common sense.

This tax extenders bill was a bill that was hashed out in the Finance Committee. In the Finance Committee, they didn't allow anything except germane amendments—in the Finance Committee—because the plan was to bring that bill here and get it passed. It is a bill that is needed at this time. The business community needs it. Tax reports have to be filed, and until this bill passes, they are not going to be very good if you are a big business. If you take a bus or a subway—there is a subsidy in this bill for people who take buses and subways, public transportation—that is not going to pass. And sales tax deductions—lots of things that are just common sense. But my friend the Republican leader calls himself the guardian of gridlock—the guardian of gridlock—and I am not going to do a thing to take away that name he loves so much because it is true.

Now we will have the weekend to think about this, I guess. I think it is irrational to block these tax cuts—tax cuts. That is what just happened. The Republicans voted against tax cuts. So maybe the Republicans will hear from their friends down on K Street and

around the country, and maybe they will learn that this is pretty important to everybody—not Democrats, not Republicans; it is important for our country.

My door is always open. I indicated that in my statement following the consent request of the Republican leader, but we have heard nothing.

I don't know how anyone could be more reasonable than Chairman WYDEN. They wanted amendments. He offered them amendments.

In the meantime, it should not be lost that Republican Senators are continuing their agenda by just saying no whether it is something as logical and as important as pay equity, so a woman doing the same job as a man gets the same amount of money; that was blocked. And this is an issue that is more than just something that takes place away from the maddening crowds. Look what happened, it appears, at the New York Times. The woman who ran that newspaper was fired yesterday. Why? It is now in the press. Because she complained she was doing the same work as men in two different jobs and made a lot less money than they did. That is why we need that legislation. My daughter should make as much money as a man who does the same work. What kind of example are we setting here when a woman who does the same work as a man doesn't get paid the same amount of money? The Republicans blocked that.

They even blocked raising the minimum wage. We have had Rick Santorum come out in favor of doing that, Mitt Romney, Jeb Bush, and they keep coming on every day, new people coming on to say the minimum wage should be increased—Republicans. But it doesn't matter. They are functioning here under the tutelage of the master of gridlock, the guardian of gridlock.

So as we go back to a few days after President Obama was elected, all the big shot Republicans came here and they came to two conclusions:

No. 1. We are going to do everything we can to make sure Obama is not reelected.

And to the credit of my Republican friend, the Republican leader, he stated that on the Senate floor. He said: My No. 1 goal is to make sure Obama is not reelected.

That was a failure.

But what else did they say at that meeting? The way we are going to make sure that Obama is not reelected and to make sure the Democrats do not do that well—we are going to block everything.

That is what they have done, and here is an example of that right here again today.

No to energy conservation, no to pay equity, no to minimum wage, and now today a new one: no to tax cuts.

So I would hope that come November the American people would just say no to this gridlock we have here in Washington in the Senate.

The PRESIDING OFFICER. The Senator from Kansas.

VETERANS' HEALTH CARE

Mr. CORNYN. Madam President, the front page of yesterday's San Antonio Express News featured the heartbreaking story of a former Army combat medic by the name of Anson Dale Richardson, a man from East Texas who did multiple tours in Vietnam and went on to work as a heavy equipment operator.

Last September Dale was diagnosed with a very serious form of throat cancer. His doctor says he told medical officials at the Department of Veterans Affairs to put Mr. Richardson on an immediate course of chemotherapy. What happened next is the sort of tragedy that is becoming all too familiar, with revelations from Veterans' Affairs clinics and hospitals around the country.

According to the Express News, after being told to start chemotherapy right away, Mr. Richardson waited to hear from the VA about his appointment. He waited and waited, but he never heard back. On November 4, Dale Richardson died.

We will never know whether he would have or could have survived cancer because he wasn't given that chance because he wasn't able to start the chemo treatments when his doctor first diagnosed him. But we do know that the Veterans' Administration's reported failure to give him any chemo treatments took away his one last hope of beating this terrible disease.

When he died, Dale left behind a wife named Carolyn. In an interview with the Express News, Carolyn Richardson said of her late husband, ''I just wish he'd had a chance.''

Dale Richardson's Austin-area doctor—the doctor who says he told VA officials that Mr. Richardson needed immediate chemotherapy—got in contact with my office to express his outrage and his tremendous sadness and anger and frustration at Mr. Richardson's death. In fact, the doctor said this episode was so disturbing that he is no longer accepting contract work from the Veterans' Administration. He also said that a VA physician personally told him: ''The system is broken, and I'm glad I'm retiring.''

Given all of the stories that have accumulated and those that seem to appear with every new edition of the daily newspapers—all the reports of veterans dying or suffering because of the long wait times, all the reports of appointment data being falsified, all the reports of VA employees participating in coverups—given all that, it seems painfully clear to me that the system is indeed broken and that the current VA leadership is unable or unwilling to do what is necessary to fix it.

With that in mind, I know that the Secretary of Veterans Affairs, Secretary Shinseki, testified today before the Veterans' Affairs Committee. I haven't yet had a chance to read the transcript of his testimony, but I am hoping he will have answered or will at some point answer these questions:

No. 1. Can you confirm, Secretary Shinseki, that supervisors of VA facilities have been ordering employees to conceal wait times?

I would like for him to answer this question: Secretary Shinseki, can you confirm whether VA cancer patients needing chemotherapy are being provided with treatment in a timely manner?

No. 3. Secretary Shinseki, can you confirm whether the VA is withholding all bonuses and pay raises from those employees who have been accused of falsifying appointment data?

No. 4. Secretary Shinseki, can you confirm whether VA facilities are preserving all appointment-related documents? In other words, can you assure the Congress and the American people that evidence is not being destroyed?

Finally, Secretary Shinseki, can you confirm whether all VA staffers at the facilities under investigation will not be assigned to investigate other VA facilities—a case of the fox perhaps watching the henhouse.

These questions go to the very heart of the VA's credibility or to the lack thereof. We have millions of veterans in this country and tens of millions more people who either know a veteran or are related to one, and I would like to think that all Americans, whether they know a veteran, whether they have a veteran as a family member, all Americans are united in our concerns with the way our veterans are being treated and join with us in our commitment to get to the bottom of this mess and figure out what went wrong and fix it. We all deserve answers, and we deserve them now.

If Secretary Shinseki cannot provide the necessary assurances, then it will become obvious that the VA is suffering from not only a systemic crisis of competence and accountability but from a systemic crisis of leadership as well.

I know everybody claims to be outraged by these news reports, by the steady stream of allegations, and yet I fear the Obama administration is not treating this with the kind of urgency it demands.

Remember, the administration has now spent more than $4½ billion setting up the ObamaCare exchanges, and we remember what happened with the Web site that was the portal where people would sign up for these exchanges failed. It was all hands on deck. I commend the administration for its timely response to that problem, but by comparison, with the tragedies we are reading about in the newspapers about the 40 veterans who died in Phoenix while reportedly waiting for treatment at a VA clinic or hospital when put on a secret waiting list, I don't see that sense of urgency coming from the administration or from this Congress, for that matter.

I do commend Senator SANDERS and Senator BURR, the chair and ranking

member of the Veterans' Affairs Committee of the Senate, for having Secretary Shinseki and others here today so we can begin the process of peeling the layers of the onion so we can get to the truth.

I realize the administration has to balance competing priorities, but in my view there are few priorities more important than honoring our sacred promise to America's military heroes. I would hope we can all agree that even one story like Dale Richardson's is one too many. The time for happy talk and empty promises is long past. What our veterans deserve and need now is real accountability and reform and not this sort of ''kick the can down the road'' attitude that seems to pervade Washington but, rather, a real sense of urgency to get to the bottom of the problem and to fix it without any delay; otherwise, there will be more veterans who will be forced to suffer and possibly lose their life as Dale did because of the incompetence of the administration at the VA and the lack of leadership necessary to get to the bottom of this and get it on the right course.

I yield the floor.

The PRESIDING OFFICER (Mr. MARKEY). The Senator from New York.

Mr. SCHUMER. Mr. President, after I speak, I ask unanimous consent my friend and colleague from Utah be given the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. I thank him for letting me say a few words.

TAX EXTENDERS

I was listening to the debate between the majority leader and the minority leader, and I just wanted to be clear. The tax extender bill was negotiated very well by Senators WYDEN and HATCH, with many of us in the committee participating, and it was truly a bipartisan product. The ideas in there, I would probably say, were half Republican and half Democratic.

Senator HATCH made a very good point. He said that is only about 25 percent of the Senate. What about everybody else? If we have no amendments, no one else can legislate.

I want to clarify our offer. Senator MCCONNELL said amendments on the whole Tax Code should be allowed. That is no way to legislate. That goes the opposite way. The Finance Committee knows the Tax Code, and as a result they should get first crack at it; otherwise, we may as well not have a committee system. But we should allow amendments that are relevant or germane to the extenders. There were many extenders. Many Members who are not on the committee probably have many ideas about how to change those amendments—make them longer, make them shorter.

The House actually took three of our extenders and made them permanent. Maybe that is a debate our colleagues on the other side of the aisle want to have, which would be a very legitimate debate, even though some people might say that costs too much or it leaves out some extenders, et cetera. Maybe some of them don't want to have certain extenders in the legislation. Knock them out or enrich them. All of these things are possible.

Instead of Senator MCCONNELL's offer—any amendment on the whole Tax Code—Senator WYDEN offered to Senator HATCH that the Republicans give us a list of amendments they propose, and then the two of them would sit down and negotiate that list. There will be Democratic amendments—I think there are 30 or 40 on Senator WYDEN's list—and Republican amendments on Senator HATCH's list. The two of them are outstanding legislators. They get along well, and we could come up with a list and actually move this bill with amendments. That is what I hope will happen over the weekend and on Tuesday we can move forward.

To me, the offer of Leader REID and Senator WYDEN makes eminent sense. It is how we used to legislate. We didn't lay it open for every amendment. When the committee chair and ranking member agreed on a bill—LAMAR ALEXANDER, my good friend from Tennessee, has reiterated this to me over and over—we would then go to the floor and the two of them would work it out, providing fairness to both sides of the aisle since each of them has the respect of their leadership.

Again, our offer is plain and simple: Show us your amendments, and we will show you our amendments. Let them be relevant and germane to the bill before us, which is tax extenders, and we will be very reasonable and accommodating so we can move the bill forward, pass it, and have a debate on improving it with amendments that come up on both sides.

With that, I thank my good friend from Utah for yielding the floor and letting me speak ahead of him.

I yield the floor to the Presiding Officer.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my dear friend from New York. I consider him one of the better Senators in the Senate and a dear friend and a person I have always been able to work with. He is tough—there is no question about that—but so am I, although nobody knows that.

I just want to speak for a few minutes on this extender package. It is a bipartisan bill. It took a lot of work to put it together. We had to bring everybody on the Finance Committee together, and that is about 25 percent of the Senate. We all had a chance to bring up amendments whether they were germane or not, which is the right of Senators. Sometimes we get some embarrassing amendments, but that is part of the charm of this body.

The fact is, if you just want to have germane amendments, that is not what the U.S. Senate stands for and that is not what the rules say. I don't blame anybody who wants to do that who is trying to push their bill, but let's not take away the rights of Members of the Senate. Let's not take away the right of debate we have always had on this floor that gives the Senate such charm and also allows everybody to participate and bring up whatever they feel is right.

Sometimes we have to call a halt to it. After days or weeks of debate on major bills, such as this one, the majority leader may want to end the debate because he feels as though it is enough. At that point—but not before—you can fill the parliamentary tree in order to get the agreement between the two sides to where there are just a few amendments left, but you don't do it by calling up a bill, filing cloture, accusing the other side of filibustering when there is no intention to filibuster, and then fill the parliamentary tree so you, as the majority leader, can determine the type of amendment and who does and who doesn't get an amendment. That is not the way this great Senate is supposed to operate. It is offensive, and it is starting to get to our side.

If we were in the majority and we did that to the Democrats, you folks would be so upset it wouldn't even be funny. I think it is time for us to start letting the Senate operate as it always has. We will get more done, and it will probably be better legislation than not, and frankly, every one of us will feel better about being Members of the Senate.

Let's be honest. The Republicans have been given nine amendments voted upon since last July in the greatest deliberative body in the world. That is just plain ridiculous and it is not right.

Let's take the House. The House is supposed to be more partisan. In the House you have a rules committee that is nine to four. Republicans have nine members and the Democrats have four members. They double the number in the majority party, plus one. They could stop anything from happening. In the House they have had well over 130 Democratic amendments since last July—if my recollection is correct on that, and I think it is—compared to nine in the greatest deliberative body in the world. Give me a break.

The fact is that is less than one amendment a month. You can imagine why our side is so upset about it, and then we get a bill as important as the extenders package. It is not $100 billion, but it is about $88 billion, as I recall. There are very important provisions in this bill. There are some I love and some I don't love too much, but we worked it out between the two parties and we each had our own ideas of what was right and what was wrong and we worked it out in a bipartisan way.

I want to personally pay tribute to the distinguished chairman of the committee, Senator WYDEN of Oregon. His leadership was very much acceptable, and it was easier to work out in the end because he was so open and realized we had some ideas too.

Our constituents put faith in us to make these decisions and the tough choices around here, and that means making them. A democracy functions because the rules allow it to function. The rules, in my opinion, have been bogged down with partisanship and protection effort rather than allowing the Senate to work its will. This is not how a real representative Republic functions.

I think we have to find a reasonable way forward. I intend to work hard to find that reasonable way. I think we have to find a way that both Democrats and Republicans can have their voices heard.

When we marked up this bill, it was a fair and open process. Both sides had their opportunity to bring up the amendments they wanted, and that is why we came up with a bill that is as acceptable as this one is. We had an open amendment process in committee, and it should be that way here too. This bill passed on a voice vote out of the committee. It took a lot of effort on the part of Senator WYDEN, the chairman, myself, and everybody else on the committee, but we were able to do that.

It is important that the American people know why this disagreement occurred today. The only procedural possibility that the Republicans had was to vote against cloture and to make it very clear that we don't like the way the Senate is being run today. We don't think it is fair, and we don't think it is right. It has nothing do with policy. It has to do with how we proceed, and frankly I think a message was sent today.

It is unconscionable to me that Members on both sides, Republicans and Democrats, do not have an opportunity to offer their amendments. I might add, it is nice for the majority to say, well, we only want the germane amendments, but I never heard that when they were in the minority. They wanted every nongermane amendment they could get that might embarrass Republicans. I personally don't like to see that very much, but it is a right that has always existed in the Senate, and it should not be taken away and it should not be dismissed by rote.

I am going to do my very best, in a bipartisan way with Senator WYDEN, to work out this impasse, but it is going to have to be fair and Republicans are going to have to have a fair shot at having some amendments.

I hope we get rid of this process of calling up a bill and immediately filing cloture because they think Republicans are going to filibuster when there was no intention to filibuster and then filling the parliamentary tree to foreclose any amendments unless the majority leader approves. Come on. That is not the way the Senate should run.

Frankly, yes, it is a little unwieldy sometimes. Sometimes it doesn't run smoothly, but that is one of the charming things about the Senate, and it is one of the things that will bring us together if we can occasionally recognize that we have different points of view. The Republicans are more conservative, there is no question about that, and the Democrats are more liberal, there is no question about that. Actually, I find that to be probably a good thing in many ways because both sides have to try to work it out. But we can't work it out if we can't call up amendments and if it is a stilted process that is determined only by the majority leader.

I am going to do everything in my power to get this resolved. I have already chatted with Senator WYDEN, the chairman of the committee. He says he is going to do the same, and I know that is true. He is an honorable man. We are going to see if we can come up with a way to bring both sides together so we can pass this bill, and hopefully it will be an example of what we can do if we are willing to work together.

We have to get rid of these procedural approaches on every bill. Sometimes it is appropriate to use any procedure we want to on some bills that should not see the light of day. This is not one of those. This is a bill that has to see the light of day. This is a bill that will make a difference in this country. This is a bill that virtually everybody in this body wants, to a more or less degree, and some want it very much. This is a bill that really needs to pass. This is a bill that, hopefully, when the House passes their bill, we can get together in a conference and work it out, as big boys and girls should.

What we have been going through here now for 4 years, really, has been a disgrace. I think it is time to end the disgrace and get all of us working together, not necessarily in agreement—sometimes we have to fight things out—but working together in a way that is fair to both sides.

So far, our side feels it hasn't been fair to the Republican side. There has been too much assertion of power in the wrong way, in derivation of the rules. It started long ago, but it really came to a full culmination when the majority broke the rules to change the rules. One reason they were able to do that is because many on the other side have never been in the minority in the Senate. I will do my part to see that my friends on the other side have that wonderful experience because then they will understand why these rules are made to begin with.

The filibuster rule in particular was formulated because they couldn't get anything done in the Senate, and it was a way of invoking cloture and ending debate so they could get the matter over with. It has worked amazingly well in spite of the fact that from time to time we couldn't get bills through that we wanted to get through. There was a reason for that rule, and to break the rules to change the rules was the wrong thing to do to begin with. It has caused a lot of bitterness on the floor.

I have heard some Republicans saying: Let's stick it to them. I am not going to allow that to happen. I hope the same is true on the other side because I have heard some of the Democrats are saying: Let's stick it to them with some special amendments.

Let's try to get this done in a way that is meaningful. Let's try to get it done in the best interests of the American people. Let's try to get it done so that all of us can hold our heads high and say we did our best. If we do that, I think we will have a new day in the Senate that literally will work in the best interests of everyone. I don't want my side treating the Democrats the way we have been treated. I just don't think it is right. I don't think it is fair. I think it is a big mistake.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. HEITKAMP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL POLICE WEEK

Ms. HEITKAMP. Mr. President, today I wish to honor and pay tribute to our men and women who serve this country every day as America's peace officers. This week is National Police Week. Back in 1962, President Kennedy designated May 15 as Peace Officers Memorial Day.

This is the day we take pause and thank those peace officers who help us every day to keep our families safe, and keep our streets safe, and keep law and order so that we can live the lives we live in the United States of America.

Our law officers wake up every morning and put on a uniform to show us they are with us. It is a symbol they wear proudly and we look up to. They are here to protect our communities, our families, and, in fact, every one of us. That is a tall order. They frequently place themselves in dangerous situations.

Every day perhaps a wife, perhaps a child, perhaps a mother or whoever is in their family watches them walk out the door and wonders: Will they return safely?

Few among us know what that is—what it is to make a life-and-death decision, to put your life on the line every day as you are working on behalf of the people of your community and the people of your country.

Today is also a day where we pay tribute to those officers who have made the ultimate sacrifice in the line of duty, those men and women who swore an oath to serve and protect their communities and, in the course of doing so, lost their lives.

This afternoon I attended the National Peace Officers' Memorial Service on the lawn outside the Capitol. Just as we paid tribute to our fallen officers there, I wish to do the same on the Senate floor.

These men and women take their duties to serve and protect very seriously, and they make this Nation, as a result, a better place for all of us.

When I served as North Dakota's attorney general in the 1980s I had the privilege and, in fact, the honor to work side-by-side with the men and women of our State's law enforcement community. They were highway patrolmen, State and local officers, various Federal officers, and tribal police. It was a job that I truly began to appreciate—the job of law enforcement—that hard work they engage in to serve our State. I can say without a doubt they were the finest public servants I have ever had the honor to stand side by side with.

During that time I also experienced the absolute heartbreak of losing officers in the line of duty. Today I want to recognize two of those officers.

They are Deputy Sheriff Valence LeeWayne Pascal from the Benson County Sheriff's Office: On August 26, 1993, Deputy Pascal executed a warrant for an arrest in Leeds, ND. He took the individual into custody for failure to appear in court on a DUI charge, a fairly routine practice for a deputy sheriff. While the deputy was sitting in the front seat of his patrol car, the individual in the back seat leaned forward and shot him. He died the next day, August 27, 1993.

And I also want to recognize Senior Patrol Officer Keith Allen Braddock of the Watford City Police Department. Responding to a call over an enraged patron at a local bar in Watford City, Officer Braddock arrived on the scene when the man returned with two rifles and opened fire on Officer Braddock. Despite being wounded, Officer Braddock returned fire, hitting the man in a leg and preventing any further casualties. He succumbed to his wounds at the scene and died early that morning on March 20, 1996.

When I became attorney general, I formed a lasting bond with those officers, remembering never to forget. As I stood in that leadership role at funerals and at services, watching the parade of police officers, sheriffs' departments, and deputies pay their respect, I told myself: Remember, never forget. Never forget that they had families, that these two officers had someone in their lives who mattered to them. The children's parents will never see them walk the aisle. Those children will never see their parents be grandparents. Yet this in the line of duty.

Today is a special day in this Capital City. It is a special day across America when literally hundreds of law enforcement officers gather at memorial walls with names on them, similar to the one that is on the capitol grounds in North Dakota, and where people gather to remember how truly grateful we should all be for the people who stand on the line. They protect our freedom, they protect our safety, and some of them don't make it home as a result.

I believe that we owe all of the men and women who have sacrificed a great debt of gratitude, and today I bring my voice to express my appreciation for and remembrance of the wonderful people of America's law enforcement community.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. HEITKAMP). Without objection, it is so ordered.

CLOTURE MOTION WITHDRAWN—H.R. 3474

Mr. REID. I ask unanimous consent that the cloture motion with respect to H.R. 3474 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF DAVID JEREMIAH BARRON TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIRST CIRCUIT

Mr. REID. Madam President, I move to proceed to executive session to consider Calendar No. 576.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of David Jeremiah Barron, of Massachusetts, to be United States Circuit Judge for the First Circuit.

CLOTURE MOTION

Mr. REID. Madam President, I understand there is a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of David Jeremiah Barron, of Massachusetts, to be United States Circuit Judge for the First Circuit.

Harry Reid, Patrick J. Leahy, Mazie Hirono, Dianne Feinstein, Al Franken, Amy Klobuchar, Sheldon Whitehouse, Tom Harkin, Barbara Boxer, Richard Blumenthal, Elizabeth Warren, Debbie Stabenow, Edward J. Markey, Richard J. Durbin, Carl Levin, Charles E. Schumer, Patty Murray.

Mr. REID. Madam President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. REID. Madam President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO TERRANCE W. GAINER

Mr. REID. Madam President, I rise today to recognize the extraordinary work of the Senate Sergeant at Arms Terrance W. Gainer, who is retiring after a distinguished 47-year career in public service.

Mr. Gainer, whom many of us still call ''Chief,'' was sworn in as the 38th U.S. Senate Sergeant at Arms in January 2007, continuing a distinguished career in law enforcement.

As the chief law enforcement and executive officer of the Senate, Mr. Gainer, successfully and—always with great respect for our institution—enforced the rules of the Senate, maintained security in the Capitol and Senate office buildings, and provided important services to Senators in our Washington, DC and State offices.

Mr. Gainer led a force of approximately 850 personnel, many of whom he knew personally, as he often visited their offices. Mr. Gainer always took the time to write personal notes to his employees during important milestones or events in their lives. He always was quick to pick up the phone to provide words of encouragement to employees who were in the hospital or condolences to those who lost a family member. His compassion is unwavering.

Mr. Gainer met challenges head-on during his leadership. Faced with government cutbacks and sequestration, Mr. Gainer guided the first major right-sizing of the Sergeant at Arms organization in many years. Through a combination of operational efficiency and reorganization, Mr. Gainer reduced the SAA's total budget by more than 11 percent over 4 years and reduced the number of employees by 100. At the same time, service outputs increased, and customer and employee satisfaction remained extremely high.

Mr. Gainer could be seen each year, donning a green necktie as he escorted the Prime Minister of Ireland around the Capitol on St. Patrick's Day, before celebrating his wife Irene's birthday that night—a fitting tribute to his Irish Catholic roots. He also considered his time spent with the Dalai Lama in the course of his job as very special.

Mr. Gainer greeted many visitors from around the world in his office

that overlooks the west front of the Capitol, down the National Mall to the Washington Monument. He often relayed the story about putting a Chicago Cubs sticker in his office before a visit from President Obama, who is known to be a Chicago White Sox fan. The office, after all, is that of the Sergeant at Arms, he would remind the U.S. Secret Service agents with a grin.

While escorting the President during the annual State of the Union address, those who know Mr. Gainer best would recognize the tug of the ear or adjusting of his tie as a sign to his grandchildren watching from home.

Mr. Gainer, who grew up in a family of 10 siblings, began his law enforcement career as a police officer in the Chicago Police Department and rose through the ranks, including many years as an experienced homicide detective. An accomplished attorney, Mr. Gainer served as chief legal officer of that department before he entered the Illinois State government as deputy inspector general and deputy director of the Illinois State Police. He served at the U.S. Department of Transportation as Special Assistant to the Secretary before being appointed as Director of the Illinois State Police.

In 1998, Mr. Gainer moved to Washington, DC, where he served as executive assistant chief of police for the Metropolitan Police Department, and 4 years later was selected to be the Chief of the U.S. Capitol Police. He then entered the private sector as a chief executive officer responsible for a multimillion dollar innovative law enforcement program supporting military operations in Iraq and Afghanistan. The following year, the U.S. Senate appointed Mr. Gainer as the Senate Sergeant at Arms.

His tenure in law enforcement in DC included the horrific fatal shootings of two Capitol police officers, the September 11 attack on the Pentagon, the discovery of anthrax and ricin in Senate mailrooms, and mass evacuations triggered by aircraft straying into restricted airspace. As second-in-charge of the Washington Metropolitan Police Department, as Chief of Capitol Police, and as Sergeant at Arms, he spearheaded security during four Presidential inaugurations, including the historic swearing in of the first African-American President.

While serving as Sergeant at Arms, Mr. Gainer was appointed a Commissioner on the Independent Commission on the Security Forces of Iraq, charged with conducting an independent assessment of the Iraqi Security Forces and reporting the findings to Congress. He also served with the Special Envoy for Middle East Regional Security, which was created to advance the resolution of the Israeli-Palestinian dispute by assisting in strengthening security institutions.

Mr. Gainer served annually on the Blue Mass Committee, responsible for organizing the Blue Mass Service, which is held at St. Patrick's Catholic Church in Washington, DC, to pray for those in law enforcement and fire safety, remember those who have fallen, and support those who serve.

Born in Chicago, Mr. Gainer, the son of a milkman and a homemaker, is a decorated veteran who served in Vietnam and retired as a captain in the United States Navy Reserve. His degrees include a bachelor's degree in sociology, a master of science in management, a juris doctor degree, and an honorary doctorate of humane letters. He is married and has six children and 14 grandchildren. Of all his accomplishments, Mr. Gainer would tell you that his family is his greatest accomplishment of all.

Congratulations on your retirement from public service and we wish you the very best in your future.

REMEMBERING CAROL REITAN

Mr. DURBIN. Madam President, if you drive into the charming, walkable town center of Normal, IL—yes, the town of Normal—you will see the beautiful Carol A. Reitan Conference Center. Who was Carol Reitan?

Carol was the mayor of the Town of Normal from 1972 to 1976. For those of you who have been to Normal recently, you will note what a forward-thinking community it is—with a vibrant town center, a state university, an auto plant, and a high quality of life.

It is a twin city with its slightly larger neighbor, Bloomington, which is home to State Farm Insurance and Illinois Wesleyan University, among so many other things. The area around Bloomington-Normal is some of the best farmland in the country.

Carol Reitan, who was an early and effective community leader, passed away this week at the age of 83. But her legacy can be seen everywhere—in the people she helped and the community she served and helped prosper.

Carol was ahead of her time, both as the first and only female mayor of Normal and because of her foresight as a community leader. If you talk to her friends in Central Illinois, you will quickly pick up on a common set of phrases—a visionary, a mentor, and a leader ahead of her time. I knew Carol, and those descriptions are all true—and just the tip of the iceberg.

Her accomplishments and dedication to public service are vast and long-lasting—and certainly didn't end after her service as mayor. As mayor of Normal from 1972 to 1976 she first introduced a city-manager style of government. She was the cofounder and president of Collaborative Solutions, a nonprofit providing counseling and mediation services for at-risk youth and adults. She played leadership roles in establishing the Heartland Theater Company, Habitat for Humanity of McLean County, and the Community Foundation of McLean County. She helped with the development of the domestic violence shelter Neville House, and she served as director and chief executive of Mid Central Community Action.

Her work earned many awards, including the Normal Chamber of Commerce Citizen of the Year in 1987, the Martin Luther King Jr. Award in 1987, and a McLean County History Maker award by the McLean County Museum of History in 2014.

Carol and her husband Earl were also early visionaries when it came to the environment, starting Operation Recycle and building a solar powered home together, and she was an early supporter of the town's electric vehicle initiative. In Normal, you can use any number of public charging stations to charge your electric car. In fact, when you look at the growing network of charging stations around the country, one of the most important is in Normal. That is no accident.

In 1990, Carol was appointed to the town's 2015 Commission, which was to consider goals for the next 25 years. A further stroll around the vibrant town shows the results—a children's museum, a multimodal transportation center that includes high-speed rail from Chicago, historic movie theater, shops, restaurants, a library, and a new hotel and conference center—all adjacent to Illinois State University.

I met Carol many times over the decades and was always impressed with her many gifts that she gave back to the community. She was a leader. When she walked into a room, you could feel her leadership and presence. When I first ran for office in 1978 for Illinois Lieutenant Governor, she was making her second attempt to win an Illinois State senate seat at the same time. We both lost those races. And in 1996, when I first ran for the U.S. Senate, she was an early supporter. I will never forget her faith in my candidacy.

Some on my staff have equally warm memories of Carol while growing up in Normal. One in particular is that she made a point of working with those who defeated her in her attempts to win a seat in the Illinois State Senate. We could use a bit of that role model here in the Congress today.

Perhaps current Normal city manager Mark Peterson said it best as reported by Central Illinois radio station WJBC, noting:

> She was a visionary, probably born before her time because she was thinking about things 20 and 30 years ago that are happening in Normal now. . . . She had an impact on this community—and I use that term broadly—Bloomington, Normal and McLean County. . . . Few others have had that ability and few others could rival.

Central Illinois has lost someone truly special this week. My prayers and thoughts go out to her husband Earl, daughter Julie, and son Tom.

REMEMBERING SHERRY ADKINS

Mr. HATCH. Madam President, I am grateful for this opportunity today to pay tribute to a truly extraordinary woman—Sherry Adkins. Sadly, Sherry passed away on May 13, 2014.

I had the wonderful opportunity of working with Sherry for 37 years. She

first came to work with me as my legal secretary when I was in private practice as an attorney. When I took office, she began working in my Utah Senate office and brought the same dedication and hard work ethic she had displayed in a demanding legal office. Throughout our years of working together I was always so impressed with Sherry's utmost attention to detail and accuracy, and her keen mind and abilities. In fact, I still miss her taking dictation today. Her fingers could really fly, and she always got it right. It was a true talent that has sadly been lost in today's computer world.

Sherry spent many years as a constituent service representative in my State office, helping hundreds if not thousands of Utahns with problems they faced while working with several Federal Government agencies. She specialized in helping people with cases involving such agencies as the Social Security Administration, the IRS, the Office of Personnel Management, OPM, and many others. She always displayed deep concern for the challenges people faced, and worked long and hard to help individuals in my behalf. In fact, she developed lasting friendships with some of the people she had assisted and they continued to visit her for many years.

Sherry always went above and beyond the call of duty. While I was serving as the chairman of the Senate Labor and Human Resources Committee, which dealt in part with issues of alcohol prevention and treatment, Sherry and her husband Bruce obtained their drug counseling certificate. She spent many hours working with individuals struggling with the powers of addiction, and even became the choir director for the Utah Odyssey House, a residential substance abuse treatment facility. She touched many lives through her advocacy, support, and talents.

As a former member of the Mormon Tabernacle Choir, she absolutely loved music. She always generously shared her talents not only as a beautiful singer—but she also played the organ weekly for her local ward or church congregation.

Sherry's work and service was very important to her—but her family always came first. She absolutely loved her family. She was married to Bruce for 54 years, and they are the proud parents of Michael, Gary, and Marianne; and grandparents to four grand-children and four great-grandchildren. When it came time for Sherry to retire from the U.S. Senate, Sherry and Bruce moved to Alaska to be with their daughter and in the end were living in Colorado to be closer to their son and grand-daughter. Sherry and Bruce had a great partnership and they were very supportive of each other and their endeavors.

I am sincerely grateful for the opportunity I had to work with and know Sherry Adkins. Her loyalty, dedication, and sincere belief in public service were so appreciated. I wholeheartedly agree with the simple narrative another former staff member used when describing Sherry: ''She was a gem.''

Elaine and I extend our deepest sympathies to Bruce and their family members. May they find peace and comfort in the cherished memories they have shared with this great lady.

POLICE WEEK

Mr. PRYOR. Madam President, back in 1962, President John F. Kennedy signed a proclamation designating the week of May 15 as National Police Week. Since then, law enforcement officials from all across our country have gathered together to honor to those killed in the line of duty.

As part of National Police Week, today representatives of law enforcement agencies will gather at the U.S. Capitol for the 33rd Annual National Peace Officers' Memorial Service. I join our State in honoring the life and service of the Arkansans who last year paid the ultimate sacrifice:

Conway Police Officer William Michael McGary, Sebastian County Deputy Sheriff Terry Wayne Johnson, Fifth Judicial District Drug Task Force Coordinator Larry D. Johnson, Faulkner County Deputy Sheriff Hans J. Fifer, Wildlife Officer Joel Lee Campora, and Scott County Sheriff Cody Don Carpenter.

We can never thank our law enforcement officials enough for all they have done for us and our families, but we will always remember them and their loved ones in our thoughts and prayers.

To the families of Michael McGary, Terry Wayne Johnson, Larry D. Johnson, Hans J. Fifer, Joel Lee Campora, and Cody Don Carpenter, thank you for sharing these heroes with the world. To the Conway Police Department, Sebastian County Sheriff's Department, Fifth Judicial Drug Task Force, Faulkner County Sheriff's Department, Arkansas Department of Game and Fish, and Scott County Sheriff's Office, thank you for ensuring their legacies live on.

ADDITIONAL STATEMENTS

RINGGOLD COUNTY, IOWA

• Mr. HARKIN. Madam President, the strength of my State of Iowa lies in its vibrant local communities, where citizens come together to foster economic development, make smart investments to expand opportunity, and take the initiative to improve the health and well-being of residents. Over the decades, I have witnessed the growth and revitalization of so many communities across my State, and it has been deeply gratifying to see how my work in Congress has supported these local efforts.

I have always believed in accountability for public officials, and this, my final year in the Senate, is an appropriate time to give an accounting of my work across four decades representing Iowa in Congress. I take pride in accomplishments that have been national in scope—for instance, passing the Americans with Disabilities Act and spearheading successful farm bills. But I take a very special pride in projects that have made a big difference in local communities across my State.

Today, I would like to give an accounting of my work with leaders and residents of Ringgold County to build a legacy of a stronger local economy, better schools and educational opportunities, and a healthier, safer community.

Between 2001 and 2013, the creative leadership in your community has worked with me to secure funding in Ringgold County worth over $448,000 and successfully acquired financial assistance from programs I have fought hard to support, which have provided more than $6.3 million to the local economy.

Of course my favorite memory of working together has to be working to secure $264,000 for community wellness activities to improve nutrition, physical activity, workplace wellness and smoking cessation.

Among the highlights:

Wellness and health care: Improving the health and wellness of all Americans has been something I have been passionate about for decades. That is why I fought to dramatically increase funding for disease prevention, innovative medical research, and a whole range of initiatives to improve the health of individuals and families not only at the doctor's office but also in our communities, schools, and workplaces. I am so proud that Americans have better access to clinical preventive services, nutritious food, smoke-free environments, safe places to engage in physical activity, and information to make healthy decisions for themselves and their families. These efforts not only save lives, they will also save money for generations to come thanks to the prevention of costly chronic diseases, which account for a whopping 75 percent of annual health care costs. I am pleased that Ringgold County has recognized this important issue by securing $264,000 for community wellness activities.

School grants: Every child in Iowa deserves to be educated in a classroom that is safe, accessible, and modern. That is why, for the past decade and a half, I have secured funding for the innovative Iowa Demonstration Construction Grant Program—better known among educators in Iowa as Harkin grants for public schools construction and renovation. Across 15 years, Harkin grants worth more than $132 million have helped school districts to fund a range of renovation and repair efforts—everything from updating fire safety systems to building new schools. In many cases, these Federal dollars have served as the needed incentive to leverage local public and

private dollars, so it often has a tremendous multiplier effect within a school district. Over the years, Ringgold County has received $412,742 in Harkin grants. Similarly, schools in Ringgold County have received funds that I designated for Iowa Star Schools for technology totaling $25,000.

Agricultural and rural development: Because I grew up in a small town in rural Iowa, I have always been a loyal friend and fierce advocate for family farmers and rural communities. I have been a member of the House or Senate Agriculture Committee for 40 years—including more than 10 years as chairman of the Senate Agriculture Committee. Across the decades, I have championed farm policies for Iowans that include effective farm income protection and commodity programs; strong, progressive conservation assistance for agricultural producers; renewable energy opportunities; and robust economic development in our rural communities. Since 1991, through various programs authorized through the farm bill, Ringgold County has received more than $1.4 million from a variety of farm bill programs.

Disability Rights: Growing up, I loved and admired my brother Frank, who was deaf, but I was deeply disturbed by the discrimination and obstacles he faced every day. That is why I have always been a passionate advocate for full equality for people with disabilities. As the primary author of the Americans with Disabilities Act, ADA, and the ADA Amendments Act, I have had four guiding goals for our fellow citizens with disabilities: equal opportunity, full participation, independent living and economic self-sufficiency. Nearly one-quarter century since passage of the ADA, I see remarkable changes in communities everywhere I go in Iowa—not just in curb cuts or closed-captioned television, but in the full participation of people with disabilities in our society and economy, folks who at long last have the opportunity to contribute their talents and to be fully included. These changes have increased economic opportunities for all citizens of Ringgold County, both those with and without disabilities, and they make us proud to be a part of a community and country that respects the worth and civil rights of all of our citizens.

This is at least a partial accounting of my work on behalf of Iowa, and specifically Ringgold County, during my time in Congress. In every case, this work has been about partnerships, cooperation, and empowering folks at the State and local level, including in Ringgold County, to fulfill their own dreams and initiatives. And, of course, this work is never complete. Even after I retire from the Senate, I have no intention of retiring from the fight for a better, fairer, richer Iowa. I will always be profoundly grateful for the opportunity to serve the people of Iowa as their Senator.●

LINN COUNTY, IOWA

● Mr. HARKIN. Madam President, the strength of my State of Iowa lies in its vibrant local communities, where citizens come together to foster economic development, make smart investments to expand opportunity, and take the initiative to improve the health and well-being of residents. Over the decades, I have witnessed the growth and revitalization of so many communities across my State, and it has been deeply gratifying to see how my work in Congress has supported these local efforts.

I have always believed in accountability for public officials, and this, my final year in the Senate, is an appropriate time to give an accounting of my work across four decades representing Iowa in Congress. I take pride in accomplishments that have been national in scope for instance, passing the Americans with Disabilities Act and spearheading successful farm bills. But I take a very special pride in projects that have made a big difference in local communities across my State.

Today, I would like to give an accounting of my work with leaders and residents of Linn County to build a legacy of a stronger local economy, better schools and educational opportunities, and a healthier, safer community.

Between 2001 and 2013, the creative leadership in your community has worked with me to secure funding in Linn County worth over $400 million and successfully acquired financial assistance from programs I have fought hard to support, which have provided more than $600 million to the local economy.

Of course my favorite memories of working together have to include our work together to build a community health center, working to rebuild after disastrous flooding in 2008, funding and relocating the Cedar Rapids Courthouse, improving the Eastern Iowa Airport, improving Edgewood Road, building a major intermodal facility, and funding job creating national defense projects at Rockwell Collins, PMX, and Intermec.

Among the highlights:

Investing in Iowa's economic development through targeted community projects: In Eastern Iowa, we have worked together to grow the economy by making targeted investments in important economic development projects including improved roads and bridges, modernized sewer and water systems, and better housing options for residents of Linn County. In many cases, I have secured Federal funding that has leveraged local investments and served as a catalyst for a whole ripple effect of positive, creative changes. For example, working with mayors, city council members, and local economic development officials in Linn County, I have fought for $182 million to rebuild the courthouse, $60 million to improve the Eastern Iowa Airport, $4 million for improvements to Edgewood Road, almost $5 million for the Cedar Rapids intermodal facility, and $170 million for creating national defense projects in Cedar Rapids at Rockwell Collins, PMX, and Intermec, helping to create jobs and expand economic opportunities.

Main Street Iowa: One of the greatest challenges we face—in Iowa and all across America—is preserving the character and vitality of our small towns and rural communities. This isn't just about economics. It is also about maintaining our identity as Iowans.

Main Street Iowa helps preserve Iowa's heart and soul by providing funds to revitalize downtown business districts. This program has allowed towns like Central City, Mount Vernon, and Cedar Rapids to use that money to leverage other investments to jumpstart change and renewal. I am so pleased that Linn County has earned $256,000 through this program. These grants build much more than buildings. They build up the spirit and morale of people in our small towns and local communities.

School grants: Every child in Iowa deserves to be educated in a classroom that is safe, accessible, and modern. That is why, for the past decade and a half, I have secured funding for the innovative Iowa Demonstration Construction Grant Program—better known among educators in Iowa as Harkin grants for public schools construction and renovation. Across 15 years, Harkin grants worth more than $132 million have helped school districts to fund a range of renovation and repair efforts—everything from updating fire safety systems to building new schools. In many cases, these Federal dollars have served as the needed incentive to leverage local public and private dollars, so it often has a tremendous multiplier effect within a school district. Over the years, Linn County has received $11,840,759 in Harkin grants. Similarly, schools in Linn County have received funds that I designated for Iowa Star Schools for technology totaling $627,432.

Disaster mitigation and prevention: In 1993, when historic floods ripped through Iowa, it became clear to me that the national emergency response infrastructure was woefully inadequate to meet the needs of Iowans in flood-ravaged communities. I went to work dramatically expanding the Federal Emergency Management Agency's hazard mitigation program, which helps communities reduce the loss of life and property due to natural disasters and enables mitigation measures to be implemented during the immediate recovery period. Disaster relief means more than helping people and businesses get back on their feet after a disaster, it means doing our best to prevent the same predictable flood or other catastrophe from recurring in the future. The hazard mitigation program that I helped create in 1993 provided critical support to Iowa communities impacted by the devastating floods of 2008. Linn County has received over $12 billion to

remediate and prevent widespread destruction from natural disasters.

Wellness and health care: Improving the health and wellness of all Americans has been something I have been passionate about for decades. That is why I fought to dramatically increase funding for disease prevention, innovative medical research, and a whole range of initiatives to improve the health of individuals and families not only at the doctor's office but also in our communities, schools, and workplaces. I am so proud that Americans have better access to clinical preventive services, nutritious food, smoke-free environments, safe places to engage in physical activity, and information to make healthy decisions for themselves and their families. These efforts not only save lives, they will also save money for generations to come thanks to the prevention of costly chronic diseases, which account for a whopping 75 percent of annual health care costs. I am pleased that Linn County has recognized this important issue by securing more than $750,000 for the community health center and over $284,000 in wellness grants.

Disability Rights: Growing up, I loved and admired my brother Frank, who was deaf, but I was deeply disturbed by the discrimination and obstacles he faced every day. That is why I have always been a passionate advocate for full equality for people with disabilities. As the primary author of the Americans with Disabilities Act, ADA, and the ADA Amendments Act, I have had four guiding goals for our fellow citizens with disabilities: equal opportunity, full participation, independent living and economic self-sufficiency. Nearly one-quarter century since passage of the ADA, I see remarkable changes in communities everywhere I go in Iowa—not just in curb cuts or closed captioned television, but in the full participation of people with disabilities in our society and economy, folks who at long last have the opportunity to contribute their talents and to be fully included. These changes have increased economic opportunities for all citizens of Linn County, both those with and without disabilities, and they make us proud to be a part of a community and country that respects the worth and civil rights of all of our citizens.

This is at least a partial accounting of my work on behalf of Iowa, and specifically Linn County, during my time in Congress. In every case, this work has been about partnerships, cooperation, and empowering folks at the State and local level, including in Linn County, to fulfill their own dreams and initiatives. And, of course, this work is never complete. Even after I retire from the Senate, I have no intention of retiring from the fight for a better, fairer, richer Iowa. I will always be profoundly grateful for the opportunity to serve the people of Iowa as their Senator.●

TAYLOR COUNTY, IOWA

● Mr. HARKIN. Madam President, the strength of my State of Iowa lies in its vibrant local communities, where citizens come together to foster economic development, make smart investments to expand opportunity, and take the initiative to improve the health and well-being of residents. Over the decades, I have witnessed the growth and revitalization of so many communities across my State, and it has been deeply gratifying to see how my work in Congress has supported these local efforts.

I have always believed in accountability for public officials, and this, my final year in the Senate, is an appropriate time to give an accounting of my work across four decades representing Iowa in Congress. I take pride in accomplishments that have been national in scope—for instance, passing the Americans with Disabilities Act and spearheading successful farm bills. But I take a very special pride in projects that have made a big difference in local communities across my State.

Today, I would like to give an accounting of my work with leaders and residents of Taylor County to build a legacy of a stronger local economy, better schools and educational opportunities, and a healthier, safer community.

Between 2001 and 2013, the creative leadership in your community has worked with me to successfully acquire financial assistance from programs I have fought hard to support, which have provided more than $3.8 million to the local economy.

Of course my favorite memory of working together has to be their many successes in taking advantage of farm bill and Housing and Urban Development funding for a variety of projects, including the construction of the new Cox Manufacturing Company facility, to purchase new machinery and equipment for the city, and to help create affordable housing for area residents.

Among the highlights:

Main Street Iowa: One of the greatest challenges we face—in Iowa and all across America—is preserving the character and vitality of our small towns and rural communities. This isn't just about economics. It is also about maintaining our identity as Iowans.

Main Street Iowa helps preserve Iowa's heart and soul by providing funds to revitalize downtown business districts. This program has allowed towns like Bedford to use that money to leverage other investments to jumpstart change and renewal. I am so pleased that Taylor County has earned $40,000 through this program. These grants build much more than buildings. They build up the spirit and morale of people in our small towns and local communities.

School grants: Every child in Iowa deserves to be educated in a classroom that is safe, accessible, and modern. That is why, for the past decade and a half, I have secured funding for the innovative Iowa Demonstration Construction Grant Program—better known among educators in Iowa as Harkin grants for public schools construction and renovation. Across 15 years, Harkin grants worth more than $132 million have helped school districts to fund a range of renovation and repair efforts—everything from updating fire safety systems to building new schools. In many cases, these Federal dollars have served as the needed incentive to leverage local public and private dollars, so it often has a tremendous multiplier effect within a school district. Over the years, Taylor County has received $368,950 in Harkin grants. Similarly, schools in Taylor County have received funds that I designated for Iowa Star Schools for technology totaling $25,000.

Agricultural and rural development: Because I grew up in a small town in rural Iowa, I have always been a loyal friend and fierce advocate for family farmers and rural communities. I have been a member of the House or Senate Agriculture Committee for 40 years—including more than 10 years as chairman of the Senate Agriculture Committee. Across the decades, I have championed farm policies for Iowans that include effective farm income protection and commodity programs; strong, progressive conservation assistance for agricultural producers; renewable energy opportunities; and robust economic development in our rural communities. Since 1991, through various programs authorized through the farm bill, Taylor County has received more than $2.3 million from a variety of farm bill programs.

Wellness and health care: Improving the health and wellness of all Americans has been something I have been passionate about for decades. That is why I fought to dramatically increase funding for disease prevention, innovative medical research, and a whole range of initiatives to improve the health of individuals and families not only at the doctor's office but also in our communities, schools, and workplaces. I am so proud that Americans have better access to clinical preventive services, nutritious food, smoke-free environments, safe places to engage in physical activity, and information to make healthy decisions for themselves and their families. These efforts not only save lives, they will also save money for generations to come thanks to the prevention of costly chronic diseases, which account for a whopping 75 percent of annual health care costs. I am pleased that Taylor County has recognized this important issue by securing $63,000 for community wellness improvements.

Disability Rights: Growing up, I loved and admired my brother Frank, who was deaf, but I was deeply disturbed by the discrimination and obstacles he faced every day. That is why I have always been a passionate advocate for full equality for people with disabilities. As the primary author of

the Americans with Disabilities Act, ADA, and the ADA Amendments Act, I have had four guiding goals for our fellow citizens with disabilities: equal opportunity, full participation, independent living and economic self-sufficiency. Nearly one quarter century since passage of the ADA, I see remarkable changes in communities everywhere I go in Iowa—not just in curb cuts or closed-captioned television, but in the full participation of people with disabilities in our society and economy, folks who at long last have the opportunity to contribute their talents and to be fully included. These changes have increased economic opportunities for all citizens of Taylor County, both those with and without disabilities, and they make us proud to be a part of a community and country that respects the worth and civil rights of all of our citizens.

This is at least a partial accounting of my work on behalf of Iowa, and specifically Taylor County, during my time in Congress. In every case, this work has been about partnerships, cooperation, and empowering folks at the State and local level, including in Taylor County, to fulfill their own dreams and initiatives. And, of course, this work is never complete. Even after I retire from the Senate, I have no intention of retiring from the fight for a better, fairer, richer Iowa. I will always be profoundly grateful for the opportunity to serve the people of Iowa as their Senator.●

RECOGNIZING BLUE WATER TECHNOLOGIES

● Mr. RISCH. Madam President, there are countless modern conveniences we take for granted. Paramount among those is the easy availability of clean water. Sanitation has been the single biggest factor in the doubling of life expectancy over the last 200 years. Most water we use comes from municipal systems, and those systems in turn rely on manufacturers to provide the filtration and treatment technology necessary for one of life's building blocks. I rise today in honor of one company whose contribution has aided in our continued supply of water—Hayden, Idaho's Blue Water Technologies.

Blue Water Technologies began in 2003 as a commercialized extension of an idea that was developed at the University of Idaho. After 5 years of research, the university developed the Blue PRO system, a better way to remove arsenic from drinking water and phosphorous from wastewater. From there Blue Water Technologies licensed the patent-pending process from the University and began several pilot projects. As their reputation grew, Blue Water Technologies earned a grant from the Environmental Protection Agency to conduct a study on metal and phosphorus removal. By 2005, the process was demonstrated to be effective at full-scale use through the tremendous success of the use of the system at the Hayden Wastewater Research Facility. Within 4 years, Blue Water expanded its business internationally.

Today, Blue Water Technologies is an international industry leader, spanning six continents. Their customers include municipal systems and industrial facilities of all sizes. Providing solutions that are both cost-effective and environmentally friendly, Blue Water Technologies is constantly finding new ways to handle emerging problems such as wildlife being harmed by the presence of trace amounts of pharmaceuticals in their water supply.

Blue Water Technologies is home to a dynamic and talented team who possess the diverse backgrounds and specializations vital to understanding and adapting to the water needs of a varied group of consumers, both public and private. Their use of best practices is vital to the efficiency and sustainability of their organization and to the constantly evolving nature of water treatment technology. I want to thank Blue Water Technologies for their efforts in making our water safer in environmentally friendly ways and congratulate them on their continued success.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The messages received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5777. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments (74); Amdt. No. 3588'' (RIN2120–AA65) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5778. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments (32); Amdt. No. 3585'' (RIN2120–AA65) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5779. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments (66); Amdt. No. 3587'' (RIN2120–AA65) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5780. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments (53); Amdt. No. 3584'' (RIN2120–AA65) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5781. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments (84); Amdt. No. 3583'' (RIN2120–AA65) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5782. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments (173); Amdt. No. 3586'' (RIN2120–AA65) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5783. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Greenville, ME'' ((RIN2120–AA66) (Docket No. FAA–2014–0025)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5784. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Sylva, NC'' ((RIN2120–AA66) (Docket No. FAA–2013–0439)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5785. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Jefferson City, MO'' ((RIN2120–AA66) (Docket No. FAA–2013–0587)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5786. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Holdrege, NE'' ((RIN2120–AA66) (Docket No. FAA–2013–0596)) received in the Office

of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5787. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and Class E Airspace; Traverse City, MI'' ((RIN2120–AA66) (Docket No. FAA–2013–0175)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5788. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and Class E Airspace, and Establishment of Class E Airspace; Tri-Cities, TN'' ((RIN2120–AA66) (Docket No. FAA–2013–0806)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5789. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Paragould, AR'' ((RIN2120–AA66) (Docket No. FAA–2013–0588)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5790. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Warsaw, MO'' ((RIN2120–AA66) (Docket No. FAA–2013–0606)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5791. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Blairsville, GA'' ((RIN2120–AA66) (Docket No. FAA–2013–0731)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5792. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Sitka, AK'' ((RIN2120–AA66) (Docket No. FAA–2013–0921)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5793. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Geneva, AL'' ((RIN2120–AA66) (Docket No. FAA–2012–1086)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5794. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Nashville, TN'' ((RIN2120–AA66) (Docket No. FAA–2013–0932)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5795. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Kwigillingock, AK'' ((RIN2120–AA66) (Docket No. FAA–2013–1008)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5796. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of VOR Federal Airways V–35 and V–276; Eastern United States'' ((RIN2120–AA66) (Docket No. FAA–2013–0961)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5797. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of VOR Federal Airways V–35 and V–276; Eastern United States'' ((RIN2120–AA66) (Docket No. FAA–2013–0961)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5798. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Area Navigation (RNAV) Route T–265, IL'' ((RIN2120–AA66) (Docket No. FAA–2013–0952)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5799. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Area Navigation (RNAV) Route Q–20, TX'' ((RIN2120–AA66) (Docket No. FAA–2013–0951)) received in the Office of the President of the Senate on May 12, 2014; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–224. A resolution adopted by the Senate of the Commonwealth of Pennsylvania memorializing the Congress of the United States and the President of the United States to reauthorize the Terrorism Risk Insurance Program; to the Committee on Banking, Housing, and Urban Affairs.

SENATE RESOLUTION NO. 340

Whereas, The Terrorism Risk Insurance Program Reauthorization (TRIPRA) maintains stability in the insurance and reinsurance markets by continuing to deliver substantive, direct benefits to businesses, workers, consumers and the economy overall in the aftermath of a terrorist attack on the United States; and

Whereas, Insurance protects the United States economy from the adverse effects of the risks inherent in economic growth and development while also providing the resources necessary to rebuild physical and economic infrastructure, offer indemnification for business disruption and provide coverage for medical and liability costs from injuries and loss of life in the event of catastrophic losses to persons or property; and

Whereas, The terrorist attack of September 11, 2001, produced insured losses larger than any natural or manmade event in history, with claims paid by insurers to their policyholders eventually totaling approximately $32.5 billion, making it the second most costly insurance event in United States history; and

Whereas, The sheer enormity of the terrorist-induced loss, combined with the possibility of future attacks, produced financial shock waves that shook insurance markets, causing insurers and reinsurers to exclude coverage arising from acts of terrorism from virtually all commercial property and liability policies; and

Whereas, The lack of terrorism risk insurance contributed to a paralysis in the economy, especially in construction, tourism, business travel and real estate finance; and

Whereas, The United States Congress originally passed the Terrorism Risk Insurance Act of 2002 (Public Law 107–297, 116 Stat. 2322) (TRIA), in which the Federal Government agreed to provide terrorism reinsurance to insurers and reauthorized this arrangement via the Terrorism Risk Insurance Extension Act of 2005 (Public Law 109–144, 119 Stat. 2660) and the Terrorism Risk Insurance Program Reauthorization Act of 2007 (Public Law 110–160, 121 Stat. 1839) (TRIPRA); and

Whereas, Under TRIPRA, the Federal Government provides reinsurance after industry-wide losses attributable to annual certified terrorism events exceeding $100,000,000; and

Whereas, Coverage under TRIPRA is provided to an individual insurer after the insurer has incurred losses related to terrorism equal to 20% of the insurer's previous year's earned premium for property-casualty lines; and

Whereas, After an individual insurer has reached such a threshold, the insurer pays 15% of residual losses and the Federal Government pays the remaining 85%; and

Whereas, The Terrorism Risk Insurance Program has an annual cap of $100,000,000,000 of aggregate-insured losses, beyond which the Federal program does not provide coverage; and

Whereas, TRIPRA requires the Federal Government to recoup 100% of the benefits provided under the program via policyholder surcharges to the extent the aggregate-insured losses are less than $27,500,000,000 and enables the government to recoup expenditures beyond that mandatory recoupment amount; and

Whereas, Without question, TRIA and its successors are the principal reason for the continued stability in the insurance and reinsurance market for terrorism insurance to the benefit of our overall economy; and

Whereas, The presence of a robust private/public partnership has provided stability and predictability and has allowed insurers to actively participate in the market in a meaningful way; and

Whereas, Without a program such as TRIPRA, many of our citizens who want and need terrorism coverage to operate their businesses all across the nation would be either unable to get insurance or unable to afford the limited coverage that would be available; and

Whereas, Without Federally provided reinsurance, property and casualty insurers will face less access to terrorism reinsurance and will therefore be severely restricted in their ability to provide sufficient coverage that is necessary to support our economy when acts of terrorism occur; and

Whereas, Despite the hard work and dedication of this nation's counterterrorism agencies and the bravery of the men and women in uniform who fought and continue to fight battles abroad to keep us safe here at home, the threat of terrorist attacks in the United States is both real and substantial and will remain as such for the foreseeable future: Now, therefore, be it

Resolved, That the Senate urge the President of the United States and the Congress

of the United States to reauthorize the Terrorism Risk Insurance Program; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the Speaker and Clerk of the United States House of Representatives, the President Pro Tempore and the Secretary of the United States Senate, each member of Congress from Pennsylvania and to the news media of Pennsylvania.

POM–225. A joint memorial adopted by the Legislature of the State of Idaho urging the President of the United States, the Secretary of Agriculture, and Congress to give Idaho authority relative to the Supplemental Nutritional Assistance Program (SNAP); to the Committee on Agriculture, Nutrition, and Forestry.

SENATE JOINT MEMORIAL NO. 105

Whereas, the Supplemental Nutritional Assistance Program (SNAP) is administered by the states on behalf of the United States Department of Agriculture, and the states are subject to the rules promulgated by the United States Department of Agriculture and Congress; and

Whereas, the health and welfare of the citizens of Idaho can be affected by their consumption of food items purchased with SNAP benefits; and

Whereas, a comprehensive healthy Supplemental Nutritional Assistance Program (SNAP) for Idaho citizens would include, and should emphasize, consumption of healthy Idaho grown and produced products; and

Whereas, individuals who participate in healthy eating choices have less chance of developing chronic diseases and therefore, are able to be more productive employees, citizens and more involved in their families' lives; and

Whereas, our children's futures and consequently the future of our nation are directly impacted by the food choices that are made for our children; and

Whereas, a healthy diet can consist of all food items, provided there is appropriate education and emphasis given to healthier food options to include proteins, grains, dairy and fruits and vegetables; and

Whereas, taxpayers have a right to expect that, whenever possible, decisions regarding the use of their tax dollars will be made at the state and local level; and

Whereas, if there is more state and local authority over foods authorized to be purchased with SNAP funds, Idaho can potentially improve the health of SNAP recipients, promote Idaho grown agricultural products and reduce the states' expenses for health care costs; and

Whereas, citizens may benefit from education to enable them to make healthier and more cost-effective decisions about purchasing food and having local control over foods authorized to be purchased with SNAP funds would give state-based producers an opportunity to educate citizens about the benefits of consuming their products: Now, therefore, be it

Resolved by the members of the Second Regular Session of the Sixty-second Idaho Legislature, The Senate and the House of Representatives concurring therein, that the Legislature calls upon the President of the United States, the Secretary of Agriculture and Congress to give Idaho the flexibility to have control over foods authorized for purchase with Supplemental Nutritional Assistance Program (SNAP) benefits and to encourage healthy eating and lifestyle choices; and be it further

Resolved, That Idaho should be given the flexibility to determine the best methods of helping our citizens create a comprehensive state-based approach to promote physical activity, nutritional food selections, including a focus on Idaho grown agricultural products, and healthy lifestyle choices; and be it further

Resolved, That the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of Congress, to the congressional delegation representing the State of Idaho in the Congress of the United States, to the Secretary of the United States Department of Agriculture and the Secretary of the United States Department of Health and Human Services.

POM–226. A resolution adopted by the House of Representatives of the Legislature of the State of Iowa requesting immediate action be taken by the United States Congress to repeal California legislation relative to the Commerce Clause of the Constitution of the United States; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE RESOLUTION NO. 123

Whereas, in 2008, California voters approved Proposition 2, a ballot initiative that prohibits California farmers from employing a number of agricultural production methods in widespread use throughout the United States, including the use of industry standards used in egg production; and

Whereas, in 2010, in response to the proposition which would have placed California in a competitive disadvantage by increasing the cost of egg production within that state, the California State Legislature enacted AB 1437 which requires other states to comply with California's standards in order to continue to market eggs in that state; and

Whereas, Section 25996 of the California Health and Safety Code states that commencing January 1, 2015, a shelled egg cannot be sold or contracted to sell for human consumption in California if the egg was produced on a farm not meeting California standards; and

Whereas, the effect of California's legislation is to increase consumer prices, create financial hardship on low-income families, and deny egg farmers their right to access the nation's markets; and

Whereas, the ''Commerce Clause'' Article I, Section 8 of the Constitution of the United States provides in relevant part, that ''Congress shall have Power . . . [t]o regulate commerce . . . among the several States . . .''; which has established a free trade zone now encompassing fifty states, the District of Columbia, and the territories of the United States; and

Whereas, the Commerce Clause is an enumerated power granted to Congress and is also a restriction imposed on states from enacting legislation that places an undue burden on interstate commerce; and

Whereas, in Federalist No. 11, Alexander Hamilton understood that ''a free circulation of the commodities'' among the states constituted a vital component of this nation's prosperity; and

Whereas, since 1824, in the landmark decision Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824), the United States Supreme Court has found that states are limited in their ability to burden interstate commerce; and

Whereas, since then the principle has been long respected that the Commerce Clause bars states from erecting trade barriers that would otherwise inevitably lead to interstate trade wars, incite retaliation among the states, and ultimately irreparably injure our federal union; and

Whereas, on February 3, 2014, the Honorable Chris Koster, Attorney General of the State of Missouri, brought suit in the United States District Court in the Eastern District of California, Fresno Division, asking the court to declare the California statute invalid, including as a violation of the Commerce Clause; and

Whereas, the Honorable Terry E. Branstad, Governor of the State of Iowa, together with the attorneys general of the states of Alabama, Nebraska, and Oklahoma, and the attorney general of the Commonwealth of Kentucky have joined with the State of Missouri in this case; now, therefore, be it

Resolved by the House of Representatives, That the State of California immediately repeal all unconstitutional provisions enacted in AB 1437, including Section 25996 of the California Health and Safety Code; and be it further

Resolved, That all necessary and immediate action be taken by the United States Congress, the United States Attorney General, state legislatures, state governors, and state attorneys general to ensure the repeal of all unconstitutional provisions enacted in AB 1437, including Section 25996 of the California Health and Safety Code; and be it further

Resolved, That a copy of this resolution shall be transmitted to the Honorable Ellen M. Corbett, Majority Leader, California State Senate; the Honorable John A. Perez, Speaker of the Assembly, California State Assembly; the Honorable Joseph R. Biden, Jr., President of the United States Senate; the Honorable John A. Boehner, Speaker of the United States House of Representatives; the Honorable Debbie Stabenow, Chairwoman of the Committee on Agriculture, Nutrition, and Forestry of the United States Senate; the Honorable Frank Lucas, Chairman of the Committee on Agriculture of the United States House of Representatives; each member of the Iowa congressional delegation; the Honorable Eric H. Holder, Jr., Attorney General of the United States; the Honorable Tom Vilsack, Secretary of Agriculture of the United States; the Honorable Terry E. Branstad, Governor of the State of Iowa; the Honorable Tom Miller, Attorney General of the State of Iowa; the Honorable Luther Strange, Attorney General of the State of Alabama; the Honorable Jack Conway, Attorney General of the Commonwealth of Kentucky; the Honorable Chris Koster, Attorney General of the State of Missouri; the Honorable Jon Bruning, Attorney General of the State of Nebraska; and the Honorable E. Scott Pruitt, Attorney General of the State of Oklahoma; and be it further

Resolved, That a copy of this resolution shall be transmitted to the Council of State Governments, the National Governors Association, and the National Association of Attorneys General.

POM–227. A resolution adopted by the Legislature of the State of Nebraska urging the United States Congress to reauthorize federally provided terrorism reinsurance; to the Committee on Banking, Housing, and Urban Affairs.

LEGISLATIVE RESOLUTION 440

Whereas, insurance protects the United States economy from the adverse effects of the risks inherent in economic growth and development while also providing the resources necessary to rebuild physical and economic infrastructure, offer indemnification for business disruption, and provide coverage for medical and liability costs from injuries and loss of life in the event of catastrophic losses to persons or property; and

Whereas, the terrorist attack on September 11, 2001, produced insured losses larger than any natural or man-made event in history, with claims paid by insurers to their

policyholders eventually totaling approximately $32.5 billion, making this attack the second most costly insurance event in United States history; and

Whereas, the sheer enormity of the terrorist-induced loss, combined with the possibility of future attacks, produced financial shockwaves that shook insurance markets and caused insurers and reinsurers to exclude coverage arising from acts of terrorism from virtually all commercial property and liability policies; and

Whereas, the lack of terrorism risk insurance contributed to a paralysis in the economy, especially in the construction, tourism, business travel, and real estate finance sectors; and

Whereas, the United States Congress originally passed the Terrorism Risk Insurance Act of 2002 (TRIA), in which the federal government agreed to provide terrorism reinsurance to insurers, and reauthorized this arrangement via the Terrorism Risk Insurance Extension Act of 2005 and the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA); and

Whereas, under TRIPRA, the federal government provides such reinsurance after industry-wide losses attributable to annual certified terrorism events exceed $100 million; and

Whereas, coverage under TRIPRA is provided to an individual insurer after the insurer has incurred losses related to terrorism equal to 20% of the insurer's previous year earned premium for property-casualty lines; and

Whereas, after an individual insurer has reached such a threshold, the insurer pays 15% of residual losses and the federal government pays the remaining 85%; and

Whereas, the Terrorism Risk Insurance Program has an annual cap of $100 billion of aggregate insured losses beyond which the federal program does not provide coverage; and

Whereas, TRIPRA requires the federal government to recoup 100% of the benefits provided under the program through policyholder surcharges to the extent the aggregate insured losses are less than $27.5 billion and enables the government to recoup expenditures beyond that mandatory recoupment amount; and

Whereas, without question, TRIA and its successor acts are the principal reason for the continued stability in the insurance and reinsurance market for terrorism insurance to the benefit of our overall economy; and

Whereas, the presence of a robust private-public partnership has provided stability and predictability and has allowed insurers to actively participate in the market in a meaningful way; and

Whereas, without a program such as TRIPRA, many of our citizens who want and need terrorism coverage to operate their businesses all across the nation would be either unable to obtain insurance or unable to afford the limited coverage that would be available; and

Whereas, without federally provided reinsurance, property and casualty insurers would face less availability of terrorism reinsurance and would therefore be severely restricted in their ability to provide sufficient coverage for acts of terrorism; and

Whereas, despite the hard work and dedication of this nation's counterterrorism agencies, and the bravery of the men and women in uniform who fight battles abroad to keep us safe here at home, the threat from terrorist attacks in the United States is both real and substantial and will remain so for the foreseeable future: Now, therefore, be it

Resolved by the Members of the One Hundred Third Legislature of Nebraska, Second Session:

1. That the Legislature urges the United States Congress to reauthorize federally provided terrorism reinsurance for insurers in order to maintain stability in the insurance and reinsurance markets, to continue to deliver substantive and direct benefits to businesses, workers, and consumers, and to protect the overall economy in the aftermath of a terrorist attack on the United States.

2. That a copy of this resolution be sent to President Barack Obama, the Speaker and the Clerk of the United States House of Representatives, the President Pro Tempore and the Secretary of the United States Senate, and each member of Nebraska's congressional delegation.

POM–228. A joint memorial adopted by the Legislature of the State of Idaho recommending the United States Congress provide sufficient funding relative to domestic marketing of American seafood; to the Committee on Commerce, Science, and Transportation.

SENATE JOINT MEMORIAL NO. 103

Whereas, the economic expansion that is stimulated by the new and increased demand for our seafood products vastly influences our United States economic base; and

Whereas, the United States seafood industry is fruitfully productive and a key employer in the marketplace; and

Whereas, the continuing market effort is the dynamic behind industry improvement, investment, prosperity and job creation; and

Whereas, Idaho is key to the salmon industry in the United States as we are the spawning beds for millions of salmon each year that migrate to the Pacific Ocean; and

Whereas, Idaho's rivers constitute the pathway that returning salmon use to complete their life cycles from smolt to spawning salmon; and

Whereas, the Idaho Department of Fish and Game and Idaho Power have participated in ensuring a healthy pathway for fish to travel to and return from the Pacific Ocean: Now, therefore, be it

Resolved by the members of the Second Regular Session of the Sixty-second legislature, The Senate and the House Representatives concurring therein, that we respectfully recommend that the Idaho delegation in Congress work together with representatives of other seafood and fish-producing states to acquire sufficient funding for effectual and maintained domestic marketing of American seafood; and be it further

Resolved, That the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

POM–229. A joint memorial adopted by the Legislature of the State of Idaho urging the President of the United States and the Secretary of State to use every opportunity and resource to secure the release of certain individuals from Iran; to the Committee on Foreign Relations.

SENATE JOINT MEMORIAL NO. 106

Whereas, Saeed Abedini, is a resident of the State of Idaho and a Christian with dual Iranian-United States citizenship; and

Whereas, Saeed Abedini is a husband and father of two young children; and

Whereas, in September 2012, Saeed Abedini was arbitrarily detained in the Islamic Republic of Iran, held in solitary confinement, physically beaten, denied access to necessary medical treatment as a result of that abuse and denied access to his lawyer until just before his trial; and

Whereas, the International Covenant on Civil and Political Rights guarantees that every individual shall be free from arbitrary arrest and detention and further guarantees every individual the right to a fair and public hearing by a competent, independent and impartial tribunal; and

Whereas, in recent years, there has been an increase in the number of incidents of Iranian authorities raiding religious services, detaining worshipers and religious leaders and harassing and threatening minority religious members; and

Whereas, in January 2013, an Iranian court accused Saeed Abedini of attempting to undermine the national security of Iran by gathering with fellow Christians in private homes; and

Whereas, Saeed Abedini was tried in a non-public trial before a judge who had been sanctioned by the European Union for repeated violations of human rights; and

Whereas, during the trial, Saeed Abedini and his Iranian attorney were barred from attending portions of the trial in which the prosecution provided and the judge received evidence through witness testimony; and

Whereas, the Iranian court sentenced Saeed Abedini to eight years in prison, and this sentence was later upheld on appeal; and

Whereas, the government of Iran continues to indefinitely imprison Saeed Abedini for peacefully exercising his Christian faith; and

Whereas, President Barack Obama recently called for the release of Saeed Abedini at the National Prayer Breakfast in Washington: Now, therefore, be it

Resolved by the Members of the Second Regular Session of the Sixty-second Idaho Legislature, The Senate and the House of Representatives concurring therein, that we urge President Obama and Secretary of State John Kerry to use every opportunity and resource at their disposal to end the unjust imprisonment of Saeed Abedini and secure his immediate release, and be it further

Resolved, That the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Secretary of the United States Department of State, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

POM–230. A resolution adopted by the Legislature of the State of Nebraska supporting the participation of Taiwan as an observer in the International Civil Aviation Organization and the United Nations Framework Convention on Climate Change; to the Committee on Foreign Relations.

LEGISLATIVE RESOLUTION 38

Whereas, civil aviation plays a pivotal role in promoting cultural exchange, business, trade, and tourism; and

Whereas, the development of international civil aviation in a safe and orderly manner is the supreme cause of the International Civil Aviation Organization (ICAO); and

Whereas, with an excellent geographic location, Taiwan is a key aviation hub for regions in northeastern and southeastern Asia; and

Whereas, the Taipei Flight Information Region (FIR), bordering the FIR of Fukuoka, Manila, Hong Kong, and Shanghai, includes fourteen international airways and four domestic airways, providing services for more than one million flights per year;

Whereas, each year, forty million travelers enter, leave, or pass through the Taipei FIR, making Taiwan a key part of air navigation in East Asia; and

Whereas, currently, more than fifty domestic and foreign airlines operate flights from Taiwan to one hundred ten cities in the

world and the annual number of passengers on international flights is approximately thirty million; and

Whereas, in 2010, the number of international passengers at Taiwan's largest airport—Taoyuan International Airport—ranked sixteenth worldwide while international cargo ranked ninth, making Taiwan one of the busiest airspaces in the world; and

Whereas, without Taiwan's participation, the international flight plans, regulations, and procedures that the ICAO formulates will be incomplete and unsafe; and

Whereas, as an island in the Pacific Ocean, Taiwan is imperiled by rising sea levels and the ravages of extreme weather; and

Whereas, it is apparent that to overcome the challenges posed by climate change, there must be concerted effort and cooperation among the world citizenry; and

Whereas, Taiwan's exclusion from meaningful participation in the United Nations Framework Convention on Climate Change (UNFCCC) has been to the detriment of both the Taiwan people and the global community, as Taiwan not only has the means but also the incentive to make a meaningful contribution; and

Whereas, Taiwan's request to participate in the ICAO and the UNFCCC is fully in line with the United States Government's policy of supporting Taiwan's meaningful participation in United Nations specialized agencies: Now, therefore, be it

Resolved by the Members of the One Hundred Third Legislative of Nebraska, First Session:

1. That the Legislature endorses Taiwan's participation in the International Civil Aviation Organization as an observer.

2. That the Legislature is supportive of all efforts to grant Taiwan official observer status at the United Nations Framework Convention on Climate Change, and, as a collaborative partner of the United States on a wide range of public issues, Taiwan should be afforded the opportunity to participate in global efforts aimed at reducing and preventing natural disasters.

3. That a copy of this resolution be sent to the United States Secretary of State, the United States Secretary of Transportation, the Administrator of the United States Environmental Protection Agency, each member of the Nebraska congressional delegation, and the Director General of the Taipei Economic and Cultural Office in Kansas City.

POM–231. A joint memorial adopted by the Legislature of the State of Idaho urging the United States Congress to maintain an open and accessible record of states' Article V applications for a constitutional convention; to the Committee on the Judiciary.

SENATE JOINT MEMORIAL NO. 104

Whereas, under Article V of the Constitution of the United States, Congress has a duty to call a convention for proposing amendments to the Constitution ''on the application of the legislatures of two-thirds of the several states''; and

Whereas, the duty to call an Article V convention on application of the states implies that Congress shall keep an accurate record of such applications of the legislatures of the states; and

Whereas, the records of Congress should be open and accessible to the people of the United States; and

Whereas, Congress does not currently keep a record of the Article V applications of the states: Now, therefore, be it

Resolved by the Members of the Second Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that Congress shall maintain a record of the Article V applications of the states in a form that is open and accessible to the people of the United States; and be it further

Resolved, That the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

POM–232. A resolution adopted by the Legislature of the State of Nebraska urging the United States Congress to take affirmative action to enact comprehensive reform to update the immigration system; to the Committee on the Judiciary.

LEGISLATIVE RESOLUTION 399

Whereas, the Legislature recognizes that our federal immigration laws are long outdated, causing harm to families, businesses, and communities; and

Whereas, common-sense reforms that modernize our outdated immigration laws and that are sensible, fair, and practical are necessary to protect our borders and create a strong foundation for our economy and society; and

Whereas, immigration has always been an important part of the social and economic fabric of the United States, and it is in the best interest of all that our nation's immigration laws be kept up-to-date; and

Whereas, although comprehensive immigration reform is a federal and not a state matter, the State of Nebraska has legitimate interests in the passage of effective immigration laws at the federal level; and

Whereas, Nebraska's towns and cities have experienced significant growth in immigrant population in the last two decades which has helped the state maintain its population; and

Whereas, Nebraska community leaders, educators, business owners, cattlemen, farmers, and the immigrant community have recognized that while some challenges are created by integrating new immigrant Nebraskans, the positive impacts of immigration, including economic development, tax collections, and cultural diversity, exceed the costs of resolving these challenges, demonstrated by the fact that many communities with significant immigrant populations are thriving unlike many of those communities which have not attracted immigrants; and

Whereas, Nebraska population trends indicate a future shortage of needed and qualified labor in agriculture and the skilled trades and a shortage of professionally-trained workers in our rural communities; and

Whereas, pending legislation is before the United States Congress which would accomplish comprehensive immigration reform: Now, therefore, be it

Resolved by the Members of the One Hundred Third Legislature of Nebraska, Second Session:

1. That the Legislature recommends that the Nebraska congressional delegation take affirmative action to enact comprehensive immigration reform to update our immigration system.

2. That such reform enacted by Congress should recognize the need to protect the borders of the United States, maintain respect for the law, embody fairness, and protect families.

3. That such reform should recognize the important role that immigrant Americans play as entrepreneurs, workers, taxpayers, and family members.

4. That such reform should protect agriculture, small businesses, and working Nebraskans and facilitate increases in the labor market and the professions necessary to protect rural communities from further economic decline.

5. That the Legislature recommends that in order to ensure adequate labor resources to support economic growth and stability, the House of Representatives should pass H.R. 15, the ''Border Security, Economic Opportunity, and Immigration Modernization Act,'' as approved by the United States Senate, or alternatively should enact similar legislation in 2014 which embodies the principles and needs outlined in this resolution.

6. That a copy of this resolution be delivered to the President of the United States, to the Speaker of the United States House of Representatives, to the President of the United States Senate, and to each member of the Nebraska congressional delegation

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POM–233. A resolution adopted by the Senate of the State of Louisiana memorializing the Congress of the United States to reauthorize the Terrorism Risk Insurance Program; to the Committee on Banking, Housing, and Urban Affairs.

SENATE RESOLUTION NO. 18

Whereas, insurance protects the United States economy from the adverse effects of the risks inherent in economic growth and development while also providing the resources necessary to rebuild physical and economic infrastructure, offer indemnification for business disruption, and provide coverage for medical and liability costs from injuries and loss of life in the event of catastrophic losses to persons or property; and

Whereas, the terrorist attack of September 11, 2001, produced insured losses larger than any natural or man-made event in history, with claims paid by insurers to their policyholders eventually totaling some $32.5 billion, making this the second most costly insurance event in United States history; and

Whereas, the sheer enormity of the terrorist-induced loss, combined with the possibility of future attacks, produced financial shockwaves that shook insurance markets causing insurers and reinsurers to exclude coverage arising from acts of terrorism from virtually all commercial property and liability policies; and

Whereas, the lack of terrorism risk insurance contributed to a paralysis in the economy, especially in construction, tourism, business travel, and real estate finance; and

Whereas, the United States Congress originally passed the Terrorism Risk Insurance Act of 2002, in which the federal government agreed to provide terrorism reinsurance to insurers and reauthorized this arrangement via the Terrorism Risk Insurance Extension Act of 2005, and the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA); and

Whereas, under TRIPRA the federal government provides such reinsurance after industry-wide losses attributable to annual certified terrorism events exceed one hundred million dollars; and

Whereas, coverage under TRIPRA is provided to an individual insurer after the insurer has incurred losses related to terrorism equal to twenty percent of the insurer's previous year earned premium for property-casualty lines; and

Whereas, after an individual insurer has reached such a threshold, the insurer pays fifteen percent of residual losses and the federal government pays the remaining eighty-five percent; and

Whereas, the Terrorism Risk Insurance Program has an annual cap of one hundred billion dollars of aggregate insured losses, beyond which the federal program does not provide coverage; and

Whereas, TRIPRA requires the federal government to recoup one hundred percent of

the benefits provided under the program via policy holder surcharges to the extent the aggregate insured losses are less than twenty-seven billion five hundred million dollars and enables the government to recoup expenditures beyond that mandatory recoupment amount; and

Whereas, without question, TRIPRA and its successors are the principal reason for the continued stability in the insurance and reinsurance market for terrorism insurance to the benefit of our overall economy; and

Whereas, the presence of a robust private and public partnership has provided stability and predictability and has allowed insurers to actively participate in the market in a meaningful way; and

Whereas, without a program such as TRIPRA, many of our citizens who want and need terrorism coverage to operate their businesses all across the nation would be either unable to get insurance or unable to afford the limited coverage that would be available; and

Whereas, without federally provided reinsurance, property and casualty insurers will face less availability of terrorism reinsurance and will therefore be severely restricted in their ability to provide sufficient coverage for acts of terrorism to support our economy; and

Whereas, despite the hard work and dedication of this nation's counterterrorism agencies and the bravery of the men and women in uniform who fought and continue to fight battles abroad to keep us safe here at home, the threat from terrorist attacks in the United States is both real and substantial and will remain as such for the foreseeable future: Now, therefore, be it

Resolved, That the Senate of the Legislature of Louisiana hereby memorializes the Congress of the United States to reauthorize the Terrorism Risk Insurance Program and be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–234. A concurrent resolution adopted by the Legislature of the State of Louisiana recognizing May 2014 as Amyotrophic Lateral Sclerosis Awareness Month and memorializing the Congress of the United States to enact legislation to provide additional research funding relative to finding a treatment and cure for Amyotrophic Lateral Sclerosis; to the Committee on Health, Education, Labor, and Pensions.

SENATE CONCURRENT RESOLUTION NO. 52

Whereas, amyotrophic lateral sclerosis, or ALS, is more commonly known as Lou Gehrig's disease; and

Whereas, ALS is a fatal neurodegenerative disease characterized by degeneration of cell bodies of the lower motor neurons in the gray matter of the anterior horns of the spinal cord; and

Whereas, the initial symptom of ALS is usually weakness of the skeletal muscles, especially those of the extremities; and

Whereas, as ALS progresses, the patient typically experiences difficulty in swallowing, talking, and breathing; and

Whereas, ALS eventually causes muscles to atrophy and the patient becomes a functional quadriplegic; and

Whereas, ALS does not affect mental capacity of the patient, such that the patient remains alert and aware of surroundings and aware of the loss of motor functions and the inevitable outcome of continued deterioration and death; and

Whereas, on average, patients diagnosed with ALS survive only two to five years from the time of diagnosis; and

Whereas, despite the catastrophic consequences of a diagnosis of ALS, the disease currently has no known cause, means of protection, or cure; and

Whereas, research indicates that military veterans are at a sixty percent greater risk of developing ALS than those who have not served in the military; and

Whereas, the United States Department of Veterans Affairs has promulgated regulations to establish a presumption of service connection for ALS thereby presuming that the development of ALS was incurred or aggravated by a veteran's service in the military; and

Whereas, a national ALS registry, administered by the Centers for Disease Control and Prevention, is currently identifying cases of ALS in the United States and may become the largest ALS research project ever undertaken; and

Whereas, Amyotrophic Lateral Sclerosis Awareness Month increases the awareness of the circumstances of living with ALS and acknowledges the terrible impact this disease has not only on the patient, but also on the family and community of anyone receiving such a diagnosis; and

Whereas, Amyotrophic Lateral Sclerosis Awareness Month also increases awareness of research being done to eradicate this dire disease. Now, therefore, be it

Resolved, That the Legislature of Louisiana does hereby recognize May 2014 as Amyotrophic Lateral Sclerosis Awareness Month; and be it further

Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to enact legislation to provide additional funding for research in order to find a treatment and cure for Amyotrophic Lateral Sclerosis; and be it further

Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KAINE:

S. 2341. A bill to amend title 10, United States Code, to enhance the authority for members of the Armed Forces to obtain professional credentials; to the Committee on Armed Services.

By Mr. BLUMENTHAL (for himself and Mr. HARKIN):

S. 2342. A bill to amend the Internal Revenue Code of 1986 to protect children's health by denying any deduction for advertising and marketing directed at children to promote the consumption of food of poor nutritional quality; to the Committee on Finance.

By Mr. CASEY:

S. 2343. A bill to amend the Child Abuse Prevention and Treatment Act to require mandatory reporting of incidents of child abuse or neglect, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TOOMEY:

S. 2344. A bill to amend section 2259 of title 18, United States Code; to the Committee on the Judiciary.

By Mr. MENENDEZ (for himself and Mr. CRAPO):

S. 2345. A bill to amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds shall not apply to bonds for facilities for the furnishing of water and sewage facilities; to the Committee on Finance.

By Mr. COONS (for himself and Mr. KIRK):

S. 2346. A bill to amend the National Trails System Act to include national discovery trails, and to designate the American Discovery Trail, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BLUMENTHAL (for himself and Mr. MURPHY):

S. 2347. A bill to amend title 4 of the United States Code to limit the extent to which States may tax the compensation earned by nonresident telecommuters and other multi-State workers; to the Committee on Finance.

By Mr. BROWN:

S. 2348. A bill to amend title XVIII of the Social Security Act to waive coinsurance under Medicare for colorectal cancer screening tests, regardless of whether therapeutic intervention is required during the screening; to the Committee on Finance.

By Mr. SANDERS (for himself, Mr. LEAHY, Mr. MURPHY, Mr. KAINE, and Mr. REED):

S. 2349. A bill to establish a grant program to enable States to promote participation in dual enrollment programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. HIRONO:

S. 2350. A bill to amend title 10, United States Code, to expand the role of the Chief of the National Guard Bureau in the assignment of Directors and Deputy Directors of the Army National Guard and Air National Guard; to the Committee on Armed Services.

By Mr. COATS:

S. 2351. A bill to amend the Internal Revenue Code of 1986 to provide notice to charities and other nonprofit organizations before their tax-exempt status is automatically revoked; to the Committee on Finance.

By Mr. COATS (for himself, Mr. BLUMENTHAL, and Mr. CORNYN):

S. 2352. A bill to re-impose sanctions on Russian arms exporter Rosoboronexport; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MERKLEY:

S. 2353. A bill to amend title XVIII of the Social Security Act to provide for patient protection by establishing safe nurse staffing levels at certain Medicare providers, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL (for himself and Mr. PAUL):

S. Res. 446. A resolution recognizing the 50th anniversary of the Congressional declaration of bourbon whiskey as a distinctive product of the United States; considered and agreed to.

By Mr. CASEY (for himself and Mr. RUBIO):

S. Res. 447. A resolution recognizing the threats to freedom of the press and expression around the world and reaffirming freedom of the press as a priority in the efforts of the United States Government to promote democracy and good governance; to the Committee on Foreign Relations.

By Mr. RUBIO (for himself and Mr. CRUZ):

S. Res. 448. A resolution expressing the sense of the Senate on the policy of the

United States regarding stabilizing the currency of Ukraine; to the Committee on Foreign Relations.

By Mr. LEAHY (for himself, Mr. GRASSLEY, Mrs. FEINSTEIN, Mrs. SHAHEEN, Mr. MARKEY, Mr. BEGICH, Mr. UDALL of New Mexico, Mrs. HAGAN, Mr. COONS, Mr. DURBIN, Mr. FRANKEN, Mr. BOOKER, Ms. LANDRIEU, Mr. REED, Mr. BLUMENTHAL, Mr. SCHATZ, Mr. WICKER, Ms. HEITKAMP, Mr. PRYOR, Ms. HIRONO, Mr. CARDIN, Mr. UDALL of Colorado, Mr. COCHRAN, Ms. MIKULSKI, Ms. WARREN, Mr. WARNER, Mr. SCHUMER, Mrs. MURRAY, Mr. WHITEHOUSE, Mr. DONNELLY, Mr. HEINRICH, and Ms. KLOBUCHAR):

S. Res. 449. A resolution commemorating and honoring the dedication and sacrifice of the Federal, State, and local law enforcement officers who have been killed or injured in the line of duty; considered and agreed to.

By Mr. UDALL of Colorado (for himself, Ms. LANDRIEU, Mr. PORTMAN, and Mr. WYDEN):

S. Res. 450. A resolution designating May 17, 2014, as ''Kids to Parks Day''; considered and agreed to.

By Mr. BARRASSO:

S. Res. 451. A resolution recalling the Government of China's forcible dispersion of those peaceably assembled in Tiananmen Square 25 years ago, in light of China's continued abysmal human rights record; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 435

At the request of Mr. MENENDEZ, the name of the Senator from Massachusetts (Mr. MARKEY) was added as a cosponsor of S. 435, a bill to ban the exportation of crude oil or refined petroleum products derived from Federal land, and for other purposes.

S. 948

At the request of Mr. SCHUMER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 948, a bill to amend title XVIII of the Social Security Act to provide for coverage and payment for complex rehabilitation technology items under the Medicare program.

S. 997

At the request of Ms. MIKULSKI, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 997, a bill to establish the Social Work Reinvestment Commission to provide independent counsel to Congress and the Secretary of Health and Human Services on policy issues associated with recruitment, retention, research, and reinvestment in the profession of social work, and for other purposes.

S. 1174

At the request of Mr. BLUMENTHAL, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1174, a bill to award a Congressional Gold Medal to the 65th Infantry Regiment, known as the Borinqueneers.

S. 1239

At the request of Mrs. GILLIBRAND, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1239, a bill to expand the research and awareness activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases and the Centers for Disease Control and Prevention with respect to scleroderma, and for other purposes.

S. 1256

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. MARKEY) was added as a cosponsor of S. 1256, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antimicrobials used in the treatment of human and animal diseases.

S. 1406

At the request of Mr. UDALL of New Mexico, his name was added as a cosponsor of S. 1406, a bill to amend the Horse Protection Act to designate additional unlawful acts under the Act, strengthen penalties for violations of the Act, improve Department of Agriculture enforcement of the Act, and for other purposes.

S. 1431

At the request of Mr. WYDEN, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. 1431, a bill to permanently extend the Internet Tax Freedom Act.

S. 1622

At the request of Ms. HEITKAMP, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1622, a bill to establish the Alyce Spotted Bear and Walter Soboleff Commission on Native Children, and for other purposes.

S. 1799

At the request of Mr. COONS, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1799, a bill to reauthorize subtitle A of the Victims of Child Abuse Act of 1990.

S. 1875

At the request of Mr. WYDEN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1875, a bill to provide for wildfire suppression operations, and for other purposes.

S. 2279

At the request of Mr. LEE, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. 2279, a bill to amend the Internal Revenue Code of 1986 to terminate certain energy tax subsidies and lower the corporate income tax rate.

S. 2292

At the request of Ms. WARREN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2292, a bill to amend the Higher Education Act of 1965 to provide for the refinancing of certain Federal student loans, and for other purposes.

S. 2295

At the request of Mr. LEAHY, the names of the Senator from Minnesota (Mr. FRANKEN), the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from Hawaii (Ms. HIRONO) were added as cosponsors of S. 2295, a bill to establish the National Commission on the Future of the Army, and for other purposes.

S. 2301

At the request of Mr. HATCH, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. 2301, a bill to amend section 2259 of title 18, United States Code, and for other purposes.

S. 2305

At the request of Mrs. MURRAY, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 2305, a bill to amend the method by which the Social Security Administration determines the validity of marriages under title II of the Social Security Act.

S. 2307

At the request of Mrs. BOXER, the names of the Senator from Massachusetts (Mr. MARKEY), the Senator from Hawaii (Ms. HIRONO), the Senator from Connecticut (Mr. MURPHY), the Senator from Wisconsin (Ms. BALDWIN) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 2307, a bill to prevent international violence against women, and for other purposes.

S. 2316

At the request of Mr. THUNE, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 2316, a bill to require the Inspector General of the Department of Veterans Affairs to submit a report on wait times for veterans seeking medical appointments and treatment from the Department of Veterans Affairs, to prohibit closure of medical facilities of the Department, and for other purposes.

S. 2339

At the request of Mr. BARRASSO, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2339, a bill to amend the Patient Protection and Affordable Care Act to require States with failed American Health Benefit Exchanges to reimburse the Federal Government for amounts provided under grants for the establishment and operation of such Exchanges.

S. RES. 445

At the request of Mrs. FEINSTEIN, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. Res. 445, a resolution recognizing the importance of cancer research and the contributions of scientists, clinicians, and patient advocates across the United States who are dedicated to finding a cure for cancer, and designating May 2014 as ''National Cancer Research Month''.

AMENDMENT NO. 3057

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 3057 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the

Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

At the request of Mr. MCCONNELL, his name was added as a cosponsor of amendment No. 3057 intended to be proposed to H.R. 3474, supra.

AMENDMENT NO. 3058

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 3058 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

At the request of Mr. MCCONNELL, his name was added as a cosponsor of amendment No. 3058 intended to be proposed to H.R. 3474, supra.

AMENDMENT NO. 3063

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 3063 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

AMENDMENT NO. 3066

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 3066 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

AMENDMENT NO. 3067

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 3067 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

AMENDMENT NO. 3068

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 3068 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

AMENDMENT NO. 3072

At the request of Mr. ROBERTS, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of amendment No. 3072 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 3072 intended to be proposed to H.R. 3474, supra.

AMENDMENT NO. 3073

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 3073 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

AMENDMENT NO. 3074

At the request of Mr. ROBERTS, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of amendment No. 3074 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 3074 intended to be proposed to H.R. 3474, supra.

AMENDMENT NO. 3077

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 3077 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

At the request of Mr. MCCONNELL, his name was added as a cosponsor of amendment No. 3077 intended to be proposed to H.R. 3474, supra.

AMENDMENT NO. 3078

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 3078 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

At the request of Mr. MCCONNELL, his name was added as a cosponsor of amendment No. 3078 intended to be proposed to H.R. 3474, supra.

AMENDMENT NO. 3086

At the request of Mr. HATCH, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of amendment No. 3086 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

AMENDMENT NO. 3087

At the request of Mr. HATCH, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of amendment No. 3087 intended to be proposed to H.R. 3474, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KAINE:

S. 2341. A bill to amend title 10, United States Code, to enhance the authority for members of the Armed Forces to obtain professional credentials; to the Committee on Armed Services.

Mr. KAINE. Mr. President, since taking office, one of my highest priorities has been finding solutions to the unemployment rate among American veterans. We proudly in Virginia proclaim a tighter connection with the American military than any other State—and I know 99 or 98 other Senators would argue with me about that, but 1 in 9 Virginians is a veteran. Virginia has 27 military installations, including the largest naval base in the world in Norfolk, and all marine officers are trained at Quantico. Virginia's map is a map of Virginia's military history: Yorktown, where the Revolutionary War ended; Appomattox, where the Civil War ended, and other Civil War battlefields; and the Pentagon, where one of the two attacks on 9/11 occurred.

Our servicemembers in Virginia and nationally make a tremendous sacrifice for our country, and we have to have a commitment to honor these sacrifices and demonstrate to service men and women the same degree of commitment as they have demonstrated to our country.

That is what makes the unemployment rate among our veterans so troubling. Veterans who are exiting military service in the Iraq and Afghan war era—especially enlisted men and women who may not have college degrees—have an unemployment rate significantly higher than the national average. In fact—a statistic that when I heard it really stunned me—between the fiscal year 2001 and 2012, the Department of Defense spent $9.6 billion on unemployment insurance payments—$9.6 billion in payments to men

and women who had exited the military and then couldn't find a job. Obviously, these are men and women who served valiantly during the longest period of war in the history of this country.

As our Armed Forces continue to draw down in Afghanistan after nearly 13 years of combat operations—and those combat operations are scheduled to cease this year—we have to do everything we can to ensure that these servicemembers can find a way to quickly transition from military to civilian life and find good jobs in the process.

We know—and the Presiding Officer knows very well in his personal capacity—that servicemembers gain incredibly valuable skills while serving in the military. We make a significant investment as a society in training each and every member of our Armed Forces in a military occupation or specialty, many of which of have parallel fields in the civilian workforce.

I have a child in the military now. Watching the degree of training he undergoes—training that will be very valuable for civilian work when he chooses to make that transition—and seeing the kind of training his colleagues undergo as well convinces me of these great skills that adhere in our military. But instead of making it easier for these servicemembers to get credit for their skills that would help them as they transition to civilian life, they are often continuing to face roadblocks.

That inspired me to introduce my first bill as a Senator last year, the Troop Talent Act of 2013. The Troop Talent Act required that information on civilian credentialing opportunities be made available to servicemembers during their Active-Duty training and that information on military training and experience be provided to civilian credentialing agencies to help them understand how the skills for success in military life transfer directly to the skills for success in civilian life. If you are learning to operate heavy equipment in the military, get the commercial driver's license right when you are learning it. If you are learning to be a battlefield medic in the military, get physician assistant or nursing credits right when you are getting that. If you are at the ordnance school at Fort Lee in Virginia learning to be an ordnance officer, get the American Welding Society's certificate after you take your welding class, put it in the personnel file, and when you get ready to move to civilian life, you will have credentials that will be understood by a civilian workforce.

I am proud that key parts of the bill were signed into law as part of the national defense authorization bill we passed in December, and with this information servicemembers will be more prepared to transfer into civilian life. They will have a better sense of what skills servicemembers possess as they enter civilian life. So the passage of this Troop Talent Act was for me a first step, but there are many more steps we have to take to tackle this problem of veterans' unemployment.

In speaking with military leadership, servicemembers and veterans, I have learned there are some additional barriers to the employment of our veterans that deal with how tuition assistance monies can be used by those in active service. One is the cost of fees associated with getting credentials while on Active Duty. Those costs of credentials are not covered by the current military tuition assistance program.

Some military members transfer out of the service and they decide to pursue a degree at a college or university, but others are ready to immediately enter the workforce with the skills they obtained through military training. Again, to use the example I started with earlier, if you are a logistics ordnance officer training in Fort Lee in Virginia, you take metalworking courses, you take welding courses, and those are the kinds of skills in very significant demand in the American manufacturing sector right now. Those individuals often have an ability—they certainly have the skills—to get good jobs when they leave. But they often lack something important. They lack the credential the civilian workforce understands—in this case an American Welding Society credential, for example.

Currently, the military tuition assistance program provides Active-Duty servicemembers financial assistance up to $4,500 in aggregate per fiscal year for postsecondary courses or degree programs. While you are in service, you can take degree programs, and up to $4,500 a year, those degree programs and courses will be supported by the military tuition assistance program. But despite the success of this program, certification and license fees are not allowed to be paid with tuition assistance benefits.

So in other words, if you are in the military and you want to take a college course, you can get paid. If you are in the military and you want to pass a welding certificate exam to be a welder, the tuition assistance program will not pay for that. This is a challenge because these credentialing exams can cost significantly out-of-pocket, often $300 to $500, and many of our enlisted men and women don't have that. It is really inequitable we would allow Active-Duty military to draw down up to $4,500 for college courses but not draw down one penny to get a credential for a technical skill they maintain.

This is part of a larger societal issue. I think we value college and community college in a way we do not or have not traditionally valued career and technical education programs. So many of our programs—Pell grants and Stafford loans, GI bill benefits—often can be used more easily for community college or 4-year colleges than they can be used for even the highest quality career and technical programs.

That is why today I am introducing the Credentialing Improvement for Troop Talent, or CREDIT Act. The legislation will go into that military tuition assistance program and expand the authority of the program so that it can cover credentialing expenses for those military men and women who want to move into career and technical fields. It will give servicemembers the means to pay for credentials while they are still on Active-Duty and before they transition into civilian workforce.

In addition, the legislation will ensure the credentials our servicemembers earn are of the highest quality and that they are recognized by national and international standards, and not offered by shady or sort of fly-by-night organizations that simply want to pocket money that our military men and women are entitled to in order to help them get an education for themselves.

We in Virginia have seen firsthand how the skills and talents of the men and women who serve our country can benefit our workforce and contribute to our economy. We make a huge investment in our servicemembers, and it is a disservice not only to them but also to our Nation not to take advantage of the skills we bestow on these men and women once they transition to civilian life. We have to, all of us, Mr. President, stay focused on this. It is unacceptable for us as a Nation to look in the mirror and say: Our servicemen and women who served in Iraq and Afghanistan have an unemployment rate higher than the national average, but I guess there is nothing we can do about that. No, we can do a lot about it. We can make sure they get skills while in the military that a civilian workforce will understand, and that those skills can also carry with them credentials that will enable them to get a quicker traction when they move into the civilian workforce.

It is unacceptable we are paying $800 million a year in the Federal budget to pay for unemployment benefits for people who exit the military and then can't find jobs when they do. We need steps such as the CREDIT Act and others to bring down that veterans' unemployment rate, to enable people to get the kinds of jobs that will help them have a happy and successful life postservice, and that will enable society to take advantage of the great skills and talents they have.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 446—RECOGNIZING THE 50TH ANNIVERSARY OF THE CONGRESSIONAL DECLARATION OF BOURBON WHISKEY AS A DISTINCTIVE PRODUCT OF THE UNITED STATES

Mr. MCCONNELL (for himself and Mr. PAUL) submitted the following resolution; which was considered and agreed to:

S. RES. 446

Whereas on May 4, 1964, Congress declared bourbon whiskey a distinctive product of the United States that is unlike other types of alcoholic beverages, whether foreign or domestic;

Whereas to be designated as ''bourbon,'' a product must conform to high standards and be manufactured in accordance with the laws and regulations of the United States, which prescribe Federal Standards of Identity for ''bourbon whisky'';

Whereas bourbon whiskey has achieved recognition and acceptance throughout the world as a distinctive product of the United States;

Whereas Kentucky, the birthplace of bourbon, produces 95 percent of the world's supply;

Whereas Kentucky's iconic bourbon brands are reaching farther than ever, with more than 30,000,000 gallons shipped to 126 countries, making bourbon the largest export category among all United States distilled spirits and a source of national pride;

Whereas bourbon production has increased by more than 120 percent since 1999, contributing to the development of a vibrant bourbon tourism industry in Kentucky;

Whereas bourbon is a vital part of American culture and the economy, generating close to 9,000 jobs in Kentucky and almost $2,000,000,000 in gross Kentucky product in 2010; and

Whereas the bourbon industry continues its efforts to promote the responsible and moderate use of its product, and to curb drunken driving and underage drinking: Now, therefore, be it

Resolved, That the Senate recognizes the 50th anniversary of the Congressional declaration of bourbon whiskey as a distinctive product of the United States.

SENATE RESOLUTION 447—RECOGNIZING THE THREATS TO FREEDOM OF THE PRESS AND EXPRESSION AROUND THE WORLD AND REAFFIRMING FREEDOM OF THE PRESS AS A PRIORITY IN THE EFFORTS OF THE UNITED STATES GOVERNMENT TO PROMOTE DEMOCRACY AND GOOD GOVERNANCE

Mr. CASEY (for himself and Mr. RUBIO) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 447

Whereas Article 19 of the United Nations Universal Declaration of Human Rights, adopted at Paris December 10, 1948, states that ''everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers'';

Whereas, in 1993, the United Nations General Assembly proclaimed May 3 of each year as ''World Press Freedom Day'' to celebrate the fundamental principles of freedom of the press, to evaluate freedom of the press around the world, to defend the media from attacks on its independence, and to pay tribute to journalists who have lost their lives in the exercise of their profession;

Whereas, on December 18, 2013, the United Nations General Assembly adopted a resolution (A/RES/68/163) on the safety of journalists and the issue of impunity, which unequivocally condemns all attacks and violence against journalists and media workers, including torture, extrajudicial killings, enforced disappearances, arbitrary detention, and intimidation and harassment in both conflict and non-conflict situations;

Whereas 2014 is the 21st anniversary of World Press Freedom Day, which focuses on the theme ''Media Freedom for a Better Future: Shaping the Post-2015 Development Agenda'';

Whereas the Daniel Pearl Freedom of the Press Act of 2009 (Public Law 111–16622; U.S.C. 2151 note), which was passed by unanimous consent in the Senate and signed into law by President Barack Obama in 2010, expanded the examination of freedom of the press around the world in the annual human rights report of the Department of State;

Whereas, according to Reporters Without Borders, 71 journalists and 39 citizen journalists were killed in 2013 in connection with their collection and dissemination of news and information;

Whereas, according to the Committee to Protect Journalists, the 3 deadliest countries for journalists on assignment in 2013 were Syria, Iraq, and Egypt, and in Syria, the deadliest country for such journalists, an unprecedented number of journalists were abducted;

Whereas, according to the Committee to Protect Journalists, 617 journalists have been murdered since 1992 without the perpetrators of such crimes facing punishment;

Whereas, according to the Committee to Protect Journalists, the 5 countries with the highest number of unsolved journalist murders are Iraq, the Philippines, Algeria, Colombia, and Somalia;

Whereas, according to Reporters Without Borders, 826 journalists and 127 citizen journalists were arrested in 2013;

Whereas, according to the Committee to Protect Journalists, 211 journalists worldwide were in prison on December 1, 2013;

Whereas, according to Reporters Without Borders, the 5 countries with the highest number of journalists in prison are Syria, China, Eritrea, Turkey, and Iran;

Whereas, according to Reporters Without Borders, the Government of Syria and extremist rebel militias have intentionally targeted journalists, causing dramatic repercussions for the freedom of the press throughout the region;

Whereas the Government of the Russian Federation has engaged in an unprecedented campaign to silence the independent press and undermine freedom of expression, including its recent efforts to destabilize Ukraine;

Whereas freedom of the press is a key component of democratic governance, the activism of civil society, and socioeconomic development; and

Whereas freedom of the press enhances public accountability, transparency, and participation: Now, therefore, be it

Resolved, That the Senate—

(1) expresses concern about the threats to freedom of the press and expression around the world following World Press Freedom Day, held on May 3, 2014;

(2) commends journalists and media workers around the world for their essential role in promoting government accountability, defending democratic activity, and strengthening civil society, despite threats to their safety;

(3) pays tribute to the journalists who have lost their lives carrying out their work;

(4) calls on governments abroad to implement United Nations General Assembly Resolution (A/RES/68/163), by thoroughly investigating and seeking to resolve outstanding cases of violence against journalists, including murders and kidnappings, while ensuring the protection of witnesses;

(5) condemns all actions around the world that suppress freedom of the press, such as the recent kidnappings of journalists and media workers in eastern Ukraine by pro-Russian militant groups;

(6) reaffirms the centrality of freedom of the press to efforts by the United States Government to support democracy, mitigate conflict, and promote good governance domestically and around the world; and

(7) calls on the President and the Secretary of State—

(A) to improve the means by which the United States Government rapidly identifies, publicizes, and responds to threats against freedom of the press around the world;

(B) to urge foreign governments to transparently investigate and bring to justice the perpetrators of attacks against journalists; and

(C) to highlight the issue of threats against freedom of the press year-round.

SENATE RESOLUTION 448—EXPRESSING THE SENSE OF THE SENATE ON THE POLICY OF THE UNITED STATES REGARDING STABILIZING THE CURRENCY OF UKRAINE

Mr. RUBIO (for himself and Mr. CRUZ) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 448

Whereas the territorial integrity of Ukraine has been compromised by the unlawful annexation of Crimea by the Russian Federation;

Whereas the territorial integrity of Ukraine continues to be under threat because of unlawful provocations by the Russian Federation;

Whereas ongoing economic hardships in Ukraine are being exploited by unlawful separatist elements with allegiances to the Russian Federation;

Whereas strengthening of the economy of Ukraine can help stabilize the unrest in the southern and eastern parts of Ukraine and support the territorial integrity of Ukraine;

Whereas the Russian Federation has declared the Russian ruble to be legal tender in Crimea following its unlawful annexation of Crimea, to circulate in parallel with the hryvnia, the national currency of Ukraine, until January 1, 2016;

Whereas the Russian Federation will exploit currency competition between the ruble and the hryvnia during the period both currencies are in circulation in Crimea in an attempt to portray the Russian-controlled managed economy as superior to Western-style democracy and free markets;

Whereas a stable national currency can be important to facilitate economic growth;

Whereas the hryvnia dropped in value by 35 percent relative to the United States dollar between January and May 2014;

Whereas currency boards have a long record of promoting superior performance in countries with emerging markets by spurring higher economic growth rates, lower inflation rates, and more fiscal discipline than central banks that employ floating exchange rates;

Whereas the establishment of a national currency board for Ukraine can generate a more stable currency and enhance demand for the hryvnia;

Whereas, under a currency board, the hryvnia could be convertible into the United States dollar or the euro, both of which are dominant global reserve currencies;

Whereas the ability to convert the hryvnia into the United States dollar or the euro would help make the hryvnia stable and its exchange more reliable;

Whereas a stable national currency can boost investor confidence and make Ukraine less susceptible to destabilizing rhetoric from the Russian Federation;

Whereas the International Monetary Fund has a long track record of supporting the establishment of currency boards and financial mechanisms that approximate currency boards, notably through the implementation of Article VII of Annex 4 of the General Framework Agreement for Peace in Bosnia and Herzegovina, initialed at Dayton, November 21, 1995 (commonly known as the ''Dayton Peace Accords''), which mandated a currency board for Bosnia and Herzegovina;

Whereas the International Monetary Fund can provide the technical expertise necessary to ensure that a currency board run by monetary authorities in Ukraine is implemented properly;

Whereas currency board systems have been designed for other countries in Europe with positive results, including Estonia, Lithuania, and Bosnia and Herzegovina;

Whereas the United States Congress sent a strong message of solidarity with the people of Ukraine by passing the Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 (Public Law 113–95; 128 Stat. 1088), which included financial assistance for Ukraine; and

Whereas strengthening of the national currency of Ukraine and supporting the institution of a disciplined monetary regime would send a powerful signal of support for Ukraine: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States and Ukraine should examine the benefits of implementing a currency board system as a way to stabilize the national currency of Ukraine and to improve the economy of Ukraine; and

(2) if Ukraine decides to pursue the implementation of a currency board system, the United States Secretary of the Treasury should work with the International Monetary Fund to help create a currency board for Ukraine that can assist Ukraine to improve its economy.

SENATE RESOLUTION 449—COMMEMORATING AND HONORING THE DEDICATION AND SACRIFICE OF THE FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT OFFICERS WHO HAVE BEEN KILLED OR INJURED IN THE LINE OF DUTY

Mr. LEAHY (for himself, Mr. GRASSLEY, Mrs. FEINSTEIN, Mrs. SHAHEEN, Mr. MARKEY, Mr. BEGICH, Mr. UDALL of New Mexico, Mrs. HAGAN, Mr. COONS, Mr. DURBIN, Mr. FRANKEN, Mr. BOOKER, Ms. LANDRIEU, Mr. REED, Mr. BLUMENTHAL, Mr. SCHATZ, Mr. WICKER, Ms. HEITKAMP, Mr. PRYOR, Ms. HIRONO, Mr. CARDIN, Mr. UDALL of Colorado, Mr. COCHRAN, Ms. MIKULSKI, Ms. WARREN, Mr. WARNER, Mr. SCHUMER, Mrs. MURRAY, Mr. WHITEHOUSE, Mr. DONNELLY, Mr. HEINRICH, and Ms. KLOBUCHAR) submitted the following resolution; which was considered and agreed to:

S. RES. 449

Whereas the well-being of all individuals in the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement officers;

Whereas more than 900,000 law enforcement officers greatly risk their personal safety to serve individuals in the United States as guardians of the peace;

Whereas law enforcement officers are often on the front lines in protecting the schools and school children in the United States;

Whereas, in 2013, 101 law enforcement officers across the United States were killed in the line of duty;

Whereas Congress should strongly support initiatives to reduce violent crime and contribute to the safety of law enforcement officers, including—

(1) providing such officers with equipment of the highest quality and modernity;

(2) increasing the availability and use of bullet-resistant vests for such officers;

(3) improving training for such officers; and

(4) providing advanced emergency medical care for such officers;

Whereas more than 19,000 Federal, State, and local law enforcement officers lost their lives in the line of duty while protecting citizens of the United States, and the names of such officers are engraved on the National Law Enforcement Officers Memorial in Washington, DC;

Whereas, in 1962, President John F. Kennedy designated May 15 as ''National Peace Officers Memorial Day''; and

Whereas, on May 15, 2014, more than 20,000 law enforcement officers are expected to gather in Washington, DC, to join the families of their fallen comrades to honor those comrades and all law enforcement officers who have fallen before them: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates and acknowledges the dedication and sacrifices of the Federal, State, and local law enforcement officers who have been killed or injured in the line of duty;

(2) recognizes May 15, 2014, as ''National Peace Officers Memorial Day''; and

(3) calls on the people of the United States to observe that day with appropriate ceremonies, solemnity, appreciation, and respect.

SENATE RESOLUTION 450—DESIGNATING MAY 17, 2014, AS ''KIDS TO PARKS DAY''

Mr. UDALL of Colorado (for himself, Ms. LANDRIEU, Mr. PORTMAN, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 450

Whereas the 4th annual Kids to Parks Day will be celebrated on May 17, 2014;

Whereas the goal of Kids to Parks Day is to empower young people and encourage families to get outdoors and visit the parks of the United States;

Whereas on Kids to Parks Day, individuals from rural and urban areas of the United States are reintroduced to the splendid Federal, State, and neighborhood parks that are located in their communities;

Whereas communities across the United States offer a variety of natural resources and public land, often with free access, to individuals seeking outdoor recreation;

Whereas the people of the United States, young and old, should be encouraged to lead more healthy and active lifestyles;

Whereas Kids to Parks Day is an opportunity for families to take a break from their busy lives and come together for a day of wholesome fun; and

Whereas Kids to Parks Day will broaden the appreciation of young people for nature and the outdoors: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 17, 2014, as ''Kids to Parks Day'';

(2) recognizes the importance of outdoor recreation and the preservation of open spaces to the health of the young people of the United States; and

(3) calls on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

SENATE RESOLUTION 451—RECALLING THE GOVERNMENT OF CHINA'S FORCIBLE DISPERSION OF THOSE PEACEABLY ASSEMBLED IN TIANANMEN SQUARE 25 YEARS AGO, IN LIGHT OF CHINA'S CONTINUED ABYSMAL HUMAN RIGHTS RECORD

Mr. BARRASSO submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 451

Whereas, in 1989, Chinese citizens involved in a peaceful democratic movement gathered in Tiananmen Square to call for the establishment of a dialogue with their government on democratic reforms, including freedom of expression and freedom of assembly;

Whereas, on June 4, 1989, Chinese authorities ordered the People's Liberation Army and other security forces to use lethal force to disperse demonstrators in Tiananmen Square;

Whereas the number of peaceful protesters killed or injured by the forcible dispersion remains unknown to this day;

Whereas, 25 years after these deaths, there has been no accountability on the part of the Government of the People's Republic of China in disciplining involved officials;

Whereas there remain imprisoned to this day individuals who expressed their desire for democracy in China 25 years ago in Tiananmen Square;

Whereas the Department of State's most recent human rights report on China found that ''citizens did not have the right to change their government'';

Whereas, even in recent weeks, the Government of the People's Republic of China has detained those who attempt to peacefully commemorate the events of June 1989, including activists such as Pu Zhiqiang and Wen Kejian;

Whereas the Department of State's most recent human rights report on China found ''extrajudicial killings'' remained a problem in China;

Whereas the Department of State's most recent human rights report on China found the government continued to target ''for arbitrary detention or arrest'' ''human rights activists, journalists. . .and former political prisoners and their family members''; and

Whereas June 4, 2014, is the 25th anniversary of the Tiananmen Square massacre: Now, therefore, be it

Resolved, That the Senate—

(1) expresses sympathy to the families of those killed, tortured, and imprisoned as a result of their participation in the democracy gathering on June 4, 1989, in Tiananmen Square, Beijing, in the People's Republic of China;

(2) commends all peaceful advocates for democracy and human rights in China;

(3) condemns the ongoing and egregious human rights abuses by the Communist Government of the People's Republic of China;

(4) calls on the Communist Government of the People's Republic of China to—

(A) release all prisoners of conscience, including those persons still in prison as a result of their participation in the peaceful pro-democracy gatherings of 1989 and those

detained for their commemoration of these events;

(B) allow those people exiled on account of their activities to return to live in freedom in China; and

(C) cease the harassment, detention, and imprisonment of all Chinese citizens exercising their freedoms of expression, association, and religion; and

(5) calls upon the United States representative at the United Nations Human Rights Council to introduce a resolution in that forum calling for an examination of the human rights practices of the Government of the People's Republic of China.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3101. Ms. STABENOW (for herself, Mr. BROWN, Mr. ROBERTS, and Mr. BLUNT) submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table.

SA 3102. Mr. LEE submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3103. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3104. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3105. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3106. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3107. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3108. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 2260, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table.

SA 3109. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 2260, supra; which was ordered to lie on the table.

SA 3110. Mr. FLAKE (for himself, Mr. ALEXANDER, Mr. TOOMEY, Mr. MCCAIN, Mr. LEE, and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table.

SA 3111. Mr. FLAKE (for himself, Mr. ALEXANDER, Mr. MCCAIN, Mr. LEE, and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3112. Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3113. Mr. THUNE (for himself, Ms. AYOTTE, and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3114. Mr. THUNE (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3115. Mr. HOEVEN (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3116. Mr. ROBERTS (for himself, Mr. MCCONNELL, and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3117. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3118. Mr. PRYOR (for Mr. BOOZMAN (for himself and Mr. PRYOR)) submitted an amendment intended to be proposed by Mr. PRYOR to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3119. Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. BLUNT, and Mr. BROWN) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3120. Mr. CARPER (for himself and Mrs. HAGAN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3121. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3122. Mr. CARPER (for himself, Mr. CARDIN, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3123. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3124. Mr. CARPER (for himself, Ms. COLLINS, Mr. CARDIN, Mr. MENENDEZ, Mr. BROWN, Mr. MARKEY, Mr. COONS, Mr. SCHATZ, Mr. KING, Mr. WHITEHOUSE, Ms. MIKULSKI, and Mr. REED) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3125. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3126. Ms. CANTWELL (for herself, Mr. THUNE, Mr. CORNYN, Mr. NELSON, Mrs. MURRAY, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3127. Ms. CANTWELL (for herself, Mr. BENNET, Ms. STABENOW, Mr. MENENDEZ, Mr. CARDIN, Mr. BROWN, Mr. NELSON, and Mr. CARPER) submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3128. Mr. MARKEY submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3129. Ms. STABENOW (for herself, Mr. BROWN, Mr. ROBERTS, and Mr. BLUNT) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3130. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3131. Mr. PRYOR (for himself and Mr. BOOZMAN) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3132. Mr. KING (for himself, Ms. COLLINS, Mrs. SHAHEEN, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3133. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3134. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3135. Mr. BENNET (for himself and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3136. Mr. KING submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3137. Mr. NELSON submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3138. Ms. CANTWELL (for herself and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3139. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3140. Ms. CANTWELL (for herself, Mr. BENNET, Ms. STABENOW, Mr. CARDIN, Mr. MENENDEZ, Mr. BROWN, Mr. NELSON, and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3141. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3142. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3143. Mr. MORAN (for himself, Ms. HEITKAMP, Mr. THUNE, Mr. HEINRICH, Mr. BEGICH, Mr. INHOFE, Mr. BENNET, Ms. STABENOW, Mr. ENZI, Mr. HOEVEN, Mr. UDALL of New Mexico, Mr. JOHNSON of South Dakota, Mr. UDALL of Colorado, Mrs. MURRAY, Mr. CRAPO, Mr. TESTER, Mr. WALSH, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3144. Mr. BARRASSO (for himself, Mr. HATCH, Mr. ROBERTS, Mr. ENZI, Mr. ISAKSON, Mr. MCCONNELL, Ms. AYOTTE, Ms. COLLINS, Mr. ALEXANDER, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3145. Mr. FLAKE (for himself, Mr. ALEXANDER, Mr. MCCAIN, Mr. LEE, Mr. MCCONNELL, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3146. Mr. FLAKE (for himself, Mr. ALEXANDER, Mr. TOOMEY, Mr. MCCAIN, Mr. LEE, Mr. MCCONNELL, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3147. Mr. CORNYN (for himself, Mr. COATS, Mr. ISAKSON, and Mr. BURR) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3148. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3149. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3150. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3151. Mr. GRAHAM (for himself and Mr. SCOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3152. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3153. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3154. Mr. LEE submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3155. Mr. MCCAIN (for himself, Mr. COBURN, and Mr. LEE) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3156. Mr. MCCAIN (for himself, Mr. COBURN, and Mr. LEE) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3157. Mr. MCCAIN (for himself, Mr. COBURN, and Mr. LEE) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3158. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3159. Mr. PORTMAN submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3160. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3161. Mr. TOOMEY (for himself, Mr. BURR, Mr. CORNYN, Mr. COATS, Ms. AYOTTE, Mr. MCCONNELL, Mr. ROBERTS, Mr. CRAPO, Mr. ALEXANDER, Mr. HATCH, Mr. ISAKSON, Ms. COLLINS, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3162. Mr. ENZI (for himself and Mr. BARRASSO) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3163. Mr. GRASSLEY (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3164. Mr. JOHANNS submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3165. Mr. HATCH (for himself, Mr. ALEXANDER, Mr. ENZI, Ms. COLLINS, Mr. COCHRAN, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3166. Mr. HATCH (for himself, Mr. ALEXANDER, Mr. COATS, Mr. THUNE, Ms. AYOTTE, Mr. MCCONNELL, Mr. ENZI, Ms. COLLINS, Mr. COCHRAN, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3167. Mr. TOOMEY (for himself, Mr. CASEY, Mr. CRAPO, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3168. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3169. Mr. ENZI (for himself, Mr. DURBIN, Mr. ALEXANDER, Ms. HEITKAMP, Mr. ROCKEFELLER, Mr. KING, Mr. CARDIN, Ms. LANDRIEU, Mr. FRANKEN, Mr. WHITEHOUSE, Mr. REED, Mr. MANCHIN, Mr. JOHNSON of South Dakota, Mr. BLUNT, Mr. UDALL of Colorado, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3170. Mr. TOOMEY (for himself, Mr. LEE, and Mr. FLAKE) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3171. Mr. TOOMEY submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3172. Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3173. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3174. Mr. TOOMEY (for himself, Mr. BURR, Mr. CORNYN, Mr. CRAPO, Mr. COATS, Ms. AYOTTE, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ROBERTS, Mr. ISAKSON, Ms. COLLINS, Mr. ENZI, and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3175. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3176. Mr. KIRK submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3177. Mr. CARDIN (for himself, Mr. ROBERTS, Mr. THUNE, Mr. MORAN, Mr. WHITEHOUSE, Mr. CRAPO, Mr. BLUNT, Ms. COLLINS, Mr. LEAHY, Ms. LANDRIEU, Mr. FRANKEN, Mr. SANDERS, Ms. STABENOW, Mr. BROWN, and Mr. JOHNSON of South Dakota) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3178. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3179. Mr. GRASSLEY (for himself and Mr. NELSON) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3180. Mr. COONS (for himself, Mr. MORAN, Ms. STABENOW, Ms. MURKOWSKI, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3181. Mr. LEVIN (for himself, Mr. BROWN, Mrs. SHAHEEN, Ms. HIRONO, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3182. Mr. CARDIN (for himself, Mrs. FEINSTEIN, and Mr. SCHATZ) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3183. Mr. CARDIN (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3184. Mr. CARDIN (for himself, Ms. COLLINS, Mr. CASEY, Mrs. SHAHEEN, Mr. PORTMAN, Mr. KING, Mr. WICKER, Mr. COONS, Ms. HIRONO, Mr. SCHUMER, Mr. LEAHY, Ms. MIKULSKI, Ms. AYOTTE, Mr. BEGICH, Mr. HEINRICH, Mr. UDALL of Colorado, Ms. MURKOWSKI, Mr. SCHATZ, and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3185. Mr. CARDIN (for himself, Mrs. FEINSTEIN, and Mr. SCHATZ) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3186. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3187. Mr. CARDIN (for himself, Mr. SCHATZ, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3188. Mr. THUNE (for himself, Mr. MCCONNELL, Mr. ROBERTS, Mr. ISAKSON, and Mr. FLAKE) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3189. Mr. THUNE (for himself, Mr. MCCONNELL, Mr. CORNYN, Mr. ROBERTS, and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3190. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3191. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3192. Mr. THUNE (for himself and Ms. AYOTTE) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3193. Mr. THUNE submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3194. Mr. THUNE (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3195. Ms. COLLINS (for herself and Mr. NELSON) submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3196. Ms. COLLINS (for herself, Mr. SCOTT, Mr. ISAKSON, Ms. MURKOWSKI, Ms. AYOTTE, Mr. GRAHAM, Mr. BLUNT, Mr. CRAPO, Mr. BOOZMAN, and Mr. DONNELLY) submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3197. Ms. COLLINS (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3198. Ms. COLLINS (for herself, Mr. SCHUMER, Mr. CARDIN, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3199. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3200. Ms. COLLINS (for herself and Mr. CASEY) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3201. Mr. BENNET (for himself, Mr. MERKLEY, and Mr. MARKEY) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3202. Mr. REED (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3203. Mr. CARDIN (for himself, Mr. BROWN, Mr. ROCKEFELLER, Ms. MIKULSKI, Ms. HEITKAMP, Ms. WARREN, Mr. LEVIN, Mrs. MURRAY, Mr. WHITEHOUSE, Mr. DURBIN, Mr. LEAHY, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3204. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3205. Mr. TOOMEY submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3206. Mr. COATS submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3207. Mr. COATS submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3208. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3209. Mr. CASEY (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3210. Mr. CASEY (for himself and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3211. Mr. UDALL, of Colorado (for himself, Mr. BLUNT, Mrs. SHAHEEN, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3212. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3213. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3214. Ms. KLOBUCHAR (for herself, Mr. HATCH, Mr. FRANKEN, Mr. TOOMEY, Mrs. SHAHEEN, Mrs. HAGAN, Mr. DONNELLY, Mr. COATS, Mr. MCCONNELL, Mr. UDALL of Colorado, Mr. CASEY, and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3215. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3216. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3217. Mr. BOOKER (for himself and Mr. SCOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3218. Ms. STABENOW submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3219. Ms. AYOTTE (for herself and Mrs. SHAHEEN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3220. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3221. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3222. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3223. Ms. AYOTTE submitted an amendment intended to be proposed by her to the bill H.R. 3474, supra; which was ordered to lie on the table.

SA 3224. Ms. AYOTTE submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3101. Ms. STABENOW (for herself, Mr. BROWN, Mr. ROBERTS, and Mr. BLUNT) submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 30, strike line 19 and insert the following:

tion 125(c) of such Act).

''(iv) SPECIAL MAXIMUM INCREASE AMOUNT.—In the case of round 4 extension property placed in service by a corporation—

''(I) subparagraph (C)(iii) shall not apply, and

''(II) the term 'maximum increase amount' means an amount that is 50 percent of the AMT credit increase amount determined with respect to such corporation under subparagraph (E) by substituting 'December 31, 2013' for 'March 31, 2008' and by substituting 'January 1, 2011' for 'January 1, 2006'.''.

SA 3102. Mr. LEE submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Beginning on page 47, strike line 10 and all that follows through page 50, line 9.

Beginning on page 50, strike line 19 and all that follows through page 55, line 17.

On page 56, strike line 6 and all that follows through line 14.

On page 58, strike line 3 and all that follows through line 11 and insert the following:

case of any alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for periods after December 31, 2013, and before the date of the enactment of this Act,

Beginning on page 59, strike line 7 and all that follows through page 60, line 2.

At the appropriate place, insert the following:

TITLE VI—ENERGY FREEDOM AND ECONOMIC PROSPERITY ACT OF 2014

Subtitle A—Short Title; etc.

SEC. __01. SHORT TITLE.

This title may be cited as the ''Energy Freedom and Economic Prosperity Act of 2014''.

Subtitle B—Repeal of Energy Tax Subsidies

SEC. __11. EARLY TERMINATION OF CREDIT FOR QUALIFIED FUEL CELL MOTOR VEHICLES.

(a) IN GENERAL.—Section 30B is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 24(b)(3) is amended by striking '', 30B''.

(2) Paragraph (2) of section 25B(g) is amended by striking '', 30B,''.

(3) Subsection (b) of section 38 is amended by striking paragraph (25).

(4) Subsection (a) of section 1016 is amended by striking paragraph (35) and by redesignating paragraphs (36) and (37) as paragraphs (35) and (36), respectively.

(5) Subsection (m) of section 6501 is amended by striking '', 30B(h)(9)''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 30B.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014.

SEC. __12. EARLY TERMINATION OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) IN GENERAL.—Section 30D is repealed.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to vehicles placed in service after the date of the enactment of this Act.

SEC. __13. REPEAL OF CREDIT FOR ALCOHOL USED AS FUEL.

(a) IN GENERAL.—Section 40, as amended by this Act, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking paragraph (3).

(2) Subsection (c) of section 196 is amended by striking paragraph (3) and by redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively.

(3) Paragraph (1) of section 4101(a) is amended by striking '', and every person producing cellulosic biofuel (as defined in section 40(b)(6)(E))''.

(4) Paragraph (1) of section 4104(a) is amended by striking '', 40''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after the date of the enactment of this Act.

SEC. __14. REPEAL OF ENHANCED OIL RECOVERY CREDIT.

(a) IN GENERAL.—Section 43 is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking paragraph (6).

(2) Paragraph (4) of section 45Q(d) is amended by inserting ''(as in effect on the day before the date of the enactment of the Energy Freedom and Economic Prosperity Act of 2014)'' after ''section 43(c)(2)''.

(3) Subsection (c) of section 196, as amended by sections 105 and 106 of this Act, is amended by striking paragraph (5) and by redesignating paragraphs (6) through (12) as paragraphs (5) through (11), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 43.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred after December 31, 2014.

SEC. __15. REPEAL OF CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Section 45I is repealed.

(b) CONFORMING AMENDMENT.—Subsection (b) of section 38 is amended by striking paragraph (19).

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 45I.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2014.

SEC. __16. TERMINATION OF CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

(a) IN GENERAL.—Subparagraph (B) of section 45J(d)(1) is amended by striking ''January 1, 2021'' and inserting ''January 1, 2015''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014.

SEC. __17. REPEAL OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION.

(a) IN GENERAL.—Section 45Q is repealed.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to carbon dioxide captured after December 31, 2014.

SEC. __18. TERMINATION OF ENERGY CREDIT.

(a) IN GENERAL.—Section 48 is amended by adding at the end the following new subsection:

''(e) TERMINATION.—No credit shall be allowed under subsection (a) for any period after December 31, 2014.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014.

SEC. __19. REPEAL OF QUALIFYING ADVANCED COAL PROJECT.

(a) IN GENERAL.—Section 48A is repealed.

(b) CONFORMING AMENDMENT.—Section 46 is amended by striking paragraph (3) and by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 48A.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014.

SEC. __20. REPEAL OF QUALIFYING GASIFICATION PROJECT CREDIT.

(a) IN GENERAL.—Section 48B is repealed.

(b) CONFORMING AMENDMENT.—Section 46, as amended by this Act, is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 48B.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014.

SEC. __21. REPEAL OF QUALIFYING ADVANCED ENERGY PROJECT CREDIT.

(a) IN GENERAL.—Section 48C is repealed.

(b) CONFORMING AMENDMENT.—Section 46, as amended by this Act, is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 48C.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014.

Subtitle C—Reduction of Corporate Income Tax Rate

SEC. __31. CORPORATE INCOME TAX RATE REDUCED.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe, in lieu of the rates of tax under paragraphs (1) and (2) of section 11(b), section 1201(a), and paragraphs (1), (2), and (6) of section 1445(e) of the Internal Revenue Code of 1986, such rates of tax as the Secretary estimates would result in—

(1) a decrease in revenue to the Treasury for taxable years beginning during the 10-year period beginning on the date of the enactment of this Act, equal to

(2) the increase in revenue for such taxable years by reason of the amendments made by title I of this Act.

(b) MAINTENANCE OF GRADUATED RATES.—In prescribing the tax rates under subsection (a), the Secretary shall ensure that each rate modified under such subsection is reduced by a uniform percentage.

(c) EFFECTIVE DATE.—The rates prescribed by the Secretary under subsection (a) shall apply to taxable years beginning more than 1 year after the date of the enactment of this Act.

SA 3103. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—OTHER PROVISIONS

SEC. __01. LIMITATION ON STATE TAXATION OF COMPENSATION EARNED BY NONRESIDENT TELECOMMUTERS AND OTHER MULTI-STATE WORKERS.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

''§ 127. Limitation on State taxation of compensation earned by nonresident telecommuters and other multi-State workers

''(a) IN GENERAL.—In applying its income tax laws to the compensation of a nonresident individual, a State may deem such nonresident individual to be present in or working in such State for any period of time only if such nonresident individual is physically present in such State for such period and such State may not impose nonresident income taxes on such compensation with respect to any period of time when such nonresident individual is physically present in another State.

''(b) DETERMINATION OF PHYSICAL PRESENCE.—For purposes of determining physical presence, no State may deem a nonresident individual to be present in or working in such State on the grounds that—

''(1) such nonresident individual is present at or working at home for convenience, or

''(2) such nonresident individual's work at home or office at home fails any convenience of the employer test or any similar test.

''(c) DETERMINATION OF PERIODS OF TIME WITH RESPECT TO WHICH COMPENSATION IS PAID.—For purposes of determining the periods of time with respect to which compensation is paid, no State may deem a period of time during which a nonresident individual is physically present in another State and performing certain tasks in such other State to be—

''(1) time that is not normal work time unless such individual's employer deems such period to be time that is not normal work time,

''(2) nonworking time unless such individual's employer deems such period to be nonworking time, or

''(3) time with respect to which no compensation is paid unless such individual's employer deems such period to be time with respect to which no compensation is paid.

''(d) DEFINITIONS.—As used in this section—

''(1) STATE.—The term 'State' means each of the several States (or any subdivision thereof), the District of Columbia, and any territory or possession of the United States.

''(2) INCOME TAX.—The term 'income tax' has the meaning given such term by section 110(c).

''(3) INCOME TAX LAWS.—The term 'income tax laws' includes any statutes, regulations, administrative practices, administrative interpretations, and judicial decisions.

''(4) NONRESIDENT INDIVIDUAL.—The term 'nonresident individual' means an individual who is not a resident of the State applying its income tax laws to such individual.

''(5) EMPLOYEE.—The term 'employee' means an employee as defined by the State in which the nonresident individual is physically present and performing personal services for compensation.

''(6) EMPLOYER.—The term 'employer' means the person having control of the payment of an individual's compensation.

''(7) COMPENSATION.—The term 'compensation' means the salary, wages, or other remuneration earned by an individual for personal services performed as an employee or as an independent contractor.

''(e) NO INFERENCE.—Nothing in this section shall be construed as bearing on—

''(1) any tax laws other than income tax laws,

''(2) the taxation of corporations, partnerships, trusts, estates, limited liability companies, or other entities, organizations, or persons other than nonresident individuals in their capacities as employees or independent contractors,

''(3) the taxation of individuals in their capacities as shareholders, partners, trust and estate beneficiaries, members or managers of

limited liability companies, or in any similar capacities, and

''(4) the income taxation of dividends, interest, annuities, rents, royalties, or other forms of unearned income.''.

(b) CLERICAL AMENDMENT.—The table of sections of such chapter 4 is amended by adding at the end the following new item:

''127. Limitation on State taxation of compensation earned by nonresident telecommuters and other multi-State workers.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SA 3104. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—STOP SUBSIDIZING CHILDHOOD OBESITY ACT

SEC. __01. SHORT TITLE.

This title may be cited as the ''Stop Subsidizing Childhood Obesity Act''.

SEC. __02. FINDINGS.

Congress finds the following:

(1) Childhood obesity has more than doubled in children and tripled in adolescents in the past 30 years. Currently, more than one-third of children and adolescents are overweight or obese.

(2) A report by the Robert Wood Johnson Foundation found that if the population of the United States continues on its current trajectory, adult obesity rates could exceed 60 percent in a number of states by 2030.

(3) Health-related behaviors, such as eating habits and physical activity patterns, develop early in life and often extend into adulthood. The diets of American children and adolescents depart substantially from recommended patterns that put their health at risk. Overall, American children and youth are not achieving basic nutritional goals. They are consuming excess calories and added sugars and have higher than recommended intakes of sodium, total fat, and saturated fats.

(4) Budgets for food marketing to children have spiked into the billions of dollars. According to a 2012 report from the Federal Trade Commission, the total amount spent on food marketing to children is about $2,000,000,000 a year.

(5) Companies market food to children through television, radio, Internet, magazines, product placement in movies and video games, schools, product packages, toys, clothing and other merchandise, and almost anywhere a logo or product image can be shown.

(6) According to a comprehensive review by the National Academies' Institute of Medicine, studies demonstrate that television food advertising affects children's food choices, food purchase requests, diets, and health.

(7) A 2005 report from the Institute of Medicine confirmed that ''aggressive marketing of high-calorie foods to children and adolescents has been identified as one of the major contributors to childhood obesity''.

(8) Nearly three-quarters of the foods advertised on television shows intended for children are for sweets and convenience or fast foods.

(9) A study published in the Journal of Law and Economics and funded by the National Institutes of Health found that the elimination of the tax deduction that allows companies to deduct costs associated with advertising food of poor nutritional quality to children could reduce the rates of childhood obesity by 5 to 7 percent.

SEC. __03. DENIAL OF DEDUCTION FOR ADVERTISING AND MARKETING DIRECTED AT CHILDREN TO PROMOTE THE CONSUMPTION OF FOOD OF POOR NUTRITIONAL QUALITY.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 is amended by adding at the end the following new section:

''SEC. 280I. DENIAL OF DEDUCTION FOR ADVERTISING AND MARKETING DIRECTED AT CHILDREN TO PROMOTE THE CONSUMPTION OF FOOD OF POOR NUTRITIONAL QUALITY.

''(a) IN GENERAL.—No deduction shall be allowed under this chapter with respect to—

''(1) any advertisement or marketing—

''(A) primarily directed at children for purposes of promoting the consumption by children of any food of poor nutritional quality, or

''(B) of a brand primarily associated with food of poor nutritional quality that is primarily directed at children, and

''(2) any of the following which are incurred or provided primarily for purposes described in paragraph (1):

''(A) Travel expenses (including meals and lodging).

''(B) Goods or services of a type generally considered to constitute entertainment, amusement, or recreation or the use of a facility in connection with providing such goods and services.

''(C) Gifts.

''(D) Other promotion expenses.

''(b) IOM STUDY.—

''(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this section, the Secretary shall enter into a contract with the Institute of Medicine under which the Institute of Medicine shall develop procedures for the evaluation and identification of—

''(A) food of poor nutritional quality, and

''(B) brands that are primarily associated with food of poor nutritional quality.

''(2) IOM REPORT.—Not later than 12 months after the date of the enactment of this section, the Institute of Medicine shall submit to the Secretary a report that establishes the proposed procedures described in paragraph (1).

''(c) DEFINITIONS.—In this section:

''(1) BRAND.—The term 'brand' means a corporate or product name, a business image, or a mark, regardless of whether it may legally qualify as a trademark, used by a seller or manufacturer to identify goods or services and to distinguish them from the goods of a competitor.

''(2) CHILD.—The term 'child' means an individual who is under the age of 14.

''(3) FOOD.—The term 'food' shall include beverages, candy, and chewing gum.

''(4) MARKETING.—The term 'marketing' means any product or brand advertising or promotional techniques directed at children, including—

''(A) advertising (including product placement) on television and radio, in print media, in social media, and on the Internet (including third-party and company-sponsored websites),

''(B) the use of characters or mascots, themes, activities, incentives, or any other advertising or promotional techniques contained on the packaging or labeling of a product,

''(C) advertising preceding a movie shown in a movie theater or placed on a video (DVD or VHS) or within a video game or mobile application,

''(D) promotional content transmitted to televisions, personal computers, and other digital or mobile devices,

''(E) advertising displays and promotions at the retail site or events,

''(F) specialty or premium items distributed in connection with the sale of a product or a product loyalty program,

''(G) character licensing, toy co-branding and cross-promotions,

''(H) celebrity and athlete endorsements, and

''(I) any advertising or promotional techniques used within a school.

''(d) REGULATIONS.—Not later than 18 months after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Health and Human Services and the Federal Trade Commission, shall promulgate such regulations as may be necessary to carry out the purposes of this section, including regulations defining the terms 'directed at children', 'food of poor nutritional quality', and 'brand primarily associated with food of poor nutritional quality' for purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 280I. Denial of deduction for advertising and marketing directed at children to promote the consumption of food of poor nutritional quality.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning 24 months after the date of the enactment of this Act.

SEC. __04. ADDITIONAL FUNDING FOR THE FRESH FRUIT AND VEGETABLE PROGRAM.

In addition to any other amounts made available to carry out the Fresh Fruit and Vegetable Program under section 19 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769a), the Secretary of the Treasury (or the Secretary's delegate) shall, on an annual basis, transfer to such program, from amounts in the general fund of the Treasury of the United States, an amount determined by the Secretary of the Treasury (or the Secretary's delegate) to be equal to the increase in revenue for the preceding 12-month period by reason of the enactment of section 280I of the Internal Revenue Code of 1986, as added by this Act.

SA 3105. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. __01. MANUFACTURING REINVESTMENT ACCOUNTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 199 the following new section:

''SEC. 199A. MANUFACTURING REINVESTMENT ACCOUNTS.

''(a) DEDUCTION ALLOWED.—In the case of a taxpayer engaged in a manufacturing business, there shall be allowed as a deduction

for the taxable year the amount paid in cash by the taxpayer during the taxable year to a manufacturing reinvestment account (hereinafter referred to as an 'MRA') for the taxpayer's benefit.

''(b) LIMITATION.—

''(1) IN GENERAL.—The amount which a taxpayer may pay into an MRA for the taxable year shall not exceed the lesser of—

''(A) the domestic manufacturing gross receipts of the taxpayer for the taxable year, or

''(B) $500,000.

''(2) CONTROLLED GROUPS.—

''(A) IN GENERAL.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single manufacturer.

''(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

''(c) MRA.—For purposes of this section, the term 'MRA' means a trust created or organized in the United States for the exclusive benefit of the taxpayer, but only if the written governing instrument creating the trust meets the following requirements:

''(1) No contribution will be accepted for any taxable year unless it is in cash.

''(2) Contributions will not be accepted for any taxable year in excess of the amount allowed as a deduction under subsection (a) for such year.

''(3) The trustee is an eligible institution.

''(4) No part of the trust assets will be invested in life insurance contracts.

''(5) No part of the trust assets will be invested in any collectible (as defined in section 408(m)).

''(6) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(d) TAX TREATMENT OF ACCOUNTS.—

''(1) IN GENERAL.—An MRA is exempt from taxation under this subtitle unless the account has ceased to be an MRA. Notwithstanding the preceding sentence, an MRA is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

''(2) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to MRAs, and any amount treated as distributed under such rules shall be treated as not used to pay qualified reinvestment expenses.

''(e) TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in paragraphs (3) and (4), there shall be includible in the gross income of the taxpayer for any taxable year—

''(A) any amount distributed from an MRA of the taxpayer during such taxable year, and

''(B) any deemed distribution under—

''(i) subsection (g)(1) (relating to deposits not distributed within 7 years),

''(ii) subsection (g)(2) (relating to cessation in manufacturing business), and

''(iii) subparagraph (A) or (B) of subsection (g)(3) (relating to prohibited transactions and pledging account as security).

''(2) ADDITIONAL TAX.—

''(A) IN GENERAL.—The tax imposed by this chapter on the taxpayer for any taxable year in which there is a distribution from an MRA shall be increased by 10 percent of the amount of such distribution which is includible in gross income.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to distributions during the taxable year to the extent necessary, under regulations prescribed by the Secretary, to avoid bankruptcy.

''(3) REDUCED INCLUSION FOR AMOUNTS REINVESTED.—Only 43 percent of the aggregate amount distributed from an MRA during the taxable year shall be includible in income under paragraph (1)(A) to the extent that such aggregate amount does not exceed the aggregate amount of qualified reinvestment expenses paid or incurred by the taxpayer during such year.

''(4) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to an MRA to the extent that such contribution exceeds the limitation applicable under subsection (b) if requirements similar to the requirements of section 408(d)(4) are met.

''(f) DEFINITIONS.—For purposes of this section—

''(1) MANUFACTURING BUSINESS.—The term 'manufacturing business' means any trade or business having domestic manufacturing gross receipts.

''(2) DOMESTIC MANUFACTURING GROSS RECEIPTS.—The term 'domestic manufacturing gross receipts' means gross receipts of the taxpayer which are derived from any lease, rental, license, sale, exchange, or other disposition of tangible personal property which was manufactured by the taxpayer in whole or in significant part within the United States. Rules similar to the rules of section 199 shall apply in determining the gross receipts of the taxpayer for purposes of the preceding sentence.

''(3) QUALIFIED REINVESTMENT EXPENSES.—The term 'qualified reinvestment expenses' means—

''(A) expenses for property to be used by the taxpayer in a manufacturing business, and

''(B) expenses for job training and workforce development for employees of the taxpayer.

''(4) ELIGIBLE INSTITUTION.—

''(A) IN GENERAL.—The term 'eligible institution' means—

''(i) any insured depository institution, which—

''(I) is not controlled by a bank holding company or savings and loan holding company that is also an eligible institution,

''(II) has total assets of equal to or less than $25,000,000,000, as reported in the call report as of the end of the fourth quarter of calendar year 2012, and

''(III) is not directly or indirectly controlled by any company or other entity that has total consolidated assets of more than $25,000,000,000, as so reported;

''(ii) any bank holding company which has total consolidated assets of equal to or less than $25,000,000,000;

''(iii) any savings and loan holding company which has total consolidated assets of equal to or less than $25,000,000,000;

''(iv) any community development financial institution loan fund which has total assets of equal to or less than $25,000,000,000; and

''(v) any small business lending company that has total assets of equal to or less than $25,000,000,000.

''(B) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the meaning given such term under section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)).

''(C) BANK HOLDING COMPANY.—The term 'bank holding company' has the meaning given such term under section 2(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(2)(a)(1)).

''(D) CALL REPORT.—The term 'call report' means—

''(i) reports of Condition and Income submitted to the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation;

''(ii) the Office of Thrift Supervision Thrift Financial Report;

''(iii) any report that is designated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Office of Thrift Supervision, as applicable, as a successor to any report referred to in clause (i) or (ii);

''(iv) standard reports of Condition and Income submitted by Community Development Financial Institution loan funds to the Community Development Financial Institutions Fund; and

''(v) with respect to an eligible institution for which no report exists that is described under clause (i), (ii), or (iii), such other report or set of information as the Secretary, in consultation with the Administrator of the Small Business Administration, may prescribe.

''(g) SPECIAL RULES.—

''(1) TAX ON DEPOSITS IN ACCOUNT WHICH ARE NOT DISTRIBUTED WITHIN 7 YEARS.—

''(A) IN GENERAL.—If, at the close of any taxable year, there is a nonqualified balance in any MRA—

''(i) there shall be deemed distributed from the MRA during such taxable year an amount equal to such balance, and

''(ii) the taxpayer's tax imposed by this chapter for such taxable year shall be increased by 10 percent of such deemed distribution.

''(B) NONQUALIFIED BALANCE.—For purposes of subparagraph (A), the term 'nonqualified balance' means any balance in the MRA on the last day of the taxable year which is attributable to amounts deposited in such account before the 6th preceding taxable year.

''(C) ORDERING RULE.—For purposes of this paragraph, distributions from an MRA shall be treated as made from deposits (and income thereon) in the order in which such deposits were made, beginning with the earliest deposits.

''(2) CESSATION OF MANUFACTURING BUSINESS.—If the taxpayer ceases to be engaged in a manufacturing business, there shall be deemed distributed from the MRA of the taxpayer at the close of the first taxable year beginning after such cessation an amount equal to the balance in the MRA (if any) at such close.

''(3) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

''(A) Section 408(e)(2) (relating to loss of exemption of account where taxpayer engages in prohibited transaction).

''(B) Section 408(e)(4) (relating to effect of pledging account as security).

''(C) Section 408(h) (relating to custodial accounts).

''(4) TIME WHEN PAYMENTS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment to an MRA on the last day of a taxable year if such payment is made on account of such taxable year and is made on or before the due date (without regard to extensions) for filing the return of tax for such taxable year.

''(5) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX.—The deduction allowable by reason of subsection (a) shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.

''(h) REPORTS.—The trustee of an MRA shall make such reports regarding such account to the Secretary and to the person for whose benefit the account is maintained

with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such persons at such time and in such manner as may be required by such regulations.

''(i) TERMINATION.—No deduction shall be allowed under this section for any taxable year beginning more than 10 years after the date of the enactment of this section.''.

(b) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 4973 is amended by striking ''or'' at the end of paragraph (4), by adding ''or'' at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

''(6) an MRA (within the meaning of section 199A(c)),''.

(2) EXCESS CONTRIBUTION DEFINED.—Section 4973 is amended by adding at the end the following new subsection:

''(h) EXCESS CONTRIBUTIONS TO MRAS.—For purposes of this section, in the case of MRAs (within the meaning of section 199A(c)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the MRAs of the taxpayer exceeds the amount which may be contributed to such MRAs under section 199A(b) for such taxable year. For purposes of this subsection, any contribution which is distributed out of an MRA in a distribution to which section 199A(e)(3) applies shall be treated as an amount not contributed.''.

(c) TAX ON PROHIBITED TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 4975(e) is amended by striking ''or'' at the end of subparagraph (F), by redesignating subparagraph (G) as subparagraph (H), and by inserting after subparagraph (F) the following:

''(G) an MRA described in section 199A(c), or''.

(2) SPECIAL RULE.—Subsection (c) of section 4975 is amended by adding at the end the following:

''(7) SPECIAL RULE FOR MANUFACTURING REINVESTMENT ACCOUNTS.—A person for whose benefit an MRA (within the meaning of section 199A(c)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an MRA by reason of the application of section 199A(g)(3)(A) to such account.''.

(d) FAILURE TO PROVIDE REPORTS ON MRAS.—Paragraph (2) of section 6693(a) is amended by redesignating subparagraphs (A) through (E) as subparagraphs (B) and (F), respectively, and by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

''(A) section 199A(h) (relating to manufacturing reinvestment accounts),''.

(e) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 199 the following new item:

''Sec. 199A. Manufacturing reinvestment accounts.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3106. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page __, between lines __ and __, insert the following:

(c) SPECIAL RULE FOR CERTAIN FACILITIES.—Section 45(e) is amended by adding at the end the following new paragraph:

''(12) SPECIAL RULE FOR CERTAIN QUALIFIED FACILITIES.—

''(A) IN GENERAL.—In the case of a qualified facility described in paragraph (3) or (7) of subsection (d) and placed in service before the date of the enactment of this paragraph, subsection (a)(2)(A)(ii) shall be applied by substituting 'the period beginning after December 31, 2013, and ending before January 1, 2016' for 'the 10-year period beginning on the date the facility was originally placed in service'.

''(B) LIMITATION.—No credit shall be allowed under subsection (a) by reason of subparagraph (A) with respect to electricity produced and sold at a facility during any period which, when aggregated with all other periods for which a credit is allowed under this section with respect to electricity produced and sold at such facility, is in excess of 10 years.''.

SA 3107. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Beginning on page 24, strike line 1 and all that follows through line 6 on page 25 and insert the following:

SEC. 119. EXTENSION AND MODIFICATION OF WORK OPPORTUNITY TAX CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) is amended by striking ''for the employer'' and all that follows and inserting ''for the employer after—

''(i) December 31, 2017, in the case of a qualified veteran, and

''(ii) December 31, 2015, in the case of any other individual.''.

(b) CREDIT FOR HIRING LONG-TERM UNEMPLOYMENT RECIPIENTS.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by adding at the end the following new subparagraph:

''(J) a qualified long-term unemployment recipient.''.

(2) QUALIFIED LONG-TERM UNEMPLOYMENT RECIPIENT.—Subsection (d) of section 51 is amended by adding at the end the following new paragraph:

''(15) QUALIFIED LONG-TERM UNEMPLOYMENT RECIPIENT.—The term 'qualified long-term unemployment recipient' means any individual who is certified by the designated local agency as being in a period of unemployment which—

''(A) is not less than 27 consecutive weeks, and

''(B) includes a period in which the individual was receiving unemployment compensation under State or Federal law.''.

(c) SIMPLIFIED CERTIFICATION OF VETERAN STATUS.—Subparagraph (D) of section 51(d)(13) is amended to read as follows:

''(D) PRE-SCREENING OF QUALIFIED VETERANS.—

''(i) IN GENERAL.—Subparagraph (A) shall be applied without regard to subclause (II) of clause (ii) thereof in the case of an individual seeking treatment as a qualified veteran with respect to whom the pre-screening notice contains—

''(I) qualified veteran status documentation,

''(II) qualified proof of unemployment compensation, and

''(III) an affidavit furnished by the individual stating, under penalty of perjury, that the information provided under subclauses (I) and (II) is true.

''(ii) QUALIFIED VETERAN STATUS DOCUMENTATION.—For purposes of clause (i), the term 'qualified veteran status documentation' means any documentation provided to an individual by the Department of Defense or the National Guard upon release or discharge from the Armed Forces which includes information sufficient to establish that such individual is a veteran.

''(iii) QUALIFIED PROOF OF UNEMPLOYMENT COMPENSATION.—For purposes of clause (i), the term 'qualified proof of unemployment compensation' means, with respect to an individual, checks or other proof of receipt of payment of unemployment compensation to such individual for periods aggregating not less than 4 weeks (in the case of an individual seeking treatment under paragraph (3)(A)(iii)), or not less than 6 months (in the case of an individual seeking treatment under clause (ii)(II) or (iv) of paragraph (3)(A)), during the 1-year period ending on the hiring date.''.

(d) CREDIT MADE AVAILABLE AGAINST PAYROLL TAXES IN CERTAIN CIRCUMSTANCES.—

(1) IN GENERAL.—Paragraph (2) of section 52(c) is amended—

(A) by striking ''QUALIFIED TAX-EXEMPT ORGANIZATIONS'' in the heading and inserting ''CERTAIN EMPLOYERS'', and

(B) by striking ''by qualified tax-exempt organizations'' and inserting ''by certain employers''.

(2) CREDIT ALLOWED TO CERTAIN FOR-PROFIT EMPLOYERS.—Subsection (e) of section 3111 is amended—

(A) by inserting ''or a qualified for-profit employer'' after ''If a qualified tax-exempt organization'' in paragraph (1),

(B) by striking ''with respect to whom a credit would be allowable under section 38 by reason of section 51 if the organization were not a qualified tax-exempt organization'' in paragraph (1),

(C) by inserting ''or for-profit employer'' after ''employees of the organization'' each place it appears in paragraphs (1) and (2),

(D) by inserting ''in the case of a qualified tax-exempt organization,'' before ''by only taking into account'' in subparagraph (C) of paragraph (3),

(E) by inserting ''or for-profit employer'' after ''the organization'' in paragraph (4),

(F) by redesignating subparagraph (B) of paragraph (5) as subparagraph (C) of such paragraph, by striking ''and'' at the end of subparagraph (A) of such paragraph, and by inserting after subparagraph (A) of such paragraph the following new subparagraph:

''(B) the term 'qualified for-profit employer' means, with respect to a taxable year, an employer not described in subparagraph (A), but only if—

''(i) such employer does not have profits for any of the 3 taxable years preceding such taxable year, and

''(ii) such employer elects under section 51(j) not to have section 51 apply to such taxable year, and'', and

(G) by striking ''has meaning given such term by section 51(d)(3)'' in subparagraph (C)

of paragraph (5), as so redesignated, and inserting ''means a qualified veteran (within the meaning of section 51(d)(3)) with respect to whom a credit would be allowable under section 38 by reason of section 51 if the employer of such veteran were not a qualified tax-exempt organization or a qualified for-profit employer''.

(3) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the amendments made by paragraphs (1) and (2). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.

(e) REPORT.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Commissioner of Internal Revenue, in consultation with the Secretary of Labor, shall report to the Congress on the effectiveness and cost-effectiveness of the amendments made by subsections (a), (c), and (d) in increasing the employment of veterans. Such report shall include the results of a survey, conducted, if needed, in consultation with the Veterans' Employment and Training Service of the Department of Labor, to determine how many veterans are hired by each employer that claims the credit under section 51, by reason of subsection (d)(1)(B) thereof, or 3111(e) of the Internal Revenue Code of 1986.

(f) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

(A) MIRROR CODE POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the amendments made by this section (other than subsection (b)). Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession of the United States.

(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system the amount estimated by the Secretary of the Treasury as being equal to the loss to that possession that would have occurred by reason of the amendments made by this section (other than subsection (b)) if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession establishes to the satisfaction of the Secretary that the possession has implemented (or, at the discretion of the Secretary, will implement) an income tax benefit which is substantially equivalent to the income tax credit in effect after the amendments made by this section (other than subsection (b)).

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—The credit allowed against United States income taxes for any taxable year under the amendments made by this section (other than subsection (b)) to section 51 of the Internal Revenue Code of 1986 to any person with respect to any qualified veteran shall be reduced by the amount of any credit (or other tax benefit described in paragraph (1)(B)) allowed to such person against income taxes imposed by the possession of the United States by reason of this subsection with respect to such qualified veteran for such taxable year.

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ''possession of the United States'' includes American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term ''mirror code tax system'' means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this section shall be treated in the same manner as a refund due from credit provisions described in such section.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2013.

(2) SPECIAL RULES RELATING TO VETERANS.—The amendments made by subsections (c) and (d) shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SA 3108. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 2260, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. __01. NATIONAL SCENIC TRAIL CONSERVATION CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 30E. NATIONAL SCENIC TRAIL CONSERVATION CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the fair market value of any National Scenic Trail conservation contribution of the taxpayer for the taxable year.

''(b) NATIONAL SCENIC TRAIL CONSERVATION CONTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'National Scenic Trail conservation contribution' means any qualified conservation contribution—

''(A) to the extent the qualified real property interest with respect to such contribution includes a National Scenic Trail (or portion thereof) and its trail corridor, and

''(B) with respect to which the taxpayer makes an election under this section.

''(2) NATIONAL SCENIC TRAIL.—The term 'National Scenic Trail' means any trail authorized and designated under section 5 of the National Trails System Act (16 U.S.C. 1244), but only if such trail is at least 200 miles in length.

''(3) TRAIL CORRIDOR.—The term 'trail corridor' means so much of the corridor of a trail as is—

''(A) not less than—

''(i) 150 feet wide on each side of such trail, or

''(ii) in the case of an interest in real property of the taxpayer which includes less than 150 feet on either side of such trail, the entire distance with respect to such interest on such side, and

''(B) not greater than 2,640 feet wide.

''(4) QUALIFIED CONSERVATION CONTRIBUTION; QUALIFIED REAL PROPERTY INTEREST.—The terms 'qualified conservation contribution' and 'qualified real property interest' have the respective meanings given such terms by section 170(h), except that paragraph (2)(A) thereof shall be applied without regard to any qualified mineral interest (as defined in paragraph (6) thereof).

''(c) SPECIAL RULES.—

''(1) FAIR MARKET VALUE.—Fair market value of any National Scenic Trail conservation contribution shall be determined under rules similar to the valuation rules under Treasury Regulations under section 170, except that in any case, to the extent practicable, fair market value shall be determined by reference to the highest and best use of the real property with respect to such contribution.

''(2) ELECTION IRREVOCABLE.—An election under this section may not be revoked.

''(3) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter with respect to any qualified conservation contribution with respect to which an election is made under this section.

''(d) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION.—The credit allowed under subsection (a) for any taxable year shall not exceed the sum of—

''(A) the taxpayer's regular tax liability (as defined in section 26(b)) for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 30, 30B, 30C, and 30D, plus

''(B) the tax imposed by section 55.

''(2) CARRYFORWARD.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for any taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) LIMITATION.—No credit may be carried forward under this subsection to any taxable year following the tenth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.''.

(b) CONTINUED USE NOT INCONSISTENT WITH CONSERVATION PURPOSES.—A contribution of an interest in real property shall not fail to be treated as a National Scenic Trail conservation contribution (as defined in section 30E(b) of the Internal Revenue Code of 1986) solely by reason of continued use of the real property, such as for recreational or agricultural use (including motor vehicle use related thereto), if, under the circumstances, such use does not impair significant conservation interests and is not inconsistent with the purposes of the National Trails System Act (16 U.S.C. 1241 et seq.).

(c) STUDY REGARDING EFFICACY OF NATIONAL SCENIC TRAIL CONSERVATION CREDIT.—

(1) IN GENERAL.—The Secretary of the Interior shall, in consultation with the Secretary of the Treasury, study—

(A) the efficacy of the National Scenic Trail conservation credit under section 30E of the Internal Revenue Code of 1986 in completing, extending, and increasing the number of National Scenic Trails (as defined in section 30E(b) of such Code), and

(B) the feasibility and estimated costs and benefits of—

(i) making such credit refundable (in whole or in part), and

(ii) allowing transfer of such credit.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to Congress on the results of the study conducted under this subsection.

(d) CONFORMING AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''30E. National Scenic Trail conservation credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

SA 3109. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 2260, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. __01. EXTENSION OF TIME PERIOD FOR CONTRIBUTING MILITARY DEATH GRATUITIES TO ROTH IRAS AND COVERDELL EDUCATION SAVINGS ACCOUNTS.

(a) IN GENERAL.—Sections 408A(e)(2)(A) and 530(d)(9)(A) are each amended by striking ''1-year period'' and inserting ''3-year period''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received under section 1477 of title 10, United States Code, or under section 1967 of title 38 of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

SA 3110. Mr. FLAKE (for himself, Mr. ALEXANDER, Mr. TOOMEY, Mr. MCCAIN, Mr. LEE, and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 52, strike line 1 and all that follows through line 21.

SA 3111. Mr. FLAKE (for himself, Mr. ALEXANDER, Mr. MCCAIN, Mr. LEE, and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 52, between lines 19 and 20, insert the following:

(c) MODIFICATION OF DEFINITION OF QUALIFIED FACILITIES.—

(1) IN GENERAL.—The following provisions of section 45(d), as amended by subsection (a), are each amended by striking ''and the construction of which begins before'' each place it appears and inserting ''and before'':

(A) Paragraph (1).

(B) Paragraph (2)(A)(i).

(C) Paragraph (3)(A)(i)(I).

(D) Paragraph (6).

(E) Paragraph (7).

(F) Paragraph (9)(A)(ii).

(G) Paragraph (11)(B).

(2) OPEN-LOOP BIOMASS FACILITIES.—Clause (ii) of section 45(d)(3)(A) is amended by striking ''the construction of which begins before'' and inserting ''is originally placed in service before''.

(3) GEOTHERMAL FACILITIES.—Paragraph (4) of section 45(d), as amended by subsection (a), is amended by striking ''and which—'' and all that follows and inserting ''and before—

''(A) January 1, 2006, in the case of a facility using solar energy, and

''(B) January 1, 2016, in the case of a facility using geothermal energy.''.

SA 3112. Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—OTHER PROVISIONS

SEC. ___01. INCREASE IN LIMITATION FOR ALTERNATIVE TAX LIABILITY FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 831(b)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''every insurance company other than life (including interinsurers and reciprocal underwriters)'' and inserting ''every property or casualty insurance company'',

(2) in clause (i), by striking ''$1,200,000, and'' and inserting ''$2,100,000,'',

(3) by redesignating clause (ii) as clause (iii),

(4) by inserting after clause (i) the following new clause:

''(ii) more than 50 percent of the gross receipts of such company consist of premiums, and'', and

(5) in the flush matter at the end, by striking ''clause (ii)'' and inserting ''clause (iii)''.

(b) INFLATION ADJUSTMENT.—Paragraph (2) of section 831(b) of such Code is amended by adding at the end the following new subparagraph:

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2014, the dollar amount set forth in subparagraph (A)(i) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2013' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3113. Mr. THUNE (for himself, Ms. AYOTTE, and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—INTERNET TAX FREEDOM

SEC. __01. SHORT TITLE.

This title may be cited as the ''Internet Tax Freedom Forever Act''.

SEC. __02. FINDINGS.

Congress makes the following findings:

(1) The Internet has continued to drive economic growth, productivity and innovation since the Internet Tax Freedom Act was first enacted in 1998.

(2) The Internet promotes a nationwide economic environment that facilitates innovation, promotes efficiency, and empowers people to broadly share their ideas.

(3) According to the National Broadband Plan, cost remains the biggest barrier to consumer broadband adoption. Keeping Internet access affordable promotes consumer access to this critical gateway to jobs, education, healthcare, and entrepreneurial opportunities, regardless of race, income, or neighborhood.

(4) Small business owners rely heavily on affordable Internet access, providing them with access to new markets, additional consumers, and an opportunity to compete in the global economy.

(5) Economists have recognized that excessive taxation of innovative communications technologies reduces economic welfare more than taxes on other sectors of the economy.

(6) The provision of affordable access to the Internet is fundamental to the American economy and access to it must be protected from multiple and discriminatory taxes at the State and local level.

(7) As a massive global network that spans political boundaries, the Internet is inherently a matter of interstate and foreign commerce within the jurisdiction of the United States Congress under article I, section 8, clause 3 of the Constitution of the United States.

SEC. __03. PERMANENT MORATORIUM ON INTERNET ACCESS TAXES AND MULTIPLE AND DISCRIMINATORY TAXES ON ELECTRONIC COMMERCE.

(a) IN GENERAL.—Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking '' during the period beginning November 1, 2003, and ending November 1, 2014''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxes imposed after the date of the enactment of this Act.

SA 3114. Mr. THUNE (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—OTHER PROVISIONS

SEC. __01. OLYMPIC AND PARALYMPIC MEDALS AND USOC PRIZE MONEY EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Section 74 is amended by adding at the end the following new subsection:

''(d) EXCEPTION FOR OLYMPIC AND PARALYMPIC MEDALS AND PRIZES.—Gross income shall not include the value of any medal awarded in, or any prize money received from the United States Olympic Committee on account of, competition in the Olympic Games or Paralympic Games.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to prizes and awards received after December 31, 2013.

SA 3115. Mr. HOEVEN (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—OTHER PROVISIONS

SEC. __01. SAFE HARBOR FOR EXPENSING BY SMALL BUSINESSES OF ACQUISITION OR PRODUCTION COSTS OF TANGIBLE PROPERTY.

(a) IN GENERAL.—Section 263 is amended by adding at the end the following:

''(j) ELECTION FOR SMALL BUSINESSES TO EXPENSE CERTAIN ACQUISITION AND PRODUCTION COSTS.—

''(1) IN GENERAL.—If the amount paid or incurred by an eligible taxpayer to acquire or produce any item of tangible property does not exceed $5,000 (or such higher amount as the Secretary may prescribe by regulations), then, notwithstanding subsection (a), the taxpayer may elect to treat such amount as an expense which is not chargeable to capital account nor treated as a material or supply. Any amount so treated shall be allowed as a deduction for the taxable year in which the property is acquired or produced.

''(2) ELIGIBLE TAXPAYER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible taxpayer' means, with respect to any taxable year, a taxpayer—

''(i) who meets the gross receipts test of subparagraph (B) for the taxable year, and

''(ii) who, as of the beginning of the taxable year, has in effect written accounting procedures meeting such requirements as the Secretary may prescribe with respect to the expensing of amounts described in paragraph (1).

''(B) GROSS RECEIPTS TEST.—A taxpayer meets the gross receipts test of this subparagraph for any taxable year if the average annual gross receipts of such taxpayer for the 3-taxable-year period ending with the taxable year which precedes such taxable year does not exceed $10,000,000.

''(C) RULES RELATING TO GROSS RECEIPTS TEST.—For purposes of subparagraph (B)—

''(i) the rules of paragraphs (2) and (3) of section 448(c) shall apply, and

''(ii) in the case of a partnership, S corporation, trust, estate, or other pass-thru entity, the gross receipts test shall apply at the entity level.

''(3) ELECTION.—Any election under this subsection for any taxable year shall—

''(A) specify the items of tangible property to which the election applies, and

''(B) be made, in such manner as the Secretary may prescribe, on the taxpayer's return of the tax imposed by this chapter for the taxable year.

Any election made under this subsection, and any specification made in any such election, may not be revoked except with the consent of the Secretary.

''(4) COORDINATION WITH SECTION 179.—This subsection shall be applied before section 179.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the purposes of this subsection, including regulations providing for—

''(A) exceptions for property which is inventory or land or for which the taxpayer makes an election for optional treatment under section 162; and

''(B) the aggregation of all amounts paid or incurred with respect to any item of tangible property.

''(6) RULE OF CONSTRUCTION.—If, for any taxable year, a taxpayer is not an eligible taxpayer (or is an eligible taxpayer who does not elect to have this subsection apply), nothing in this subsection shall be construed as prohibiting the expensing of any amount paid or incurred during the taxable year to acquire or produce any item of tangible property if such expensing is permitted under any safe harbor or other provision of the regulations prescribed under this section.

''(7) CROSS REFERENCE.—For capitalization of certain expenses where a taxpayer produces property or acquires property for resale, see section 263A.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2013.

SA 3116. Mr. ROBERTS (for himself, Mr. MCCONNELL, and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—OTHER PROVISIONS

SEC. __01. REPEAL OF DISTRIBUTIONS FOR MEDICINE QUALIFIED ONLY IF FOR PRESCRIBED DRUG OR INSULIN.

Section 9003 of the Patient Protection and Affordable Care Act (Public Law 111–148) and the amendments made by such section are repealed, and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.

SA 3117. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—OTHER PROVISIONS

SEC. ___01. PRE-POPULATED RETURNS PROHIBITED.

Except to the extent provided in section 6014, 6020, or 6201(d) of the Internal Revenue Code of 1986, the Secretary of the Treasury (or the Secretary's delegate) shall not provide to any person a proposed final return or statement for use by such person to satisfy a filing or reporting requirement under such Code.

SA 3118. Mr. PRYOR (for Mr. BOOZMAN (for himself and Mr. PRYOR)) submitted an amendment intended to be proposed by Mr. Pryor to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—OTHER PROVISIONS

SEC. __01. MAYFLOWER, ARKANSAS, OIL SPILL COMPENSATION EXCLUDED FROM GROSS INCOME.

For purposes of the Internal Revenue Code of 1986—

(1) the March 29, 2013, pipeline rupture and oil spill in Mayflower, Arkansas, shall be treated as a qualified disaster under section 139(c) of such Code, and

(2) any compensation provided to or for the benefit of a victim of such disaster shall be treated as a qualified disaster relief payment under section 139(b) of such Code.

SA 3119. Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. BLUNT, and Mr. BROWN) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—OTHER PROVISIONS

SEC. ___01. INCREASE IN LIMITATION FOR ALTERNATIVE TAX LIABILITY FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 831(b)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''every insurance company other than life (including interinsurers and reciprocal underwriters)'' and inserting ''every property or casualty insurance company'',

(2) in clause (i), by striking ''$1,200,000, and'' and inserting ''$2,100,000,'',

(3) by redesignating clause (ii) as clause (iii),

(4) by inserting after clause (i) the following new clause:

''(ii) more than 50 percent of the gross receipts of such company consist of premiums, and'', and

(5) in the flush matter at the end, by striking ''clause (ii)'' and inserting ''clause (iii)''.

(b) INFLATION ADJUSTMENT.—Paragraph (2) of section 831(b) of such Code is amended by adding at the end the following new subparagraph:

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2014, the dollar amount set forth in subparagraph (A)(i) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2013' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3120. Mr. CARPER (for himself and Mrs. HAGAN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 18, between lines 17 and 18, insert the following:

(d) SPLIT 100 PERCENT CREDIT FOR CONTRACT RESEARCH EXPENSES.—Subparagraph (A) of section 41(b)(3) is amended to read as follows:

''(A) IN GENERAL.—

''(i) TAXPAYERS PAYING FOR CONTRACTED RESEARCH.—The term 'contract research expenses' means 65 percent of any amount paid or incurred by the taxpayer to any person (other than an employee of the taxpayer) for qualified research.

''(ii) TAXPAYERS PERFORMING CONTRACTED RESEARCH.—In the case of a taxpayer (other than an entity described in subparagraph (C) or (D) or paragraph (5)(C)) who receives amounts from any person (other than an employer of the taxpayer) for qualified research on behalf of such person, the term 'contract research expenses' means so much of the qualified research expenses paid or incurred by the taxpayer as does not exceed 35 percent of the amounts so received from such person.

''(iii) SPECIAL RULES.—For purposes of clause (ii)—

''(I) TRADE OR BUSINESS.—The qualified research expenses of the taxpayer shall be determined as if the trade or business of the taxpayer were the conduct of qualified research on behalf of other persons.

''(II) RESEARCH NOT TREATED AS FUNDED RESEARCH.—Subparagraph (H) of subsection (d)(4) shall not apply.

''(III) QUALIFIED RESEARCH.—The qualified research expenses of a taxpayer shall be determined as if the conditions of subparagraph (B) of subsection (d)(1) are satisfied if the business component described in subparagraph (B)(ii) thereof is a business component of either of the taxpayers described in clauses (i) and (ii).

''(iv) DENIAL OF DOUBLE BENEFIT.—The amount of any in-house research expenses taken into account under this section with respect to a taxpayer described in clause (ii) shall be reduced by the amount of the contract research expenses taken into account under such clause with respect to such taxpayer for the taxable year.''.

(e) INCLUSION OF BASIC RESEARCH PAYMENTS.—Subsection (b) of section 41 is amended by redesignating paragraph (5), as added by this section, as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

''(5) BASIC RESEARCH PAYMENTS.—In the case of basic research payments (as defined in subsection (e)(2)) made by the taxpayer, paragraph (3)(A) shall be applied by substituting '100 percent' for '65 percent'.''.

(f) EFFECTIVE DATE.—The amendments made by subsections (d) and (e) shall apply to taxable years beginning after December 31, 2014.

SA 3121. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Beginning on page 10, strike line 11 and all that follows through page 18, line 17, and insert the following:

SEC. 111. PERMANENT EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.—Subsection (a) of section 41 is amended to read as follows:

''(a) GENERAL RULE.—For purposes of section 38, the research credit determined under this section for the taxable year shall be an amount equal to 25 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.''.

(b) SPECIAL RULES AND TERMINATION OF BASE AMOUNT CALCULATION.—

(1) IN GENERAL.—Subsection (c) of section 41 is amended to read as follows:

''(c) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(1) TAXPAYERS TO WHICH SUBSECTION APPLIES.—The credit under this section shall be determined under this subsection, and not under subsection (a), if, in any one of the 3 taxable years preceding the taxable year for which the credit is being determined, the taxpayer has no qualified research expenses.

''(2) CREDIT RATE.—The credit determined under this subsection shall be equal to 10 percent of the qualified research expenses for the taxable year.''.

(2) CONSISTENT TREATMENT OF EXPENSES.—Subsection (b) of section 41 is amended by adding at the end the following new paragraph:

''(5) CONSISTENT TREATMENT OF EXPENSES REQUIRED.—

''(A) IN GENERAL.—Notwithstanding whether the period for filing a claim for credit or refund has expired for any taxable year in the 3-taxable-year period taken into account under subsection (a), the qualified research expenses taken into account for such year shall be determined on a basis consistent with the determination of qualified research expenses for the credit year.

''(B) PREVENTION OF DISTORTIONS.—The Secretary may prescribe regulations to prevent distortions in calculating a taxpayer's qualified research expenses caused by a change in accounting methods used by such taxpayer between the credit year and a year in such 3-taxable-year period.''.

(c) INCLUSION OF QUALIFIED RESEARCH EXPENSES OF AN ACQUIRED PERSON.—

(1) PARTIAL INCLUSION OF PRE-ACQUISITION QUALIFIED RESEARCH EXPENSES.—Subparagraph (A) of section 41(f)(3) is amended to read as follows:

''(A) ACQUISITIONS.—

''(i) IN GENERAL.—If a person acquires the major portion of a trade or business of another person (hereinafter in this paragraph referred to as the 'predecessor') or the major portion of a separate unit of a trade or business of a predecessor, then the amount of qualified research expenses paid or incurred by the acquiring person during the 3 taxable years preceding the taxable year in which the credit under this section is determined shall be increased by—

''(I) for purposes of applying this section for the taxable year in which such acquisition is made, the amount determined under clause (ii), and

''(II) for purposes of applying this section for any taxable year after the taxable year in which such acquisition is made, so much of the qualified research expenses paid or incurred by the predecessor with respect to the acquired trade or business during the portion of the measurement period that is part of the 3-taxable-year period preceding the taxable year for which the credit is determined as is attributable to the portion of such trade or business or separate unit acquired by such person.

''(ii) AMOUNT DETERMINED.—The amount determined under this clause is the amount equal to the product of—

''(I) so much of the qualified research expenses paid or incurred by the predecessor with respect to the acquired trade or business during the 3 taxable years before the taxable year in which the acquisition is made as is attributable to the portion of such trade or business or separate unit acquired by the acquiring person, and

''(II) the number of months in the period beginning on the date of the acquisition and ending on the last day of the taxable year in which the acquisition is made,

divided by 12.

''(iii) SPECIAL RULES FOR COORDINATING TAXABLE YEARS.—In the case of an acquiring person and a predecessor whose taxable years do not begin on the same date—

''(I) each reference to a taxable year in clauses (i) and (ii) shall refer to the appropriate taxable year of the acquiring person,

''(II) the qualified research expenses paid or incurred by the predecessor during each taxable year of the predecessor any portion of which is part of the measurement period shall be allocated equally among the months of such taxable year, and

''(III) the amount of such qualified research expenses taken into account under clauses (i) and (ii) with respect to a taxable year of the acquiring person shall be equal to the total of the expenses attributable under subclause (II) to the months occurring during such taxable year.

''(iv) MEASUREMENT PERIOD.—For purposes of this subparagraph, the term 'measurement period' means the taxable year of the acquiring person in which the acquisition is made and the 3 taxable years of the acquiring person preceding such taxable year.''.

(2) EXPENSES OF A PREDECESSOR.—Subparagraph (B) of section 41(f)(3) is amended to read as follows:

''(B) DISPOSITIONS.—If the predecessor furnished to the acquiring person such information as is necessary for the application of subparagraph (A), then, for purposes of applying this section for any taxable year ending after such disposition, the amount of qualified research expenses paid or incurred by the predecessor during the 3 taxable years preceding such taxable year shall be reduced—

''(i) in the case of the taxable year in which such disposition is made, by an amount equal to the product of—

''(I) the amount of qualified research expenses paid or incurred during such 3 taxable years with respect to the acquired business, and

''(II) the number of days in the period beginning on the date of acquisition (as determined for purposes of subparagraph (A)(ii)(II)) and ending on the last day of the taxable year of the predecessor in which the disposition is made,

divided by the number of days in the taxable year of the predecessor, and

''(ii) in the case of any taxable year ending after the taxable year in which such disposition is made, the amount described in clause (i)(I).''.

(d) AGGREGATION OF EXPENDITURES.—Paragraph (1) of section 41(f), as amended by the American Taxpayer Relief Act of 2012, is amended—

(1) by striking ''of the qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums,'' in subparagraph (A)(ii) and inserting ''qualified research expenses'', and

(2) by striking ''of the qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums,'' in subparagraph (B)(ii) and inserting ''qualified research expenses''.

(e) SPLIT 100 PERCENT CREDIT FOR CONTRACT RESEARCH EXPENSES.—Subparagraph (A) of section 41(b)(3) is amended to read as follows:

''(A) IN GENERAL.—

''(i) TAXPAYERS PAYING FOR CONTRACTED RESEARCH.—The term 'contract research expenses' means 65 percent of any amount paid or incurred by the taxpayer to any person (other than an employee of the taxpayer) for qualified research.

''(ii) TAXPAYERS PERFORMING CONTRACTED RESEARCH.—In the case of a taxpayer (other than an entity described in subparagraph (C) or (D) or paragraph (5)(C)) who receives amounts from any person (other than an employer of the taxpayer) for qualified research on behalf of such person, the term 'contract research expenses' means so much of the qualified research expenses paid or incurred by the taxpayer as does not exceed 35 percent of the amounts so received from such person.

''(iii) SPECIAL RULES.—For purposes of clause (ii)—

''(I) TRADE OR BUSINESS.—The qualified research expenses of the taxpayer shall be determined as if the trade or business of the taxpayer were the conduct of qualified research on behalf of other persons.

''(II) RESEARCH NOT TREATED AS FUNDED RESEARCH.—Subparagraph (H) of subsection (d)(4) shall not apply.

''(III) QUALIFIED RESEARCH.—The qualified research expenses of a taxpayer shall be determined as if the conditions of subparagraph (B) of subsection (d)(1) are satisfied if the business component described in subparagraph (B)(ii) thereof is a business component of either of the taxpayers described in clauses (i) and (ii).

''(iv) DENIAL OF DOUBLE BENEFIT.—The amount of any in-house research expenses taken into account under this section with respect to a taxpayer described in clause (ii) shall be reduced by the amount of the contract research expenses taken into account under such clause with respect to such taxpayer for the taxable year.''.

(f) INCLUSION OF BASIC RESEARCH PAYMENTS.—Subsection (b) of section 41 is amended by redesignating paragraph (5), as added by this section, as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

''(5) BASIC RESEARCH PAYMENTS.—

''(A) IN GENERAL.—In the case of basic research payments made by the taxpayer, paragraph (3)(A) shall be applied by substituting '100 percent' for '65 percent'.

''(B) BASIC RESEARCH PAYMENTS.—For purposes of this paragraph, the term 'basic research payment' means, with respect to any taxable year, any amount paid in cash during such taxable year by a corporation to any qualified organization for basic research, but only if—

''(i) such payment is made pursuant to a written agreement between such corporation and such qualified organization, and

''(ii) except in the case of a payment to a qualified organization described in clause (iii) or (iv) of subparagraph (C), such basic research is to be performed by such qualified organization.

''(C) QUALIFIED ORGANIZATION.—For purposes of this paragraph, the term 'qualified organization' means any of the following organizations:

''(i) EDUCATIONAL INSTITUTIONS.—Any educational organization which—

''(I) is an institution of higher education (within the meaning of section 3304(f)), and

''(II) is described in section 170(b)(1)(A)(ii).

''(ii) CERTAIN SCIENTIFIC RESEARCH ORGANIZATIONS.—Any organization not described in clause (i) which—

''(I) is described in section 501(c)(3) and is exempt from tax under section 501(a),

''(II) is organized and operated primarily to conduct scientific research, and

''(III) is not a private foundation.

''(iii) SCIENTIFIC TAX-EXEMPT ORGANIZATIONS.—Any organization which—

''(I) is described in section 501(c)(3) (other than a private foundation) or section 501(c)(6),

''(II) is exempt from tax under section 501(a),

''(III) is organized and operated primarily to promote scientific research by qualified organizations described in clause (i) pursuant to written research agreements, and

''(IV) currently expends substantially all of its funds or substantially all of the basic research payments received by it for grants to, or contracts for basic research with, an organization described in clause (i).

''(iv) CERTAIN GRANT ORGANIZATIONS.—Any organization not described in clause (ii) or (iii) which—

''(I) is described in section 501(c)(3) and is exempt from tax under section 501(a) (other than a private foundation),

''(II) is established and maintained by an organization established before July 10, 1981, which meets the requirements of subclause (I),

''(III) is organized and operated exclusively for the purpose of making grants to organizations described in clause (i) pursuant to written research agreements for purposes of basic research, and

''(IV) makes an election, revocable only with the consent of the Secretary, to be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income).

''(D) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) BASIC RESEARCH.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, except that such term shall not include—

''(I) basic research conducted outside of the United States, and

''(II) basic research in the social sciences, arts, or humanities.

''(ii) TRADE OR BUSINESS QUALIFICATION.—For purposes of applying paragraph (1) to this paragraph, any basic research payments shall be treated as an amount paid in carrying on a trade or business of the taxpayer in the taxable year in which it is paid (without regard to the provisions of paragraph (3)(B)).

''(iii) CERTAIN CORPORATIONS NOT ELIGIBLE.—The term 'corporation' shall not include—

''(I) an S corporation,

''(II) a personal holding company (as defined in section 542), or

''(III) a service organization (as defined in section 414(m)(3)).''.

(g) PERMANENT EXTENSION.—

(1) Section 41 is amended by striking subsection (h).

(2) Paragraph (1) of section 45C(b) is amended by striking subparagraph (D).

(h) CONFORMING AMENDMENTS.—

(1) TERMINATION OF BASIC RESEARCH PAYMENT CALCULATION.—Section 41 is amended—

(A) by striking subsection (e),

(B) by redesignating subsection (g) as subsection (e), and

(C) by relocating subsection (e), as so redesignated, immediately after subsection (d).

(2) SPECIAL RULES.—

(A) Paragraph (4) of section 41(f) is amended by striking ''and gross receipts''.

(B) Subsection (f) of section 41 is amended by striking paragraph (6).

(3) CROSS-REFERENCES.—

(A) Subparagraph (B) of section 45C(b)(1) is amended—

(i) by striking ''paragraph (3)(A)'' in clause (ii) and inserting ''paragraph (3)(A)(i)'',

(ii) by striking the period at the end of clause (ii) and inserting '', and'',

(iii) by striking ''and'' at the end of clause (i), and

(iv) by adding at the end the following new clause:

''(iii) by disregarding clauses (ii), (iii), and (iv) of paragraph (3)(A) of such subsection.''.

(B) Paragraph (2) of section 45C(c) is amended by striking ''base period research expenses'' and inserting ''average qualified research expenses''.

(C) Subparagraph (A) of section 54(l)(3) is amended by striking ''section 41(g)'' and inserting ''section 41(e)''.

(D) Clause (i) of section 170(e)(4)(B) is amended by striking ''subparagraph (A) or subparagraph (B) of section 41(e)(6)'' and inserting ''clause (i) or clause (ii) of section 41(b)(5)(C)''.

(E) Section 280C is amended—

(i) by striking ''or basic research expenses (as defined in section 41(e)(2))'' in subsection (c)(1),

(ii) by striking ''section 41(a)(1)'' in subsection (c)(2)(A) and inserting ''section 41(a)'', and

(iii) by striking ''or basic research expenses'' in subsection (c)(2)(B).

(F) Clause (i) of section 1400N(l)(7)(B) is amended by striking ''section 41(g)'' and inserting ''section 41(e)''.

(i) TREATMENT OF RESEARCH CREDIT FOR CERTAIN STARTUP COMPANIES.—

(1) IN GENERAL.—Section 41, as amended by subsections (g) and (h), is amended by adding at the end the following new subsection:

''(g) TREATMENT OF CREDIT FOR QUALIFIED SMALL BUSINESSES.—

''(1) IN GENERAL.—At the election of a qualified small business for any taxable year, section 3111(f) shall apply to the payroll tax credit portion of the credit otherwise determined under subsection (a) for the taxable year and such portion shall not be treated (other than for purposes of section 280C) as a credit determined under subsection (a).

''(2) PAYROLL TAX CREDIT PORTION.—For purposes of this subsection, the payroll tax credit portion of the credit determined under subsection (a) with respect to any qualified small business for any taxable year is the least of—

''(A) the amount specified in the election made under this subsection,

''(B) the credit determined under subsection (a) for the taxable year (determined before the application of this subsection), or

''(C) in the case of a qualified small business other than a partnership or S corporation, the amount of the business credit carryforward under section 39 carried from the taxable year (determined before the application of this subsection to the taxable year).

''(3) QUALIFIED SMALL BUSINESS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified small business' means, with respect to any taxable year—

''(i) a corporation or partnership, if—

''(I) the gross receipts (as determined under the rules of section 448(c)(3), without regard to subparagraph (A) thereof) of such entity for the taxable year is less than $5,000,000, and

''(II) such entity did not have gross receipts (as so determined) for any taxable year preceding the 5-taxable-year period ending with such taxable year, and

''(ii) any person (other than a corporation or partnership) who meets the requirements of subclauses (I) and (II) of clause (i), determined—

''(I) by substituting 'person' for 'entity' each place it appears, and

''(II) by only taking into account the aggregate gross receipts received by such person in carrying on all trades or businesses of such person.

''(B) LIMITATION.—Such term shall not include an organization which is exempt from taxation under section 501.

''(4) ELECTION.—

''(A) IN GENERAL.—Any election under this subsection for any taxable year—

''(i) shall specify the amount of the credit to which such election applies,

''(ii) shall be made on or before the due date (including extensions) of—

''(I) in the case of a qualified small business which is a partnership, the return required to be filed under section 6031,

''(II) in the case of a qualified small business which is an S corporation, the return required to be filed under section 6037, and

''(III) in the case of any other qualified small business, the return of tax for the taxable year, and

''(iii) may be revoked only with the consent of the Secretary.

''(B) LIMITATIONS.—

''(i) AMOUNT.—The amount specified in any election made under this subsection shall not exceed $250,000.

''(ii) NUMBER OF TAXABLE YEARS.—A person may not make an election under this subsection if such person (or any other person treated as a single taxpayer with such person under paragraph (5)(A)) has made an election under this subsection for 5 or more preceding taxable years.

''(C) SPECIAL RULE FOR PARTNERSHIPS AND S CORPORATIONS.—In the case of a qualified small business which is a partnership or S corporation, the election made under this subsection shall be made at the entity level.

''(5) AGGREGATION RULES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), all persons or entities treated as a single taxpayer under subsection (f)(1) shall be treated as a single taxpayer for purposes of this subsection.

''(B) SPECIAL RULES.—For purposes of this subsection and section 3111(f)—

''(i) each of the persons treated as a single taxpayer under subparagraph (A) may separately make the election under paragraph (1) for any taxable year, and

''(ii) the $250,000 amount under paragraph (4)(B)(i) shall be allocated among all persons treated as a single taxpayer under subparagraph (A) in the same manner as under subparagraph (A)(ii) or (B)(ii) of subsection (f)(1), whichever is applicable.

''(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

''(A) regulations to prevent the avoidance of the purposes of the limitations and aggregation rules under this subsection through the use of successor companies or other means,

''(B) regulations to minimize compliance and record-keeping burdens under this subsection, and

''(C) regulations for recapturing the benefit of credits determined under section 3111(f) in cases where there is a subsequent adjustment to the payroll tax credit portion of the credit determined under subsection (a), including requiring amended income tax returns in the cases where there is such an adjustment.''.

(2) CREDIT ALLOWED AGAINST FICA TAXES.—Section 3111 is amended by adding at the end the following new subsection:

''(f) CREDIT FOR RESEARCH EXPENDITURES OF QUALIFIED SMALL BUSINESSES.—

''(1) IN GENERAL.—In the case of a taxpayer who has made an election under section 41(g) for a taxable year, there shall be allowed as a credit against the tax imposed by subsection (a) for the first calendar quarter which begins after the date on which the taxpayer files the return specified in section 41(g)(4)(A)(ii) an amount equal to the payroll tax credit portion determined under section 41(g)(2).

''(2) LIMITATION.—The credit allowed by paragraph (1) shall not exceed the tax imposed by subsection (a) for any calendar quarter on the wages paid with respect to the employment of all individuals in the employ of the employer.

''(3) CARRYOVER OF UNUSED CREDIT.—If the amount of the credit under paragraph (1) exceeds the limitation of paragraph (2) for any calendar quarter, such excess shall be carried to the succeeding calendar quarter and allowed as a credit under paragraph (1) for such quarter.

''(4) DEDUCTION ALLOWED FOR CREDITED AMOUNTS.—The credit allowed under paragraph (1) shall not be taken into account for purposes of determining the amount of any deduction allowed under chapter 1 for taxes imposed under subsection (a).''.

(j) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) is amended—

(1) by redesignating clauses (ii), (iii), (iv), (v), (vi), (vii), (viii), and (ix) as clauses (iii), (iv), (v), (vi), (vii), (viii), (ix), and (x), respectively, and

(2) by inserting after clause (i) the following new clause:

''(ii) the credit determined under section 41 with respect to an eligible small business (as defined in paragraph (5)(C), after application of rules similar to the rules of paragraph (5)(D)),''.

(k) TECHNICAL CORRECTIONS.—Section 409 is amended—

(1) by inserting '', as in effect before the enactment of the Tax Reform Act of 1984)'' after ''section 41(c)(1)(B)'' in subsection (b)(1)(A),

(2) by inserting '', as in effect before the enactment of the Tax Reform Act of 1984'' after ''relating to the employee stock ownership credit'' in subsection (b)(4),

(3) by inserting ''(as in effect before the enactment of the Tax Reform Act of 1984)'' after ''section 41(c)(1)(B)'' in subsection (i)(1)(A),

(4) by inserting ''(as in effect before the enactment of the Tax Reform Act of 1984)'' after ''section 41(c)(1)(B)'' in subsection (m), and

(5) by inserting ''(as so in effect)'' after ''section 48(n)(1)'' in subsection (m).

(l) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), (4), and (5), the amendments made by this section shall apply to taxable years beginning after December 31, 2014.

(2) PERMANENT EXTENSION.—The amendments made by subsection (g) shall apply to amounts paid or incurred after December 31, 2013.

(3) TREATMENT OF RESEARCH CREDIT FOR CERTAIN STARTUP COMPANIES.—The amendments made by subsection (i) shall apply to credits determined for taxable years beginning after December 31, 2013.

(4) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (j) shall apply to credits determined for taxable years beginning after December 31, 2013, and to carrybacks of such credits.

(5) TECHNICAL CORRECTIONS.—The amendments made by subsection (k) shall take effect on the date of the enactment of this Act.

SA 3122. Mr. CARPER (for himself, Mr. CARDIN, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 52, strike lines 20 and 21 and insert the following:

(c) EXPANSION OF DEFINITION OF ENERGY PROPERTY TO INCLUDE WASTE HEAT TO POWER PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 48(a)(3) is amended by striking ''or'' at the end of clause (vi), by striking the comma at the end of clause (vii) and inserting '', or'', and by inserting after clause (vii) the following new clause:

''(viii) waste heat to power property,''.

(2) 30 PERCENT CREDIT.—Clause (i) of section 48(a)(2)(A) is amended by striking ''and'' at the end of subclause (III) and by inserting after subclause (IV) the following new subclause:

''(V) waste heat to power property, and''.

(3) WASTE HEAT TO POWER PROPERTY.—Subsection (c) of section 48 is amended by adding at the end the following new paragraph:

''(5) WASTE HEAT TO POWER PROPERTY.—

''(A) IN GENERAL.—The term 'waste heat to power property' means property—

''(i) comprising a system which generates electricity through the recovery of a qualified waste heat resource, and

''(ii) which is placed in service before January 1, 2016.

''(B) QUALIFIED WASTE HEAT RESOURCE.—The term 'qualified waste heat resource' means—

''(i) exhaust heat or flared gas from an industrial process that does not have, as its primary purpose, the production of electricity, and

''(ii) a pressure drop in any gas for an industrial or commercial process.

''(C) LIMITATION.—The term 'waste heat to power property' shall not include any property comprising a system if such system has a capacity in excess of 50 megawatt.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall take effect on January 1, 2014.

(2) WASTE HEAT TO POWER.—The amendments made by subsection (c) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3123. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 18, between lines 17 and 18, insert the following:

(d) ENHANCED CREDIT FOR HIGHLY INNOVATIVE RESEARCH.—

(1) IN GENERAL.—Section 41, as amended by this Act, is amended by adding at the end the following new subsection:

''(j) ENHANCED CREDIT FOR HIGHLY INNOVATIVE RESEARCH.—

''(1) IN GENERAL.—In the case of any qualified research expenses that are certified highly innovative research expenses, subsection (a)(1) shall be applied by substituting '35 percent' for '20 percent'.

''(2) CERTIFIED HIGHLY INNOVATIVE RESEARCH EXPENSES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'certified highly innovative research expenses' means any qualified research expenses that—

''(i) are paid or incurred during the taxable year for the creation of—

''(I) a qualified new product category, or

''(II) product technology that represents a significant improvement over previously existing product technology, and

''(ii) are certified as provided in subparagraph (D).

''(B) QUALIFIED NEW PRODUCT CATEGORY.—The term 'qualified new product category' means a category of product that—

''(i) has not previously been produced by the taxpayer, and

''(ii) incorporates functions that are substantially different from other products previously produced by the taxpayer.

''(C) SIGNIFICANT IMPROVEMENT OVER PREVIOUSLY EXISTING PRODUCT TECHNOLOGY.—Product technology satisfies the requirements of subparagraph (A)(i)(II) if such technology is an enhancement of a product that—

''(i) requires the use of new techniques or design methods to achieve such enhancement, and

''(ii) represents a significant advance in terms of the performance, energy consumption, environmental benefit, public health impact, cost, or size of the product.

''(D) CERTIFICATION BY NATIONAL SCIENCE FOUNDATION OR NATIONAL INSTITUTES OF HEALTH.—

''(i) IN GENERAL.—Qualified research expenses shall not be treated as certified highly innovative research expenses for any taxable year unless such expenses, and the project to which they relate, are certified by—

''(I) the National Science Foundation, or

''(II) the National Institutes of Health, whichever has appropriate jurisdiction over the subject matter to which such expenses relate, as meeting the requirements of subparagraph (A)(i) (and any regulations or guidance issued by the Secretary pursuant to such subparagraph). Such certification shall be provided by the National Science Foundation under the program established by section 111(d)(2) of the EXPIRE Act of 2014, or by the National Institutes of Health under the program established by section 111(d)(3) of such Act, whichever is appropriate, and shall be attached to the return of tax for such taxable year. In no event shall any taxpayer apply for certification to more than one of the entities described in this subparagraph with respect to the same expenses.

''(ii) ADVANCE CERTIFICATION.—

''(I) IN GENERAL.—The certification of expenses under clause (i) may be made and provided to the taxpayer not more than 3 taxable years before the first taxable year for which the enhanced credit under this subsection will be claimed with respect to such expenses.

''(II) REAPPLICATION.—The National Science Foundation and the National Institutes of Health shall each establish and make publicly available a cap on the number of times a taxpayer who has been denied certification under clause (i) with respect to any qualified research expenses may reapply for certification for such expenses. The cap established by each such entity shall permit not fewer than 1 reapplication with respect to any expenses.

''(iii) DURATION OF CERTIFICATION.—

''(I) IN GENERAL.—The certification under clause (i) shall apply to expenses relating to the same project (as identified in such certification) for not more than 7 consecutive taxable years, beginning with the first taxable year for which the enhanced credit under this subsection is claimed with respect to such expenses.

''(II) SUPPORTING DOCUMENTATION.—In the case of a certification that applies for more than 1 taxable year, the Secretary may require the taxpayer to provide such documentation as the Secretary deems necessary to demonstrate that the expenses to which such certification relates continue to meet the requirements of subparagraph (A)(i).

''(iv) LIMITATION ON CERTIFICATIONS.—

''(I) IN GENERAL.—The total dollar amount of expenses which are certified by each entity under clause (i) (including by means of advance certification under clause (ii)) as highly innovative research expenses for purposes of credits determined in any taxable year shall not exceed $2,000,000,000.

''(II) ADJUSTMENT FOR INFLATION.—In the case of a taxable year beginning after December 31, 2016, the $2,000,000,000 amount in subclause (I) shall be increased by an amount equal to the product of such dollar amount and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2015' for 'calendar year 1992' in subparagraph (B) thereof.

''(III) ROUNDING.—If any amount as adjusted under subclause (II) is not a multiple of $1,000, such amount shall be rounded to the next highest multiple of $1,000.''.

(2) CERTIFICATION BY NATIONAL SCIENCE FOUNDATION AS HIGHLY INNOVATIVE RESEARCH AND PROMOTION OF ENHANCED CREDIT.—The National Science Foundation Authorization Act of 2002 (Public Law 107–368) is amended by adding at the end the following:

''SEC. 27. CERTIFICATION AS HIGHLY INNOVATIVE RESEARCH AND PROMOTION OF ENHANCED CREDIT.

''(a) CERTIFICATION.—

''(1) IN GENERAL.—The Director shall establish a program that provides certification of research expenses as highly innovative research expenses for purposes of the enhanced credit for highly innovative research under section 41(j) of the Internal Revenue Code of 1986.

''(2) APPLICATION.—A person that desires to have research expenses certified as highly innovative research expenses for purposes of the enhanced credit for highly innovation research under section 41(j) of the Internal Revenue Code of 1986, shall submit to the Director an application containing such request at such time, in such manner, and accompanied by such information as the Director may require.

''(3) REVIEW OF SUBMISSIONS.—In carrying out paragraph (1), the Director shall establish a review process that involves—

''(A) a set group of reviewers from various fields and backgrounds, and

''(B) published criteria, developed in consultation with the Secretary of the Treasury and the Secretary of Commerce, in accordance with the requirements of section 41(j)(2)(A)(i) of the Internal Revenue Code of 1986 and any regulations or guidance issued by the Secretary of the Treasury pursuant to such section.

''(4) TIME FOR REVIEW.—A certification under this subsection shall be denied or approved within 120 days of the submission of the application under paragraph (2) (270 days, in the case of an application for advance certification under section 41(j)(2)(D)(ii) of the Internal Revenue Code of 1986).

''(b) PROMOTION OF ENHANCED CREDIT FOR HIGHLY INNOVATIVE RESEARCH.—The Director shall post on the website of the National Science Foundation information on the enhanced credit for highly innovative research under section 41(j) of the Internal Revenue Code of 1986, and the process for applying for certification of research as highly innovative research.

''(c) CONFIDENTIALITY.—The Director and each reviewer described in subsection (a)(3)(A) shall keep confidential any information provided by a person that desires to have research expenses certified as highly innovative research expenses pursuant to this section.''.

(3) CERTIFICATION BY NATIONAL INSTITUTES OF HEALTH AS HIGHLY INNOVATIVE RESEARCH AND PROMOTION OF ENHANCED CREDIT.—Part H of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by adding at the end the following:

''SEC. 498E. CERTIFICATION AS HIGHLY INNOVATIVE RESEARCH AND PROMOTION OF ENHANCED CREDIT.

''(a) CERTIFICATION.—

''(1) IN GENERAL.—The Director of NIH shall establish a program that provides certification of research expenses as highly innovative research expenses for purposes of the enhanced credit for highly innovative research under section 41(j) of the Internal Revenue Code of 1986.

''(2) APPLICATION.—A person that desires to have research expenses certified as highly innovative research expenses for purposes of the enhanced credit for highly innovative research under section 41(j) of the Internal Revenue Code of 1986, shall submit to the Director of NIH an application containing such request at such time, in such manner, and accompanied by such information as the Director may require.

''(3) REVIEW OF SUBMISSIONS.—In carrying out paragraph (1), the Director shall establish a review process that involves—

''(A) a set group of reviewers from various fields and backgrounds, and

''(B) published criteria, developed in consultation with the Secretary of the Treasury and the Secretary of Commerce, in accordance with the requirements of section 41(j)(2)(A)(i) of the Internal Revenue Code of 1986 and any regulations or guidance issued

by the Secretary of the Treasury pursuant to such section.

''(4) TIME FOR REVIEW.—A certification under this subsection shall be denied or approved within 120 days of the submission of the application under paragraph (2) (270 days, in the case of an application for advance certification under section 41(j)(2)(D)(ii) of the Internal Revenue Code of 1986).

''(b) PROMOTION OF ENHANCED CREDIT FOR HIGHLY INNOVATIVE RESEARCH.—The Director shall post on the website of the National Institutes of Health information on the enhanced credit for highly innovative research under section 41(j) of the Internal Revenue Code of 1986, and the process for applying for certification of research as highly innovative research.

''(c) CONFIDENTIALITY.—The Director of NIH and each reviewer described in subsection (a)(3)(A) shall keep confidential any information provided by a person that desires to have research expenses certified as highly innovative research expenses pursuant to this section.''.

(4) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to expenses paid or incurred in taxable years beginning after December 31, 2015.

SA 3124. Mr. CARPER (for himself, Ms. COLLINS, Mr. CARDIN, Mr. MENENDEZ, Mr. BROWN, Mr. MARKEY, Mr. COONS, Mr. SCHATZ, Mr. KING, Mr. WHITEHOUSE, Ms. MIKULSKI, and Mr. REED) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—OFFSHORE WIND FACILITIES

SEC. __01. QUALIFYING OFFSHORE WIND FACILITY CREDIT.

(a) IN GENERAL.—Section 46 is amended—

(1) by striking ''and'' at the end of paragraph (5),

(2) by striking the period at the end of paragraph (6) and inserting '', and'', and

(3) by adding at the end the following new paragraph:

''(7) the qualifying offshore wind facility credit.''.

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 is amended by inserting after section 48D the following new section:

''SEC. 48E. CREDIT FOR OFFSHORE WIND FACILITIES.

''(a) IN GENERAL.—For purposes of section 46, the qualifying offshore wind facility credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year with respect to any qualifying offshore wind facility of the taxpayer.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying offshore wind facility.

''(2) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFYING OFFSHORE WIND FACILITY.—

''(A) IN GENERAL.—The term 'qualifying offshore wind facility' means an offshore facility using wind to produce electricity.

''(B) OFFSHORE FACILITY.—The term 'offshore facility' means any facility located in the inland navigable waters of the United States, including the Great Lakes, or in the coastal waters of the United States, including the territorial seas of the United States, the exclusive economic zone of United States, and the outer Continental Shelf of the United States.

''(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property—

''(A) which is—

''(i) tangible personal property, or

''(ii) other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the qualifying offshore wind facility, and

''(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

''(d) QUALIFYING CREDIT FOR OFFSHORE WIND FACILITIES PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Energy and the Secretary of the Interior, shall establish a qualifying credit for offshore wind facilities program to consider and award certifications for qualified investments eligible for credits under this section to qualifying offshore wind facility sponsors.

''(B) LIMITATION.—The total amount of megawatt capacity for offshore facilities with respect to which credits may be allocated under the program shall not exceed 3,000 megawatts.

''(2) CERTIFICATION.—

''(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application containing such information as the Secretary may require beginning on the date the Secretary establishes the program under paragraph (1).

''(B) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 5 years from the date of issuance of the certification in order to place the facility in service and if such facility is not placed in service by that time period, then the certification shall no longer be valid.

''(3) SELECTION CRITERIA.—In determining which qualifying offshore wind facilities to certify under this section, the Secretary shall—

''(A) take into consideration which facilities will be placed in service at the earliest date, and

''(B) take into account the technology of the facility that may lead to reduced industry and consumer costs or expand access to offshore wind.

''(4) REVIEW, ADDITIONAL ALLOCATIONS, AND REALLOCATIONS.—

''(A) REVIEW.—Periodically, but not later than 4 years after the date of the enactment of this section, the Secretary shall review the credits allocated under this section as of the date of such review.

''(B) ADDITIONAL ALLOCATIONS AND REALLOCATIONS.—The Secretary may make additional allocations and reallocations of credits under this section if the Secretary determines that—

''(i) the limitation under paragraph (1)(B) has not been attained at the time of the review, or

''(ii) scheduled placed-in-service dates of previously certified facilities have been significantly delayed and the Secretary determines the applicant will not meet the timeline pursuant to paragraph (2)(B).

''(C) ADDITIONAL PROGRAM FOR ALLOCATIONS AND REALLOCATIONS.—If the Secretary determines that credits under this section are available for further allocation or reallocation, but there is an insufficient quantity of qualifying applications for certification pending at the time of the review, the Secretary is authorized to conduct an additional program for applications for certification.

''(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.

''(e) DENIAL OF DOUBLE BENEFIT.—A credit shall not be allowed under this section with respect to any facility if—

''(1) a credit has been allowed to such facility under section 45 for such taxable year or any prior taxable year,

''(2) a credit has been allowed with respect to such facility under section 46 by reason of section 48(a) or 48C(a) for such taxable or any preceding taxable year, or

''(3) a grant has been made with respect to such facility under section 1603 of the American Recovery and Reinvestment Act of 2009.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended—

(A) by striking ''and'' at the end of clause (v),

(B) by striking the period at the end of clause (vi) and inserting '', and'', and

(C) by adding after clause (vi) the following new clause:

''(vii) the basis of any property which is part of a qualifying offshore wind facility under section 48E.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48D the following new item:

''48E. Credit for offshore wind facilities.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3125. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. __01. ABOVE-THE-LINE DEDUCTION FOR CHILD CARE EXPENSES.

(a) IN GENERAL.—Part VII of subchapter A of chapter 1 is amended—

(1) by redesignating section 224 as section 225, and

(2) by inserting after section 223 the following new section:

''SEC. 224. CHILD CARE DEDUCTION.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an individual for which there are 1 or more qualifying children with respect to such individual for the taxable year, there shall be allowed as a deduction an amount equal to the employment-related expenses

paid by such individual during the taxable year.

''(b) DOLLAR LIMITATIONS.—The amount allowed as a deduction under subsection (a) with respect to the taxpayer for any taxable year shall not exceed—

''(1) $7,000, if there is 1 qualifying child with respect to the taxpayer for such taxable year, or

''(2) $14,000, if there are 2 or more qualifying children with respect to the taxpayer for such taxable year.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFYING CHILD.—The term 'qualifying child' means a dependent of the taxpayer (as defined in section 152(a)(1))—

''(A) who has not attained age 13, or

''(B) who is physically or mentally incapable of caring for himself or herself.

''(2) EMPLOYMENT-RELATED EXPENSES.—The term 'employment-related expenses' has the meaning given such term by section 21(b)(2), applied as if the terms 'qualifying child' and 'qualifying children,' within the meaning of this section, were substituted for the terms 'qualifying individual' and 'qualifying individuals', respectively.

''(3) SPECIAL RULES.—Rules similar to the rules of paragraphs (1), (2), (3), (4), (5), (6), (9), and (10) of section 21(e) shall apply.

''(d) DENIAL OF DOUBLE BENEFIT.—

''(1) IN GENERAL.—No deduction shall be allowed under this section for any expense with respect to which a credit is claimed by the taxpayer under section 21.

''(2) COORDINATION RULE.—For coordination with a dependent care assistance program, see section 129(e)(7).

''(e) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2015.''.

(b) DEDUCTION ALLOWED ABOVE-THE-LINE.—Subsection (a) of section 62 is amended by inserting after paragraph (21) the following new paragraph:

''(22) CHILD CARE DEDUCTION.—The deduction allowed by section 224.''.

(c) CONFORMING AMENDMENT.—Subsection (e) of section 213 is amended by inserting '', or as a deduction under section 224,'' after ''section 21''.

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter A of chapter 1 is amended by striking the item relating to section 224 and by inserting the following new items:

''Sec. 224. Child care deduction.

''Sec. 225. Cross reference.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred in taxable years beginning after December 31, 2014.

SA 3126. Ms. CANTWELL (for herself, Mr. THUNE, Mr. CORNYN, Mr. NELSON, Mrs. MURRAY, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Beginning on page 8, strike line 19 and all that follows through page 9, line 3 and insert the following:

SEC. 106. PERMANENT EXTENSION OF DEDUCTION FOR STATE AND LOCAL GENERAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking '', and before January 1, 2014''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2013.

SA 3127. Ms. CANTWELL (for herself, Mr. BENNET, Ms. STABENOW, Mr. MENENDEZ, Mr. CARDIN, Mr. BROWN, Mr. NELSON, and Mr. CARPER) submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page __, between lines __ and __, insert the following:

(c) EXTENSION FOR SOLAR ENERGY FACILITIES.—Section 45(d)(4)(A) is amended by inserting ''or the construction of which begins after December 31, 2013, and before January 1, 2016,'' after ''2006,''.

SA 3128. Mr. MARKEY submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—OTHER PROVISIONS

SEC. __01. BUILD AMERICA BONDS MADE PERMANENT.

(a) IN GENERAL.—Subparagraph (B) of section 54AA(d)(1) is amended by inserting ''or during a period beginning on or after the date of the enactment of the EXPIRE Act of 2014,'' after ''January 1, 2011,''.

(b) REDUCTION IN CREDIT PERCENTAGE TO BONDHOLDERS.—Subsection (b) of section 54AA is amended to read as follows:

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any interest payment date for a build America bond is the applicable percentage of the amount of interest payable by the issuer with respect to such date.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined under the following table:

''In the case of a bond issued during calendar year:	**The applicable percentage is:**
2009 or 2010	35
2014	31
2015	30
2016	29
2017 and thereafter	28.''.

(c) SPECIAL RULES.—Subsection (f) of section 54AA is amended by adding at the end the following new paragraph:

''(3) APPLICATION OF OTHER RULES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, a build America bond shall be considered a recovery zone economic development bond (as defined in section 1400U–2) for purposes of application of section 1601 of title I of division B of Public Law 111–5 (26 U.S.C. 54C note).

''(B) PUBLIC TRANSPORTATION PROJECTS.—Recipients of any financial assistance authorized under this section that funds public transportation projects, as defined in Title 49, United States Code, must comply with the grant requirements described under section 5309 of such title.''.

(d) EXTENSION OF PAYMENTS TO ISSUERS.—

(1) IN GENERAL.—Section 6431 is amended—

(A) by inserting ''or during a period beginning on or after the date of the enactment of the EXPIRE Act of 2014,'' after ''January 1, 2011,'' in subsection (a), and

(B) by striking ''before January 1, 2011'' in subsection (f)(1)(B) and inserting ''during a particular period''.

(2) CONFORMING AMENDMENTS.—Subsection (g) of section 54AA is amended—

(A) by inserting ''or during a period beginning on or after the date of the enactment of the EXPIRE Act of 2014,'' after ''January 1, 2011,'', and

(B) by striking ''QUALIFIED BONDS ISSUED BEFORE 2011'' in the heading and inserting ''CERTAIN QUALIFIED BONDS''.

(e) REDUCTION IN PERCENTAGE OF PAYMENTS TO ISSUERS.—Subsection (b) of section 6431 is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'',

(2) by striking ''35 percent'' and inserting ''the applicable percentage'', and

(3) by adding at the end the following new paragraph:

''(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means the percentage determined in accordance with the following table:

''In the case of a qualified bond issued during calendar year:	**The applicable percentage is:**
2009 or 2010	35
2014	31
2015	30
2016	29
2017 and thereafter	28.''.

(f) CURRENT REFUNDINGS PERMITTED.—Subsection (g) of section 54AA is amended by adding at the end the following new paragraph:

''(3) TREATMENT OF CURRENT REFUNDING BONDS.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified bond' includes any bond (or series of bonds) issued to refund a qualified bond if—

''(i) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

''(ii) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

''(iii) the refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond.

''(B) APPLICABLE PERCENTAGE.—In the case of a refunding bond referred to in subparagraph (A), the applicable percentage with respect to such bond under section 6431(b) shall be the lowest percentage specified in paragraph (2) of such section.

''(C) DETERMINATION OF AVERAGE MATURITY.—For purposes of subparagraph (A)(i), average maturity shall be determined in accordance with section 147(b)(2)(A).

''(D) ISSUANCE RESTRICTION NOT APPLICABLE.—Subsection (d)(1)(B) shall not apply to a refunding bond referred to in subparagraph (A).''.

(g) CLARIFICATION RELATED TO LEVEES AND FLOOD CONTROL PROJECTS.—Subparagraph (A) of section 54AA(g)(2) is amended by inserting ''(including capital expenditures for levees and other flood control projects)'' after ''capital expenditures''.

(h) GROSS-UP OF PAYMENT TO ISSUERS IN CASE OF SEQUESTRATION.—In the case of any payment under section 6431(b) of the Internal Revenue Code of 1986 made after the date of the enactment of this Act to which sequestration applies, the amount of such payment shall be increased to an amount equal to—

(1) such payment (determined before such sequestration), multiplied by

(2) the quotient obtained by dividing 1 by the amount by which 1 exceeds the percentage reduction in such payment pursuant to such sequestration.

For purposes of this subsection, the term ''sequestration'' means any reduction in direct spending ordered in accordance with a sequestration report prepared by the Director of the Office and Management and Budget pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 or the Statutory Pay-As-You-Go Act of 2010.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued on or after the date of the enactment of this Act.

SA 3129. Ms. STABENOW (for herself, Mr. BROWN, Mr. ROBERTS, and Mr. BLUNT) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 30, strike line 19 and insert the following:

tion 125(c) of such Act).

''(iv) SPECIAL MAXIMUM INCREASE AMOUNT.—In the case of round 4 extension property placed in service by a corporation—

''(I) subparagraph (C)(iii) shall not apply, and

''(II) the term 'maximum increase amount' means an amount that is 50 percent of the AMT credit increase amount determined with respect to such corporation under subparagraph (E) by substituting 'December 31, 2013' for 'March 31, 2008' and by substituting 'January 1, 2011' for 'January 1, 2006'.''.

SA 3130. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 6, between lines 20 and 21, insert the following:

(b) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Section 62(a)(2)(D) is amended by striking ''$250'' and inserting ''$350''.

(2) INFLATION ADJUSTMENT.—Section 62 is amended by adding at the end the following new subsection:

''(f) INFLATION ADJUSTMENT FOR EDUCATOR EXPENSES.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2014, the $350 amount under subsection (a)(2)(D) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2013' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If the amount as adjusted under the preceding sentence is not a multiple of $10,, such amount shall be rounded to the next lowest multiple of $10.''.

SA 3131. Mr. PRYOR (for himself and Mr. BOOZMAN) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—OTHER PROVISIONS

SEC. __01. TREATMENT OF TIMBER GAINS.

(a) 2-YEAR SPECIAL RATE.—Paragraph (1) of section 1201(b) is amended by striking ''ending after the date'' and all that follows through ''after such date'' and inserting ''beginning after December 31, 2013, and before January 1, 2016''.

(b) ADJUSTMENT OF SPECIAL RATE.—

(1) IN GENERAL.—Clause (i) of section 1201(b)(1)(B) is amended by striking ''15 percent'' and inserting ''20 percent''.

(2) CONFORMING AMENDMENT.—Section 55(b) is amended by striking paragraph (4).

(c) CONFORMING AMENDMENT.—Subsection (b) of section 1201 is amended by striking paragraph (3).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2013.

SA 3132. Mr. KING (for himself, Ms. COLLINS, Mrs. SHAHEEN, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—OTHER PROVISIONS

SEC. ___. CREDITS RELATING TO BIOMASS PROPERTY.

(a) RESIDENTIAL ENERGY-EFFICIENT PROPERTY CREDIT FOR BIOMASS FUEL PROPERTY EXPENDITURES.—

(1) ALLOWANCE OF CREDIT.—Subsection (a) of section 25D is amended—

(A) by striking ''and'' at the end of paragraph (4),

(B) by striking the period at the end of paragraph (5) and inserting '', and'', and

(C) by adding at the end the following new paragraph:

''(6) 30 percent of the qualified biomass fuel property expenditures made by the taxpayer during such year.''.

(2) QUALIFIED BIOMASS FUEL PROPERTY EXPENDITURES.—Subsection (d) of section 25D is amended by adding at the end the following new paragraph:

''(6) QUALIFIED BIOMASS FUEL PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified biomass fuel property expenditure' means an expenditure for property—

''(i) which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and

''(ii) which has a thermal efficiency rating of at least 75 percent (measured by the higher heating value of the fuel).

''(B) BIOMASS FUEL.—For purposes of this section, the term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues, plants (including aquatic plants), grasses, residues, and fibers. Such term includes densified biomass fuels such as wood pellets.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2013.

(b) INVESTMENT TAX CREDIT FOR BIOMASS HEATING PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 48(a)(3) is amended by striking ''or'' at the end of clause (vi), by inserting ''or'' at the end of clause (vii), and by inserting after clause (vii) the following new clause:

''(viii) open-loop biomass (within the meaning of section 45(c)(3)) heating property, including boilers or furnaces which operate at thermal output efficiencies of not less than 65 percent (measured by the higher heating value of the fuel) and which provide thermal energy in the form of heat, hot water, or steam for space heating, air conditioning, domestic hot water, or industrial process heat, but only with respect to periods ending before January 1, 2017,''.

(2) 30 PERCENT AND 15 PERCENT CREDITS.—

(A) IN GENERAL.—Subparagraph (A) of section 48(a)(2) is amended—

(i) by redesignating clause (ii) as clause (iii),

(ii) by inserting after clause (i) the following new clause:

''(ii) except as provided in clause (i)(V), 15 percent in the case of energy property described in paragraph (3)(A)(viii), and'', and

(iii) by inserting ''or (ii)'' after ''clause (i)'' in clause (iii), as so redesignated.

(B) INCREASED CREDIT FOR GREATER EFFICIENCY.—Clause (i) of section 48(a)(2)(A) is amended by striking ''and'' at the end of subclause (III) and by inserting after subclause (IV) the following new subclause:

''(V) energy property described in paragraph (3)(A)(viii) which operates at a thermal output efficiency of not less than 80 percent (measured by the higher heating value of the fuel),''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3133. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of

1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—OTHER PROVISIONS

SEC. _01. NATIONAL SCENIC TRAIL CONSERVATION CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 30E. NATIONAL SCENIC TRAIL CONSERVATION CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the fair market value of any National Scenic Trail conservation contribution of the taxpayer for the taxable year.

''(b) NATIONAL SCENIC TRAIL CONSERVATION CONTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'National Scenic Trail conservation contribution' means any qualified conservation contribution—

''(A) to the extent the qualified real property interest with respect to such contribution includes a National Scenic Trail (or portion thereof) and its trail corridor, and

''(B) with respect to which the taxpayer makes an election under this section.

''(2) NATIONAL SCENIC TRAIL.—The term 'National Scenic Trail' means any trail authorized and designated under section 5 of the National Trails System Act (16 U.S.C. 1244), but only if such trail is at least 200 miles in length.

''(3) TRAIL CORRIDOR.—The term 'trail corridor' means so much of the corridor of a trail as is—

''(A) not less than—

''(i) 150 feet wide on each side of such trail, or

''(ii) in the case of an interest in real property of the taxpayer which includes less than 150 feet on either side of such trail, the entire distance with respect to such interest on such side, and

''(B) not greater than 2,640 feet wide.

''(4) QUALIFIED CONSERVATION CONTRIBUTION; QUALIFIED REAL PROPERTY INTEREST.—The terms 'qualified conservation contribution' and 'qualified real property interest' have the respective meanings given such terms by section 170(h), except that paragraph (2)(A) thereof shall be applied without regard to any qualified mineral interest (as defined in paragraph (6) thereof).

''(c) SPECIAL RULES.—

''(1) FAIR MARKET VALUE.—Fair market value of any National Scenic Trail conservation contribution shall be determined under rules similar to the valuation rules under Treasury Regulations under section 170, except that in any case, to the extent practicable, fair market value shall be determined by reference to the highest and best use of the real property with respect to such contribution.

''(2) ELECTION IRREVOCABLE.—An election under this section may not be revoked.

''(3) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter with respect to any qualified conservation contribution with respect to which an election is made under this section.

''(d) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION.—The credit allowed under subsection (a) for any taxable year shall not exceed the sum of—

''(A) the taxpayer's regular tax liability (as defined in section 26(b)) for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 30, 30B, 30C, and 30D, plus

''(B) the tax imposed by section 55.

''(2) CARRYFORWARD.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for any taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) LIMITATION.—No credit may be carried forward under this subsection to any taxable year following the tenth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.''.

(b) CONTINUED USE NOT INCONSISTENT WITH CONSERVATION PURPOSES.—A contribution of an interest in real property shall not fail to be treated as a National Scenic Trail conservation contribution (as defined in section 30E(b) of the Internal Revenue Code of 1986) solely by reason of continued use of the real property, such as for recreational or agricultural use (including motor vehicle use related thereto), if, under the circumstances, such use does not impair significant conservation interests and is not inconsistent with the purposes of the National Trails System Act (16 U.S.C. 1241 et seq.).

(c) STUDY REGARDING EFFICACY OF NATIONAL SCENIC TRAIL CONSERVATION CREDIT.—

(1) IN GENERAL.—The Secretary of the Interior shall, in consultation with the Secretary of the Treasury, study—

(A) the efficacy of the National Scenic Trail conservation credit under section 30E of the Internal Revenue Code of 1986 in completing, extending, and increasing the number of National Scenic Trails (as defined in section 30E(b) of such Code), and

(B) the feasibility and estimated costs and benefits of—

(i) making such credit refundable (in whole or in part), and

(ii) allowing transfer of such credit.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to Congress on the results of the study conducted under this subsection.

(d) CONFORMING AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''30E. National Scenic Trail conservation credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

SA 3134. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—OTHER PROVISIONS

SEC. _01. EXTENSION OF TIME PERIOD FOR CONTRIBUTING MILITARY DEATH GRATUITIES TO ROTH IRAS AND COVERDELL EDUCATION SAVINGS ACCOUNTS.

(a) IN GENERAL.—Sections 408A(e)(2)(A) and 530(d)(9)(A) are each amended by striking ''1-year period'' and inserting ''3-year period''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received under section 1477 of title 10, United States Code, or under section 1967 of title 38 of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

SA 3135. Mr. BENNET (for himself and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE—OTHER PROVISIONS

SEC. _01. FACILITATE WATER LEASING AND WATER TRANSFERS TO PROMOTE CONSERVATION AND EFFICIENCY.

(a) IN GENERAL.—Paragraph (12) of section 501(c) is amended by adding at the end the following new subparagraph:

''(I) TREATMENT OF MUTUAL DITCH IRRIGATION COMPANIES.—

''(i) IN GENERAL.—In the case of a mutual ditch or irrigation company or like organization, subparagraph (A) shall be applied without taking into account any income received or accrued—

''(I) from the sale, lease, or exchange of fee or other interests in real property, including interests in water,

''(II) from the sale or exchange of stock in a mutual ditch or irrigation company or like organization or contract rights for the delivery or use of water, or

''(III) from the investment of proceeds from sales, leases, or exchanges under subclauses (I) and (II),

except that any income received under subclause (I), (II), or (III) which is distributed or expended for expenses (other than for operations, maintenance, and capital improvements) of the mutual ditch or irrigation company or like organization shall be treated as nonmember income in the year in which it is distributed or expended. For purposes of the preceding sentence, expenses (other than for operations, maintenance, and capital improvements) include expenses for the construction of conveyances designed to deliver water outside of the mutual ditch or irrigation company or like organization system.

''(ii) TREATMENT OF ORGANIZATIONAL GOVERNANCE.—In the case of a mutual ditch or irrigation company or like organization, where State law provides that such a company or organization may be organized in a manner that permits voting on a basis which is pro rata to share ownership on corporate governance matters, subparagraph (A) shall be applied without taking into account whether its member shareholders have one vote on corporate governance matters per share held in the corporation. Nothing in this clause shall be construed to create any inference about the requirements of this subsection for companies or organizations not included in this clause.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3136. Mr. KING submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert the following:

SEC. ___. REQUIREMENTS WITH RESPECT TO MEDICAL DEVICE PRICING.

(a) PROHIBITION ON CONFIDENTIALITY CLAUSES WITH RESPECT TO PRICING.—A medical device manufacturer may not require hospitals or other buyers to sign purchasing agreements that contain confidentiality clauses restricting such hospitals or buyers from revealing to third parties the prices paid for medical devices.

(b) REPORTING ON SALES PRICES.—The Secretary of Health and Human Services shall require medical device manufacturers to submit to such Secretary a quarterly report on the average and median sales prices of covered devices, as defined in section 1128G(e) of the Social Security Act.

SA 3137. Mr. NELSON submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—IDENTITY THEFT AND TAX FRAUD PREVENTION

Subtitle A—Protecting Victims of Tax-related Identity Theft

SEC. __01. EXPEDITED REFUNDS FOR IDENTITY THEFT VICTIMS.

Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall establish a plan of action to reduce the administrative time required to process and resolve cases of identity theft in connection with tax returns, including the issuance of refunds to legitimate taxpayers, to no more than 90 days, on average.

SEC. __02. SINGLE POINT OF CONTACT FOR IDENTITY THEFT VICTIMS.

Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall establish new procedures to ensure that any taxpayer whose return has been delayed or otherwise adversely affected due to identity theft has a single point of contact at the Internal Revenue Service throughout the processing of his or her case. The single point of contact shall track the case of the taxpayer from start to finish and coordinate with other specialized units to resolve case issues as quickly as possible.

SEC. __03. ENHANCEMENTS TO IRS PIN PROGRAM.

(a) IN GENERAL.—The Secretary of the Treasury, or the Secretary's delegate, shall issue a personal identification number to any individual requesting protection from identity theft-related tax fraud after the individual's true identity has been established and verified.

(b) REPORT.—Not later than 360 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to Congress a report analyzing the effectiveness of the program described in subsection (a) in reducing tax fraud.

SEC. __04. ELECTRONIC FILING OPT OUT.

Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall implement a program under which a person who has filed an identity theft affidavit with the Secretary may elect to prevent the processing of any Federal tax return submitted in an electronic format by a person purporting to be such a person.

SEC. __05. TAXPAYER NOTIFICATION OF SUSPECTED IDENTITY THEFT.

(a) IN GENERAL.—Chapter 77 is amended by adding at the end the following new section:

"SEC. 7529. NOTIFICATION OF SUSPECTED IDENTITY THEFT.

''If the Secretary determines that there was an unauthorized use of the identity of any taxpayer, the Secretary shall—

''(1) as soon as practicable and without jeopardizing an investigation relating to tax administration, notify the taxpayer, and

''(2) if any person is criminally charged by indictment or information relating to such unauthorized use, notify such taxpayer as soon as practicable of such charge.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7529. Notification of suspected identity theft.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations made after the date of the enactment of this Act.

Subtitle B—Shutting Down Abusive Identity Theft and Tax Fraud Schemes

SEC. __11. RESTRICTIONS ON ABILITY TO USE PREPAID CARDS FOR TAX FRAUD.

(a) ACCOUNTS WITH ELEVATED RISK OF IDENTITY THEFT.—

(1) IN GENERAL.—Not later than 360 days after the date of the enactment of this Act, the Federal primary financial regulatory agencies, in consultation with the Secretary of the Treasury, shall jointly prescribe regulations requiring newly issued deposit or transaction account numbers, as the case may be, to be distinguishable between verified accounts and at-risk accounts.

(2) DEFINITIONS.—As used in this section—

(A) the term ''at-risk account'' means any deposit account or transaction account, including accounts associated with a prepaid access arrangement, that is not a verified account;

(B) the term ''primary financial regulatory agency'' has the same meaning as in section 2(12) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301(12)); and

(C) the term ''verified account'' means any deposit account or transaction account in which the identity of the account holder and any prepaid access customer associated with the account is verified by—

(i) customer identification procedures that comply with section 5318(l) of title 31, United States Code; and

(ii) direct review of an original, unexpired government-issued form of identification bearing a photograph or similar safeguard, such as a driver's license or passport.

(b) GAO AUDIT OF DEBIT CARD ISSUERS TO ENSURE COMPLIANCE WITH CUSTOMER IDENTIFICATION REQUIREMENTS.—

(1) REVIEW AND EVALUATION.—The Comptroller General of the United States shall review and evaluate the effectiveness of the current Customer Identification Program rules implementing the customer identification program requirements under section 5318(l) of title 31, United States Code, as such rules apply to the prepaid card industry.

(2) REQUIRED CONSIDERATIONS.—The review and evaluation required under paragraph (1) shall—

(A) consider whether weaknesses in current customer identification programs are contributing to identity theft and financial loss, particularly with respect to tax fraud; and

(B) review whether—

(i) current risk-based standards for customer identification are the best means to prevent criminal use of prepaid cards and provide sufficient guidance and certainty to the sellers and providers of prepaid access;

(ii) current exclusions from customer identification requirements, such as exclusions for government benefit programs, are appropriate; and

(iii) Federal regulatory agencies exercise adequate oversight and supervision of customer identification practices of the prepaid card industry.

(3) REPORT TO CONGRESS.—Not later than 360 days after the date of the enactment this Act, the Comptroller General of the United States shall submit to Congress a report—

(A) on the findings of the review and evaluation required under paragraph (1); and

(B) containing any recommendations or proposals for legislative or administrative action to improve the customer identification practices of the prepaid card industry.

SEC. __12. LIMITATION ON MULTIPLE TAX REFUNDS TO THE SAME ACCOUNT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall issue regulations that restrict the delivery or deposit of multiple tax refunds from the same tax year to the same individual account or mailing address.

(b) EXCEPTION.—The regulation promulgated under subsection (a) shall provide that the restrictions shall not apply in cases and situations where the Secretary determines there is not a likelihood of tax fraud.

Subtitle C—Adding Critical New Protections to Safeguard Social Security Numbers

SEC. __21. PROHIBITING THE DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBERS ON NEWLY ISSUED MEDICARE IDENTIFICATION CARDS AND COMMUNICATIONS PROVIDED TO MEDICARE BENEFICIARIES.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Commissioner of Social Security, shall establish and begin to implement procedures to eliminate the unnecessary collection, use, and display of Social Security account numbers of Medicare beneficiaries.

(b) NEWLY ISSUED MEDICARE CARDS AND COMMUNICATIONS PROVIDED TO BENEFICIARIES.—

(1) NEWLY ISSUED CARDS.—

(A) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Commissioner of Social Security, shall ensure that each newly issued Medicare identification card meets the requirements described in subparagraph (B).

(B) REQUIREMENTS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the requirements described in this subparagraph are, with respect to a Medicare identification card, that the card does not display or electronically store (in an unencrypted format) a Medicare beneficiary's Social Security account number.

(ii) EXCEPTION.—The Secretary may waive the requirements under clause (i) in the case where the health insurance claim number of a beneficiary is the Social Security number of the beneficiary, the beneficiary's spouse, or another individual.

(iii) USE OF PARTIAL ACCOUNT NUMBER.—The Secretary of Health and Human Services, in consultation with the Commissioner of Social Security, may provide for the use of a partial Social Security account number on a Medicare identification card if the Secretary determines that such use does not allow an unacceptable risk of fraudulent use.

(2) COMMUNICATIONS PROVIDED TO BENEFICIARIES.—Not later than 4 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prohibit the display of a Medicare beneficiary's Social Security account number on written or electronic communication provided to the beneficiary unless the Secretary, in consultation with the Commissioner of Social Security, determines that inclusion of Social Security account numbers on such communications is essential for the operation of the Medicare program.

(c) MEDICARE BENEFICIARY DEFINED.—In this section, the term ''Medicare beneficiary'' means an individual entitled to, or enrolled for, benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) or enrolled for benefits under part B of such title (42 U.S.C. 1395j et seq.).

(d) CONFORMING AMENDMENTS.—

(1) REFERENCE IN THE SOCIAL SECURITY ACT.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended—

(A) by moving clause (x), as added by section 1414(a)(2) of the Patient Protection and Affordable Care Act (Public Law 111–148), 6 ems to the left;

(B) by redesignating clause (x), as added by section 2(a)(1) of the Social Security Number Protection Act of 2010 (42 U.S.C. 1305 note), as clause (xii); and

(C) by adding after clause (xii), as redesignated by subparagraph (B), the following new clause:

''(xiii) Subject to the EXPIRE Act of 2014, social security account numbers shall not be displayed on Medicare identification cards or on communications provided to Medicare beneficiaries.''.

(2) ACCESS TO INFORMATION.—Section 205(r) of the Social Security Act (42 U.S.C. 405(r)) is amended by adding at the end the following new paragraph:

''(10) To prevent and identify fraudulent activity, the Commissioner shall upon the request of the Attorney General or upon the request of the Secretary of Health and Human Services enter into a reimbursable agreement with the Attorney General or the Secretary to provide information collected under paragraph (1) if—

''(A) the requirements of subparagraphs (A) and (B) of paragraph (3) are met; and

''(B) such agreement includes appropriate provisions to protect the confidentiality of information provided by the Commissioner under such agreement.''.

(e) PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a pilot program utilizing smart card technology to evaluate—

(A) the applicability of smart card technology to the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), including the applicability of such technology to Medicare beneficiaries or Medicare providers; and

(B) whether such cards would be effective in preventing fraud under the Medicare program.

(2) IMPLEMENTATION.—

(A) INITIAL IMPLEMENTATION.—The Secretary shall implement the pilot program under this subsection not later than 1 year after the date of enactment of this Act.

(B) SCOPE AND DURATION.—The Secretary shall conduct the pilot program—

(i) in not less than 2 States; and

(ii) for a period of not less than 180 days or more than 2 years.

(3) REPORT.—Not later than 12 months after the completion of the pilot program under this subsection, the Secretary shall submit to the appropriate committees of Congress and make available to the public a report that includes the following:

(A) A summary of the pilot program and findings, including—

(i) the costs or savings to the Medicare program as a result of the implementation of the pilot program;

(ii) whether the use of smart card technology resulted in improvements in the quality of care provided to Medicare beneficiaries under the pilot program; and

(iii) whether such technology was useful in preventing or detecting fraud, waste, and abuse in the Medicare program.

(B) Recommendations regarding whether the use of smart card technology should be expanded under the Medicare program.

(4) DEFINITIONS.—In this subsection:

(A) MEDICARE PROVIDER.—The term ''Medicare provider'' includes a provider of services (as defined in section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u))) and a supplier (as defined in section 1861(d) of such Act (42 U.S.C. 1395x(d))).

(B) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(C) SMART CARD.—The term ''smart card'' means identification used by a Medicare beneficiary or a Medicare provider that includes anti-fraud attributes. Such a card—

(i) may rely on existing commercial data transfer networks or on a network of proprietary card readers or databases; and

(ii) may include—

(I) cards using technology adapted from the financial services industry;

(II) cards containing individual biometric identification, provided that such identification is encrypted and not contained in any central database;

(III) cards adapting technology and processes utilized in the TRICARE program under chapter 55 of title 10, United States Code, or by the Veterans' Administration; or

(IV) such other technology as the Secretary determines appropriate.

SEC. __22. PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1028A the following:

''§ 1028B. Prohibition of the display, sale, or purchase of Social Security numbers

''(a) DEFINITIONS.—In this section:

''(1) DISPLAY.—The term 'display' means to intentionally communicate or otherwise make available (on the Internet or in any other manner) to the general public an individual's Social Security number.

''(2) PERSON.—The term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

''(3) PURCHASE.—The term 'purchase' means providing directly or indirectly, anything of value in exchange for a Social Security number.

''(4) SALE.—The term 'sale' means obtaining, directly or indirectly, anything of value in exchange for a Social Security number.

''(5) STATE.—The term 'State' means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

''(b) LIMITATION ON DISPLAY.—No person may display any individual's Social Security number to the general public without the affirmatively expressed consent of the individual.

''(c) LIMITATION ON SALE OR PURCHASE.—Except as otherwise provided in this section, no person may sell or purchase any individual's Social Security number without the affirmatively expressed consent of the individual.

''(d) PREREQUISITES FOR CONSENT.—In order for consent to exist under subsection (b) or (c), the person displaying or seeking to display, selling or attempting to sell, or purchasing or attempting to purchase, an individual's Social Security number shall—

''(1) inform the individual of the general purpose for which the number will be used, the types of persons to whom the number may be available, and the scope of transactions permitted by the consent; and

''(2) obtain the affirmatively expressed consent (electronically or in writing) of the individual.

''(e) EXCEPTIONS.—Nothing in this section shall be construed to prohibit or limit the display, sale, or purchase of a Social Security number—

''(1) required, authorized, or excepted under any Federal law;

''(2) for a public health purpose, including the protection of the health or safety of an individual in an emergency situation;

''(3) for a national security purpose;

''(4) for a law enforcement purpose, including the investigation of fraud and the enforcement of a child support obligation;

''(5) if the display, sale, or purchase of the number is for a use occurring as a result of an interaction between businesses, governments, or business and government (regardless of which entity initiates the interaction), including, but not limited to—

''(A) the prevention of fraud (including fraud in protecting an employee's right to employment benefits);

''(B) the facilitation of credit checks or the facilitation of background checks of employees, prospective employees, or volunteers;

''(C) the retrieval of other information from other businesses, commercial enterprises, government entities, or private nonprofit organizations; or

''(D) when the transmission of the number is incidental to, and in the course of, the sale, lease, franchising, or merger of all, or a portion of, a business;

''(6) if the transfer of such a number is part of a data matching program involving a Federal, State, or local agency; or

''(7) if such number is required to be submitted as part of the process for applying for any type of Federal, State, or local government benefit or program;

except that, nothing in this subsection shall be construed as permitting a professional or commercial user to display or sell a Social Security number to the general public.

''(f) LIMITATION.—Nothing in this section shall prohibit or limit the display, sale, or purchase of Social Security numbers as permitted under title V of the Gramm-Leach-Bliley Act, or for the purpose of affiliate sharing as permitted under the Fair Credit

Reporting Act, except that no entity regulated under such Acts may make Social Security numbers available to the general public, as may be determined by the appropriate regulators under such Acts. For purposes of this subsection, the general public shall not include affiliates or unaffiliated third-party business entities as may be defined by the appropriate regulators.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following:

''1028B. Prohibition of the display, sale, or purchase of Social Security numbers.''.

(b) STUDY; REPORT.—

(1) IN GENERAL.—The Attorney General shall conduct a study and prepare a report on all of the uses of Social Security numbers permitted, required, authorized, or excepted under any Federal law. The report shall include a detailed description of the uses allowed as of the date of enactment of this Act, the impact of such uses on privacy and data security, and shall evaluate whether such uses should be continued or discontinued by appropriate legislative action.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall report to Congress findings under this subsection. The report shall include such recommendations for legislation based on criteria the Attorney General determines to be appropriate.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 30 days after the date on which the final regulations promulgated under section 1028B of title 18, United States Code, are published in the Federal Register.

SEC. __23. CRIMINAL PENALTIES FOR THE MISUSE OF A SOCIAL SECURITY NUMBER.

(a) PROHIBITION OF WRONGFUL USE AS PERSONAL IDENTIFICATION NUMBER.—No person may obtain any individual's Social Security number for purposes of locating or identifying an individual with the intent to physically injure, harm, or use the identity of the individual for any illegal purpose.

(b) CRIMINAL SANCTIONS.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) in paragraph (8), by inserting ''or'' after the semicolon; and

(2) by inserting after paragraph (8) the following:

''(9) except as provided in subsections (e) and (f) of section 1028B of title 18, United States Code, knowingly and willfully displays, sells, or purchases (as those terms are defined in section 1028B(a) of title 18, United States Code) any individual's Social Security account number without having met the prerequisites for consent under section 1028B(d) of title 18, United States Code; or

''(10) obtains any individual's Social Security number for the purpose of locating or identifying the individual with the intent to injure or to harm that individual, or to use the identity of that individual for an illegal purpose;''.

SEC. __24. CIVIL ACTIONS AND CIVIL PENALTIES.

(a) CIVIL ACTION IN STATE COURTS.—

(1) IN GENERAL.—Any individual aggrieved by an act of any person in violation of this Act or any amendments made by this Act may, if otherwise permitted by the laws or rules of the court of a State, bring in an appropriate court of that State—

(A) an action to enjoin such violation;

(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater; or

(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent violations of the regulations prescribed under this Act. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).

(2) STATUTE OF LIMITATIONS.—An action may be commenced under this subsection not later than the earlier of—

(A) 5 years after the date on which the alleged violation occurred; or

(B) 3 years after the date on which the alleged violation was or should have been reasonably discovered by the aggrieved individual.

(3) NONEXCLUSIVE REMEDY.—The remedy provided under this subsection shall be in addition to any other remedies available to the individual.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person who the Attorney General determines has violated any section of this Act or of any amendments made by this Act shall be subject, in addition to any other penalties that may be prescribed by law—

(A) to a civil penalty of not more than $5,000 for each such violation; and

(B) to a civil penalty of not more than $50,000, if the violations have occurred with such frequency as to constitute a general business practice.

(2) DETERMINATION OF VIOLATIONS.—Any willful violation committed contemporaneously with respect to the Social Security numbers of 2 or more individuals by means of mail, telecommunication, or otherwise, shall be treated as a separate violation with respect to each such individual.

(3) ENFORCEMENT PROCEDURES.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a), other than subsections (a), (b), (f), (h), (i), (j), (m), and (n) and the first sentence of subsection (c) of such section, and the provisions of subsections (d) and (e) of section 205 of such Act (42 U.S.C. 405) shall apply to a civil penalty action under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act (42 U.S.C. 1320a–7a(a)), except that, for purposes of this paragraph, any reference in section 1128A of such Act (42 U.S.C. 1320a–7a) to the Secretary shall be deemed to be a reference to the Attorney General.

Subtitle D—Strengthening Laws and Improving Enforcement Against Tax-related Identity Theft

SEC. __31. CRIMINAL PENALTY FOR USING A FALSE IDENTITY IN CONNECTION WITH TAX FRAUD.

(a) IN GENERAL.—Section 7206 is amended—

(1) by striking ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(2) by adding at the end the following new subsection:

''(b) USE OF FALSE IDENTITY.—Any person who willfully misappropriates another person's taxpayer identity (as defined in section 6103(b)(6)) for the purpose of making any list, return, account, statement, or other document submitted to the Secretary under the provisions of this title shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $250,000 ($500,000 in the case of a corporation) or imprisoned not more than 5 years, or both, together with the costs of prosecution.''.

(b) AGGRAVATED IDENTITY THEFT.—Section 1028A(c) of title 18, United States Code, is amended by striking ''or'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ''; or'', and by adding at the end the following new paragraph:

''(12) section 7206(b) of the Internal Revenue Code of 1986 (relating to use of false identity in connection with tax fraud).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed after the date of the enactment of this Act.

SEC. __32. INCREASED PENALTY FOR IMPROPER DISCLOSURE OR USE OF INFORMATION BY PREPARERS OF RETURNS.

(a) IN GENERAL.—Section 6713(a) is amended—

(1) by striking ''$250'' and inserting ''$1,000'', and

(2) by striking ''$10,000'' and inserting ''$50,000''.

(b) CRIMINAL PENALTY.—Section 7216(a) is amended by striking ''$1,000'' and inserting ''$100,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures or uses after the date of the enactment of this Act.

SEC. __33. AUTHORITY TO TRANSFER INTERNAL REVENUE SERVICE APPROPRIATIONS TO USE FOR TAX FRAUD ENFORCEMENT.

For any fiscal year, the Commissioner of Internal Revenue may transfer not more than $10,000,000 to the ''Enforcement'' account of the Internal Revenue Service from amounts appropriated to other Internal Revenue Service accounts. Any amounts so transferred shall be used solely for the purposes of preventing and resolving potential cases of tax fraud.

SEC. __34. LOCAL LAW ENFORCEMENT LIAISON.

(a) ESTABLISHMENT.—The Commissioner of Internal Revenue shall establish within the Criminal Investigation Division of the Internal Revenue Service the position of Local Law Enforcement Liaison.

(b) DUTIES.—The Local Law Enforcement Liaison shall serve as the primary source of contact for State and local law enforcement authorities with respect to tax-related identity theft and other tax fraud matters, having duties that shall include—

(1) receiving information from State and local law enforcement authorities;

(2) responding to inquiries from State and local law enforcement authorities;

(3) administering authorized information-sharing initiatives with State or local law enforcement authorities and reviewing the performance of such initiatives;

(4) ensuring any information provided through authorized information-sharing initiatives with State or local law enforcement authorities is used only for the prosecution of identity theft-related crimes and not redisclosed to third parties; and

(5) any other duties as delegated by the Commissioner of Internal Revenue.

SEC. __35. EXTEND INTERNAL REVENUE SERVICE AUTHORITY TO REQUIRE TRUNCATED SOCIAL SECURITY NUMBERS ON FORM W-2.

(a) IN GENERAL.—Paragraph (2) of section 6051(a) is amended by striking ''his social security number'' and inserting ''an identifying number for the employee''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. __36. CLARIFICATION WITH RESPECT TO REGULATION OF FEDERAL TAX RETURN PREPARERS.

(a) IN GENERAL.—Subparagraph (D) of section 330(a)(2) of title 31, United States Code, is amended by inserting ''and in preparing

and filing their tax returns'' before the period.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section applies to regulations promulgated before, on, or after the date of the enactment of this Act.

(2) EFFECT ON EXISTING PROCEEDINGS.—Nothing in this section shall be construed to create a negative inference with respect to the application of section 330 of title 31, United States Code, or the authority of the Secretary of the Treasury under such section, with respect to regulations promulgated before the date of the enactment of this Act.

SEC. _37. AUTHENTICATION OF USERS OF ELECTRONIC SERVICES ACCOUNTS.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall establish a program to verify the identity of any individual opening an e-Services account with the Internal Revenue Service before such individual is able to use the e-Services tools.

(b) REPORT.—The Commissioner of Internal Revenue shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, not later than 1 year after the date of the enactment of this Act, on any further legislative recommendations to prevent fraud relating to the Internal Revenue Service e-Services tools, including an authorized e-file provider program.

Subtitle E—Accelerating Transition to a Real-time Tax System That Protects Taxpayers and Reduces Fraud

SEC. _41. IMPROVEMENT IN ACCESS TO INFORMATION IN THE NATIONAL DIRECTORY OF NEW HIRES FOR TAX ADMINISTRATION PURPOSES.

(a) IN GENERAL.—Paragraph (3) of section 453(i) of the Social Security Act (42 U.S.C. 653(i)) is amended to read as follows:

''(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering the Internal Revenue Code of 1986.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. _42. PLAN OF ACTION FOR TRANSITIONING TO A REAL-TIME TAX SYSTEM.

Not later than 270 days after the date of enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall submit to Congress a report analyzing and outlining options and potential timelines for moving toward a tax system that reduces burdens on taxpayers and decreases tax fraud through real-time information matching.

SA 3138. Ms. CANTWELL (for herself and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. _____. DEDUCTIBILITY OF CERTAIN 2014 DISASTER LOSSES.

(a) IN GENERAL.—Section 165(h), as amended by this Act, is amended by inserting after paragraph (2) the following:

''(3) SPECIAL RULE FOR LOSSES IN FEDERALLY DECLARED DISASTERS.—

''(A) IN GENERAL.—If an individual has a net disaster loss for any taxable year, the amount determined under paragraph (2)(A)(ii) shall be the sum of—

''(i) such net disaster loss, and

''(ii) so much of the excess referred to in the matter preceding clause (i) of paragraph (2)(A) (reduced by the amount in clause (i) of this subparagraph) as exceeds 10 percent of the adjusted gross income of the individual.

''(B) NET DISASTER LOSS.—For purposes of subparagraph (A), the term 'net disaster loss' means the excess of—

''(i) the personal casualty losses—

''(I) attributable to a federally declared disaster occurring during calendar year 2014, and

''(II) occurring in a disaster area, over

''(ii) personal casualty gains.

''(C) FEDERALLY DECLARED DISASTER AND AREA.—For purposes of this paragraph, the terms 'federally declared disaster' and 'disaster area' have the meanings given to such terms by subsection (i)(5).''.

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Subparagraph (A) of section 165(h)(5) is amended to read as follows:

''(A) CERTAIN PERSONAL CASUALTY LOSSES ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—

''(i) LOSSES NOT IN EXCESS OF PERSONAL CASUALTY GAINS.—In any case to which paragraph (2)(A) applies, the deduction for personal casualty losses for any taxable year shall be treated as a deduction allowable in computing adjusted gross income to the extent such losses do not exceed the personal casualty gains for the taxable year.

''(ii) NET DISASTER LOSSES.—In any case to which paragraph (3) applies, the portion of the deduction for personal casualty losses for any taxable year which is properly allocable to the net disaster loss for the taxable year shall be treated as a deduction allowable in computing adjusted gross income.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to federally declared disasters occurring after December 31, 2013, and to losses attributable to such disasters.

SA 3139. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Beginning on page 42, strike line 3 and all that follows through page 43, line 12.

SA 3140. Ms. CANTWELL (for herself, Mr. BENNET, Ms. STABENOW, Mr. CARDIN, Mr. MENENDEZ, Mr. BROWN, Mr. NELSON, and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 52, between lines 19 and 20, insert the following:

(c) EXTENSION FOR SOLAR ENERGY FACILITIES.—Section 45(d)(4)(A) is amended by inserting ''or the construction of which begins after December 31, 2013, and before January 1, 2016,'' after ''2006,''.

SA 3141. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—OTHER PROVISIONS

SEC. _01. CREDIT FOR INSTALLATION OF SPRINKLERS AND ELEVATORS IN HISTORIC BUILDINGS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by inserting after section 36B the following new section:

''SEC. 36C. HISTORIC BUILDING EXPENSES.

''(a) IN GENERAL.—There shall be allowed a credit against the tax imposed by this subtitle for the taxable year an amount equal to 50 percent of the qualified historic building expenses paid or incurred by the taxpayer during such taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a) with respect to any taxpayer for any taxable year shall not exceed $50,000.

''(c) QUALIFIED HISTORIC BUILDING EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified historic building expenses' means amounts paid or incurred to install in a certified historic structure an elevator system or a sprinkler system that meets the requirements found in the most recent edition of NFPA 13: Standard for the Installation of Sprinkler Systems.

''(2) NATIONAL HISTORIC LANDMARKS.—In the case of a certified historic structure that is designated as a National Historic Landmark in accordance with section 101(a) of the National Historic Preservation Act (16 U.S.C. 470a(a)) and that is open to the public, the term 'qualified historic building expenses' shall not include an expense described in paragraph (1), unless the installation of property described in such paragraph meets the requirements for a certified rehabilitation under section 47(c)(2)(C).

''(3) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' has the meaning given such term in section 47(c)(3), except that such term shall not include any structure which is a single-family residence.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1324 of title 31, United States Code, is amended by inserting '', 36C'' after '', 36B''.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 36B the following new item:

''Sec. 36C. Historic building expenses.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SA 3142. Mr. COBURN submitted an amendment intended to be proposed by

him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike section 115.

SA 3143. Mr. MORAN (for himself, Ms. HEITKAMP, Mr. THUNE, Mr. HEINRICH, Mr. BEGICH, Mr. INHOFE, Mr. BENNET, Ms. STABENOW, Mr. ENZI, Mr. HOEVEN, Mr. UDALL of New Mexico, Mr. JOHNSON of South Dakota, Mr. UDALL of Colorado, Mrs. MURRAY, Mr. CRAPO, Mr. TESTER, Mr. WALSH, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—TRIBAL GENERAL WELFARE EXCLUSION

SEC. __01. SHORT TITLE.

This title may be cited as the ''Tribal General Welfare Exclusion Act of 2013''.

SEC. __02. INDIAN GENERAL WELFARE BENEFITS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting before section 140 the following new section:

''SEC. 139E. INDIAN GENERAL WELFARE BENEFITS.

''(a) IN GENERAL.—Gross income does not include the value of any Indian general welfare benefit.

''(b) INDIAN GENERAL WELFARE BENEFIT.—For purposes of this section, the term 'Indian general welfare benefit' includes any payment made or services provided to or on behalf of a member of an Indian tribe (or any spouse or dependent of such a member) pursuant to an Indian tribal government program, but only if—

''(1) the program is administered under specified guidelines and does not discriminate in favor of members of the governing body of the tribe, and

''(2) the benefits provided under such program—

''(A) are available to any tribal member who meets such guidelines,

''(B) are for the promotion of general welfare,

''(C) are not lavish or extravagant, and

''(D) are not compensation for services.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) INDIAN TRIBAL GOVERNMENT.—For purposes of this section, the term 'Indian tribal government' includes any agencies or instrumentalities of an Indian tribal government and any Alaska Native regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(2) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B).

''(3) LAVISH OR EXTRAVAGANT.—The Secretary shall, in consultation with the Tribal Advisory Committee (as established under section 3(a) of the Tribal General Welfare Exclusion Act of 2013), establish guidelines for what constitutes lavish or extravagant benefits with respect to Indian tribal government programs.

''(4) ESTABLISHMENT OF TRIBAL GOVERNMENT PROGRAM.—A program shall not fail to be treated as an Indian tribal government program solely by reason of the program being established by tribal custom or government practice.

''(5) CEREMONIAL ACTIVITIES.—Any items of cultural significance, reimbursement of costs, or cash honorarium for participation in cultural or ceremonial activities for the transmission of tribal culture shall not be treated as compensation for services.''.

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting before the item relating to section 140 the following new item:

''Sec. 139E. Indian general welfare benefits.''.

(c) STATUTORY CONSTRUCTION.—Ambiguities in section 139E of the Internal Revenue Code of 1986, as added by this section, shall be resolved in favor of Indian tribal governments and deference shall be given to Indian tribal governments for the programs administered and authorized by the tribe to benefit the general welfare of the tribal community.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years for which the period of limitation on refund or credit under section 6511 of the Internal Revenue Code of 1986 has not expired.

(2) ONE-YEAR WAIVER OF STATUTE OF LIMITATIONS.—If the period of limitation on a credit or refund resulting from the amendments made by subsection (a) expires before the end of the 1-year period beginning on the date of the enactment of this Act, refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. __03. TRIBAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish a Tribal Advisory Committee (hereinafter in this subsection referred to as the ''Committee'').

(b) DUTIES.—

(1) IMPLEMENTATION.—The Committee shall advise the Secretary on matters relating to the taxation of Indians.

(2) EDUCATION AND TRAINING.—The Secretary shall, in consultation with the Committee, establish and require—

(A) training and education for internal revenue field agents who administer and enforce internal revenue laws with respect to Indian tribes on Federal Indian law and the Federal Government's unique legal treaty and trust relationship with Indian tribal governments, and

(B) training of such internal revenue field agents, and provision of training and technical assistance to tribal financial officers, about implementation of this Act and the amendments made thereby.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall be composed of 7 members appointed as follows:

(A) Three members appointed by the Secretary of the Treasury.

(B) One member appointed by the Chairman, and one member appointed by the Ranking Member, of the Committee on Ways and Means of the House of Representatives.

(C) One member appointed by the Chairman, and one member appointed by the Ranking Member, of the Committee on Finance of the Senate.

(2) TERM.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each member's term shall be 4 years.

(B) INITIAL STAGGERING.—The first appointments made by the Secretary under paragraph (1)(A) shall be for a term of 2 years.

SEC. 4. OTHER RELIEF FOR INDIAN TRIBES.

(a) TEMPORARY SUSPENSION OF EXAMINATIONS.—The Secretary of the Treasury shall suspend all audits and examinations of Indian tribal governments and members of Indian tribes (or any spouse or dependent of such a member), to the extent such an audit or examination relates to the exclusion of a payment or benefit from an Indian tribal government under the general welfare exclusion, until the education and training prescribed by this Act is completed. The running of any period of limitations under section 6501 of the Internal Revenue Code of 1986 with respect to Indian tribal governments and members of Indian tribes shall be suspended during the period during which audits and examinations are suspended under the preceding sentence.

(b) WAIVER OF PENALTIES AND INTEREST.—The Secretary of the Treasury may waive any interest and penalties imposed under such Code on any Indian tribal government or member of an Indian tribe (or any spouse or dependent of such a member) to the extent such interest and penalties relate to excluding a payment or benefit from gross income under the general welfare exclusion.

(c) DEFINITIONS.—For purposes of this subsection—

(1) INDIAN TRIBAL GOVERNMENT.—The term ''Indian tribal government'' shall have the meaning given such term by section 139E of the Internal Revenue Code of 1986, as added by this Act.

(2) INDIAN TRIBE.—The term ''Indian tribe'' shall have the meaning given such term by section 45A(c)(6) of such Code.

SA 3144. Mr. BARRASSO (for himself, Mr. HATCH, Mr. ROBERTS, Mr. ENZI, Mr. ISAKSON, Mr. MCCONNELL, Ms. AYOTTE, Ms. COLLINS, Mr. ALEXANDER, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. _____. PROTECTING PATIENTS FROM HIGHER PREMIUMS.

(a) IN GENERAL.—Subsection (a)(1) of section 9010 of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by section 10905 of such Act and by section 1406 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), is amended by striking ''2013'' and inserting ''2015''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (j) of section 9010 of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by section 10905 of such Act and by section 1406 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), is amended by striking ''2013'' and inserting ''2015''.

(2) Subsection (e) of section 9010 of the Patient Protection and Affordable Care Act

(Public Law 111-148), as amended by section 10905 of such Act and by section 1406 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), is amended—

(A) in paragraph (1)—

(i) by striking ''2019'' in the heading and inserting ''2021'',

(ii) by striking ''2019'' and inserting ''2021'',

(iii) by striking ''2018'' in the last line of the table and inserting ''2020'',

(iv) by striking ''2017'' in the 4th line of the table and inserting ''2019'',

(v) by striking ''2016'' in the 3rd line of the table and inserting ''2018'',

(vi) by striking ''2015'' in the 2nd line of the table and inserting ''2017'', and

(vii) by striking ''2014'' in the 1st line of the table and inserting ''2016'', and

(B) in paragraph (2)—

(i) by striking ''2018'' in the heading and inserting ''2020'', and

(ii) by striking ''2018'' and inserting ''2020''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 9010 of the Patient Protection and Affordable Care Act.

SA 3145. Mr. FLAKE (for himself, Mr. ALEXANDER, Mr. MCCAIN, Mr. LEE, Mr. MCCONNELL, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 52, between lines 19 and 20, insert the following:

(c) MODIFICATION OF DEFINITION OF QUALIFIED FACILITIES.—

(1) IN GENERAL.—The following provisions of section 45(d), as amended by subsection (a), are each amended by striking ''and the construction of which begins before'' each place it appears and inserting ''and before'':

(A) Paragraph (1).

(B) Paragraph (2)(A)(i).

(C) Paragraph (3)(A)(i)(I).

(D) Paragraph (6).

(E) Paragraph (7).

(F) Paragraph (9)(A)(ii).

(G) Paragraph (11)(B).

(2) OPEN-LOOP BIOMASS FACILITIES.—Clause (ii) of section 45(d)(3)(A) is amended by striking ''the construction of which begins before'' and inserting ''is originally placed in service before''.

(3) GEOTHERMAL FACILITIES.—Paragraph (4) of section 45(d), as amended by subsection (a), is amended by striking ''and which—'' and all that follows and inserting ''and before—

''(A) January 1, 2006, in the case of a facility using solar energy, and

''(B) January 1, 2016, in the case of a facility using geothermal energy.''.

SA 3146. Mr. FLAKE (for himself, Mr. ALEXANDER, Mr. TOOMEY, Mr. MCCAIN, Mr. LEE, Mr. MCCONNELL, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 52, strike line 1 and all that follows through line 21.

SA 3147. Mr. CORNYN (for himself, Mr. COATS, Mr. ISAKSON, and Mr. BURR) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—ECONOMIC GROWTH AND JOBS PROTECTION

SEC. __01. SHORT TITLE.

This title may be cited as the ''Economic Growth and Jobs Protection Act of 2010''.

SEC. __02. REPEAL OF UNEARNED INCOME MEDICARE CONTRIBUTION.

(a) IN GENERAL.—Chapter 2A is repealed.

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle A of chapter 1 is amended by striking the item relating to chapter 2A.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2013.

SA 3148. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—TAX TRANSPARENCY

SEC. __01. TAX EFFECT TRANSPARENCY.

(a) IN GENERAL.—Chapter 2 of title 1, United States Code, is amended by inserting after section 102 the following:

''§ 102a. Tax effect transparency

''(a) IN GENERAL.—Each Act of Congress, bill, resolution, conference report thereon, or amendment there to, that modifies Federal tax law shall contain a statement describing the general effect of the modification on Federal tax law.

''(b) FAILURE TO COMPLY.—

''(1) IN GENERAL.—A failure to comply with subsection (a) shall give rise to a point of order in either House of Congress, which may be raised by any Senator during consideration in the Senate or any Member of the House of Representatives during consideration in the House of Representatives.

''(2) NONEXCLUSIVITY.—The availability of a point of order under this section shall not affect the availability of any other point of order.

''(c) DISPOSITION OF POINT OF ORDER IN THE SENATE.—

''(1) IN GENERAL.—Any Senator may raise a point of order that any matter is not in order under subsection (a).

''(2) WAIVER.—

''(A) IN GENERAL.—Any Senator may move to waive a point of order raised under paragraph (1) by an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(B) PROCEDURES.—For a motion to waive a point of order under subparagraph (A) as to a matter—

''(i) a motion to table the point of order shall not be in order;

''(ii) all motions to waive one or more points of order under this section as to the matter shall be debatable for a total of not more than 1 hour, equally divided between the Senator raising the point of order and the Senator moving to waive the point of order or their designees; and

''(iii) a motion to waive the point of order shall not be amendable.

''(d) DISPOSITION OF POINT OF ORDER IN THE HOUSE OF REPRESENTATIVES.—

''(1) IN GENERAL.—If a Member of the House of Representatives makes a point of order under this section, the Chair shall put the question of consideration with respect to the proposition of whether any statement made under subsection (a) was adequate or, in the absence of such a statement, whether a statement is required under subsection (a).

''(2) CONSIDERATION.—For a point of order under this section made in the House of Representatives—

''(A) the question of consideration shall be debatable for 10 minutes, equally divided and controlled by the Member making the point of order and by an opponent, but shall otherwise be decided without intervening motion except one that the House of Representatives adjourn or that the Committee of the Whole rise, as the case may be;

''(B) in selecting the opponent, the Speaker of the House of Representatives should first recognize an opponent from the opposing party; and

''(C) the disposition of the question of consideration with respect to a measure shall be considered also to determine the question of consideration under this section with respect to an amendment made in order as original text.

''(e) RULEMAKING AUTHORITY.—The provisions of this section are enacted by the Congress—

''(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

''(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 1, United States Code, is amended by inserting after the item relating to section 102 the following new item:

''102a. Tax effect transparency.''.

SA 3149. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—ELIMINATING IMPROPER AND ABUSIVE AUDITS

SEC. __01. SHORT TITLE.

This title may be cited as the ''Eliminating Improper and Abusive IRS Audits Act of 2014''.

SEC. __02. CIVIL DAMAGES ALLOWED FOR RECKLESS OR INTENTIONAL DISREGARD OF INTERNAL REVENUE LAWS.

(a) INCREASE IN AMOUNT OF DAMAGES.—Section 7433(b) is amended by striking ''$1,000,000 ($100,000, in the case of negligence)'' and inserting ''$3,000,000 ($300,000, in the case of negligence)''.

(b) EXTENSION OF TIME TO BRING ACTION.—Section 7433(d)(3) is amended by striking ''2 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. __03. MODIFICATIONS RELATING TO CERTAIN OFFENSES BY OFFICERS AND EMPLOYEES IN CONNECTION WITH REVENUE LAWS.

(a) INCREASE IN PENALTY.—Section 7214 is amended—

(1) by striking ''$10,000'' in subsection (a) and inserting ''$25,000'', and

(2) by striking ''$5,000'' in subsection (b) and inserting ''$10,000''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. __04. MODIFICATIONS RELATING TO CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) INCREASE IN AMOUNT OF DAMAGES.—Subparagraph (A) of section 7431(c)(1) is amended by striking ''$1,000'' and inserting ''$10,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to inspections and disclosure occurring on and after the date of the enactment of this Act.

SEC. __05. EXTENSION OF TIME FOR CONTESTING IRS LEVY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 is amended by striking ''9 months'' and inserting ''3 years''.

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 is amended—

(1) in paragraph (1) by striking ''9 months'' and inserting ''3 years'', and

(2) in paragraph (2) by striking ''9-month'' and inserting ''3-year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. __06. INCREASE IN MONETARY PENALTIES FOR CERTAIN UNAUTHORIZED DISCLOSURES OF INFORMATION.

(a) IN GENERAL.—Paragraphs (1), (2), (3), and (4) of section 7213(a) are each amended by striking ''$5,000'' and inserting ''$10,000''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. __07. BAN ON RAISING NEW ISSUES ON APPEAL.

(a) IN GENERAL.—Chapter 77 is amended by adding at the end the following new section:

''SEC. 7529. PROHIBITION ON INTERNAL REVENUE SERVICE RAISING NEW ISSUES IN AN INTERNAL APPEAL.

''(a) IN GENERAL.—In reviewing an appeal of any determination initially made by the Internal Revenue Service, the Internal Revenue Service Office of Appeals may not consider or decide any issue that is not within the scope of the initial determination.

''(b) CERTAIN ISSUES DEEMED OUTSIDE OF SCOPE OF DETERMINATION.—For purposes of subsection (a), the following matters shall be considered to be not within the scope of a determination:

''(1) Any issue that was not raised in a notice of deficiency or an examiner's report which is the subject of the appeal.

''(2) Any deficiency in tax which was not included in the initial determination.

''(3) Any theory or justification for a tax deficiency which was not considered in the initial determination.

''(c) NO INFERENCE WITH RESPECT TO ISSUES RAISED BY TAXPAYERS.—Nothing in this section shall be construed to provide any limitation in addition to any limitations in effect on the date of the enactment of this section on the right of a taxpayer to raise an issue, theory, or justification on an appeal from a determination initially made by the Internal Revenue Service that was not within the scope of the initial determination.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7529. Prohibition on Internal Revenue Service raising new issues in an internal appeal.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to matters filed or pending with the Internal Revenue Service Office of Appeals on or after the date of the enactment of this Act.

SEC. __08. LIMITATION ON ENFORCEMENT OF LIENS AGAINST PRINCIPAL RESIDENCES.

(a) IN GENERAL.—Section 7403(a) is amended—

(1) by striking ''In any case'' and inserting the following:

''(1) IN GENERAL.—In any case'', and

(2) by adding at the end the following new paragraph:

''(2) LIMITATION WITH RESPECT TO PRINCIPAL RESIDENCE.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any property used as the principal residence of the taxpayer (within the meaning of section 121) unless the Secretary of the Treasury makes a written determination that—

''(i) all other property of the taxpayer, if sold, is insufficient to pay the tax or discharge the liability, and

''(ii) such action will not create an economic hardship for the taxpayer.

''(B) DELEGATION.—For purposes of this paragraph, the Secretary of the Treasury may not delegate any responsibilities under subparagraph (A) to any person other than—

''(i) the Commissioner of Internal Revenue, or

''(ii) a district director or assistant district director of the Internal Revenue Service.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions filed after the date of the enactment of this Act.

SEC. __09. ADDITIONAL PROVISIONS RELATING TO MANDATORY TERMINATION FOR MISCONDUCT.

(a) TERMINATION OF UNEMPLOYMENT FOR INAPPROPRIATE REVIEW OF TAX-EXEMPT STATUS.—Section 1203(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (26 U.S.C. 7804 note) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ''; and'', and by adding at the end the following new paragraph:

''(11) in the case of any review of an application for tax-exempt status by an organization described in section 501(c) of the Internal Revenue Code of 1986, developing or using any methodology that applies disproportionate scrutiny to any applicant based on the ideology expressed in the name or purpose of the organization.''.

(b) MANDATORY UNPAID ADMINISTRATIVE LEAVE FOR MISCONDUCT.—Paragraph (1) of Section 1203(c) of the Internal Revenue Service Restructuring and Reform Act of 1998 (26 U.S.C. 7804 note) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, if the Commissioner of Internal Revenue takes a personnel action other than termination for an act or omission described in subsection (b), the Commissioner shall place the employee on unpaid administrative leave for a period of not less than 30 days.''.

(c) LIMITATION ON ALTERNATIVE PUNISHMENT.—Paragraph (1) of section 1203(c) of the Internal Revenue Service Restructuring and Reform Act of 1998 (26 U.S.C. 7804 note) is amended by striking ''The Commissioner'' and inserting ''Except in the case of an act or omission described in subsection (b)(3)(A), the Commissioner''.

SEC. __10. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO SOCIAL WELFARE ORGANIZATIONS.

(a) IN GENERAL.—Section 7428(a)(1) is amended by striking ''or'' at the end of subparagraph (C) and by adding at the end the following new subparagraph:

''(E) with respect to the initial classification or continuing classification of an organization described in section 501(c)(4) which is exempt from tax under section 501(a), or''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pleading filed after the date of the enactment of this Act.

SEC. __11. REVIEW BY THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.

(a) REVIEW.—Subsection (k)(1) of section 8D of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) by redesignating subparagraph (D) as subparagraph (E);

(3) by inserting after subparagraph (C) the following new subparagraph:

''(D) shall—

''(i) review any criteria employed by the Internal Revenue Service to select tax returns (including applications for recognition of tax-exempt status) for examination or audit, assessment or collection of deficiencies, criminal investigation or referral, refunds for amounts paid, or any heightened scrutiny or review in order to determine whether the criteria discriminates against taxpayers on the basis of race, religion, or political ideology; and

''(ii) consult with the Internal Revenue Service on recommended amendments to such criteria in order to eliminate any discrimination identified pursuant to the review described in clause (i); and''; and

(4) in subparagraph (E), as so redesignated, by striking ''and (C)'' and inserting ''(C), and (D)''.

(b) SEMIANNUAL REPORT.—Subsection (g) of such section is amended by adding at the end the following new paragraph:

''(3) Any semiannual report made by the Treasury Inspector General for Tax Administration that is required pursuant to section 5(a) shall include—

''(A) a statement affirming that the Treasury Inspector General for Tax Administration has reviewed the criteria described in subsection (k)(1)(D) and consulted with the Internal Revenue Service regarding such criteria; and

''(B) a description and explanation of any such criteria that was identified as discriminatory by the Treasury Inspector General for Tax Administration.''.

SA 3150. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—SMALL BUSINESS TAXPAYER BILL OF RIGHTS

SEC. __01. SHORT TITLE.

This title may be cited as the ''Small Business Taxpayer Bill of Rights Act of 2014''.

SEC. __02. MODIFICATION OF STANDARDS FOR AWARDING OF COSTS AND CERTAIN FEES.

(a) SMALL BUSINESSES ELIGIBLE WITHOUT REGARD TO NET WORTH.—Subparagraph (D) of section 7430(c)(4) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting ''and'', and by adding at the end the following new clause:

''(iii) in the case of an eligible small business, the net worth limitation in clause (ii) of such section shall not apply.''.

(b) ELIGIBLE SMALL BUSINESS.—Paragraph (4) of section 7430(c) is amended by adding at the end the following new subparagraph:

''(F) ELIGIBLE SMALL BUSINESS.—For purposes of subparagraph (D)(iii), the term 'eligible small business' means, with respect to any proceeding commenced in a taxable year—

''(i) a corporation the stock of which is not publicly traded,

''(ii) a partnership, or

''(iii) a sole proprietorship,

if the average annual gross receipts of such corporation, partnership, or sole proprietorship for the 3-taxable-year period preceding such taxable year does not exceed $50,000,000. For purposes of applying the test under the preceding sentence, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. __03. CIVIL DAMAGES ALLOWED FOR RECKLESS OR INTENTIONAL DISREGARD OF INTERNAL REVENUE LAWS.

(a) INCREASE IN AMOUNT OF DAMAGES.—Section 7433(b) is amended by striking ''$1,000,000 ($100,000, in the case of negligence)'' and inserting ''$3,000,000 ($300,000, in the case of negligence)''.

(b) EXTENSION OF TIME TO BRING ACTION.—Section 7433(d)(3) is amended by striking ''2 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. __04. MODIFICATIONS RELATING TO CERTAIN OFFENSES BY OFFICERS AND EMPLOYEES IN CONNECTION WITH REVENUE LAWS.

(a) INCREASE IN PENALTY.—Section 7214 is amended—

(1) by striking ''$10,000'' in subsection (a) and inserting ''$25,000'', and

(2) by striking ''$5,000'' in subsection (b) and inserting ''$10,000''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. __05. MODIFICATIONS RELATING TO CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) INCREASE IN AMOUNT OF DAMAGES.—Subparagraph (A) of section 7431(c)(1) is amended by striking ''$1,000'' and inserting ''$10,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to inspections and disclosure occurring on and after the date of the enactment of this Act.

SEC. __06. INTEREST ABATEMENT REVIEWS.

(a) FILING PERIOD FOR INTEREST ABATEMENT CASES.—

(1) IN GENERAL.—Subsection (h) of section 6404 is amended—

(A) by striking ''REVIEW OF DENIAL'' in the heading and inserting ''JUDICIAL REVIEW'', and

(B) by striking '''if such action is brought''' and all that follows in paragraph (1) and inserting ''if such action is brought—

''(A) at any time after the earlier of—

''(i) the date of the mailing of the Secretary's final determination not to abate such interest, or

''(ii) the date which is 180 days after the date of the filing with the Secretary (in such form as the Secretary may prescribe) of a claim for abatement under this section, and

''(B) not later than the date which is 180 days after the date described in subparagraph (A)(i).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to claims for abatement of interest filed with the Secretary after the date of the enactment of this Act.

(b) SMALL TAX CASE ELECTION FOR INTEREST ABATEMENT CASES.—

(1) IN GENERAL.—Subsection (f) of section 7463 is amended—

(A) by striking ''and'' at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting '', and'', and

(C) by adding at the end the following new paragraph:

''(3) a petition to the Tax court under section 6404(h) in which the amount of interest abatement sought does not exceed $50,000.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to—

(A) cases pending as of the day after the date of the enactment of this Act, and

(B) cases commenced after such date of enactment.

SEC. __07. BAN ON EX PARTE DISCUSSIONS.

(a) IN GENERAL.—Notwithstanding section 1001(a)(4) of the Internal Revenue Service Restructuring and Reform Act of 1998, the Internal Revenue Service shall prohibit any ex parte communications between officers in the Internal Revenue Service Office of Appeals and other Internal Revenue Service employees with respect to any matter pending before such officers.

(b) TERMINATION OF EMPLOYMENT FOR MISCONDUCT.—Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission prohibited under subsection (a) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

(c) DETERMINATION OF COMMISSIONER.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may take a personnel action other than termination for an act prohibited under subsection (a).

(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

(3) NO APPEAL.—Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

(d) TIGTA REPORTING OF TERMINATION OR MITIGATION.—Section 7803(d)(1)(E) of the Internal Revenue Code of 1986 is amended by inserting ''or section 7 of the Small Business Taxpayer Bill of Rights Act of 2014'' after ''1998''.

SEC. __08. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) IN GENERAL.—Section 7123 is amended by adding at the end the following new subsection:

''(c) AVAILABILITY OF DISPUTE RESOLUTIONS.—

''(1) IN GENERAL.—The procedures prescribed under subsection (b)(1) and the pilot program established under subsection (b)(2) shall provide that a taxpayer may request mediation or arbitration in any case unless the Secretary has specifically excluded the type of issue involved in such case or the class of cases to which such case belongs as not appropriate for resolution under such subsection. The Secretary shall make any determination that excludes a type of issue or a class of cases public within 5 working days and provide an explanation for each determination.

''(2) INDEPENDENT MEDIATORS.—

''(A) IN GENERAL.—The procedures prescribed under subsection (b)(1) shall provide the taxpayer an opportunity to elect to have the mediation conducted by an independent, neutral individual not employed by the Office of Appeals.

''(B) COST AND SELECTION.—

''(i) IN GENERAL.—Any taxpayer making an election under subparagraph (A) shall be required—

''(I) to share the costs of such independent mediator equally with the Office of Appeals, and

''(II) to limit the selection of the mediator to a roster of recognized national or local neutral mediators.

''(ii) EXCEPTION.—Clause (i)(I) shall not apply to any taxpayer who is an individual or who was a small business in the preceding calendar year if such taxpayer had an adjusted gross income that did not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, in the taxable year preceding the request.

''(iii) SMALL BUSINESS.—For purposes of clause (ii), the term 'small business' has the meaning given such term under section 41(b)(3)(D)(iii).

''(3) AVAILABILITY OF PROCESS.—The procedures prescribed under subsection (b)(1) and

the pilot program established under subsection (b)(2) shall provide the opportunity to elect mediation or arbitration at the time when the case is first filed with the Office of Appeals and at any time before deliberations in the appeal commence.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. __09. EXTENSION OF TIME FOR CONTESTING IRS LEVY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 is amended by striking ''9 months'' and inserting ''3 years''.

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 is amended—

(1) in paragraph (1) by striking ''9 months'' and inserting ''3 years'', and

(2) in paragraph (2) by striking ''9-month'' and inserting ''3-year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. __10. WAIVER OF INSTALLMENT AGREEMENT FEE.

(a) IN GENERAL.—Section 6159 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) WAIVER OF INSTALLMENT AGREEMENT FEE.—The Secretary shall waive the fees imposed on installment agreements under this section for any taxpayer with an adjusted gross income that does not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and who has agreed to make payments under the installment agreement by electronic payment through a debit instrument.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. __11. SUSPENSION OF RUNNING OF PERIOD FOR FILING PETITION OF SPOUSAL RELIEF AND COLLECTION CASES.

(a) PETITIONS FOR SPOUSAL RELIEF.—

(1) IN GENERAL.—Subsection (e) of section 6015 is amended by adding at the end the following new paragraph:

''(6) SUSPENSION OF RUNNING OF PERIOD FOR FILING PETITION IN TITLE 11 CASES.—In the case of a person who is prohibited by reason of a case under title 11, United States Code, from filing a petition under paragraph (1)(A) with respect to a final determination of relief under this section, the running of the period prescribed by such paragraph for filing such a petition with respect to such final determination shall be suspended for the period during which the person is so prohibited from filing such a petition, and for 60 days thereafter.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to petitions filed under section 6015(e) of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

(b) COLLECTION PROCEEDINGS.—

(1) IN GENERAL.—Subsection (d) of section 6330 is amended—

(A) by striking ''appeal such determination to the Tax Court'' in paragraph (1) and inserting ''petition the Tax Court for review of such determination'',

(B) by striking ''JUDICIAL REVIEW OF DETERMINATION'' in the heading of paragraph (1) and inserting ''PETITION FOR REVIEW BY TAX COURT'',

(C) by redesignating paragraph (2) as paragraph (3), and

(D) by inserting after paragraph (1) the following new paragraph:

''(2) SUSPENSION OF RUNNING OF PERIOD FOR FILING PETITION IN TITLE 11 CASES.—In the case of a person who is prohibited by reason of a case under title 11, United States Code, from filing a petition under paragraph (1) with respect to a determination under this section, the running of the period prescribed by such subsection for filing such a petition with respect to such determination shall be suspended for the period during which the person is so prohibited from filing such a petition, and for 30 days thereafter.''.

(2) CONFORMING AMENDMENT.—Subsection (c) of section 6320 is amended by striking ''(2)(B)'' and inserting ''(3)(B)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to petitions filed under section 6330 of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

SEC. __12. VENUE FOR APPEAL OF SPOUSAL RELIEF AND COLLECTION CASES.

(a) IN GENERAL.—Paragraph (1) of section 7482(b) is amended—

(1) by striking ''or'' at the end of subparagraph (E),

(2) by striking the period at the end of subparagraph (F) and inserting a comma, and

(3) by inserting after subparagraph (F) the following new subparagraphs:

''(G) in the case of a petition under section 6015(e), the legal residence of the petitioner, or

''(H) in the case of a petition under section 6320 or 6330—

''(i) the legal residence of the petitioner if the petitioner is an individual, and

''(ii) the principal place of business or principal office or agency if the petitioner is an entity other than an individual.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to petitions filed after the date of enactment of this Act.

SEC. __13. INCREASE IN MONETARY PENALTIES FOR CERTAIN UNAUTHORIZED DISCLOSURES OF INFORMATION.

(a) IN GENERAL.—Paragraphs (1), (2), (3), and (4) of section 7213(a) are each amended by striking ''$5,000'' and inserting ''$10,000''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. __14. DE NOVO TAX COURT REVIEW OF CLAIMS FOR EQUITABLE INNOCENT SPOUSE RELIEF.

(a) IN GENERAL.—Subparagraph (A) of section 6015(e)(1) is amended by adding at the end the following new flush sentence:

''Any review of a determination by the Secretary with respect to a claim for equitable relief under subsection (f) shall be reviewed de novo by the Tax Court.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed or pending before the Tax Court on and after the date of the enactment of this Act.

SEC. __15. BAN ON RAISING NEW ISSUES ON APPEAL.

(a) IN GENERAL.—Chapter 77 is amended by adding at the end the following new section:

''SEC. 7529. PROHIBITION ON INTERNAL REVENUE SERVICE RAISING NEW ISSUES IN AN INTERNAL APPEAL.

''(a) IN GENERAL.—In reviewing an appeal of any determination initially made by the Internal Revenue Service, the Internal Revenue Service Office of Appeals may not consider or decide any issue that is not within the scope of the initial determination.

''(b) CERTAIN ISSUES DEEMED OUTSIDE OF SCOPE OF DETERMINATION.—For purposes of subsection (a), the following matters shall be considered to be not within the scope of a determination:

''(1) Any issue that was not raised in a notice of deficiency or an examiner's report which is the subject of the appeal.

''(2) Any deficiency in tax which was not included in the initial determination.

''(3) Any theory or justification for a tax deficiency which was not considered in the initial determination.

''(c) NO INFERENCE WITH RESPECT TO ISSUES RAISED BY TAXPAYERS.—Nothing in this section shall be construed to provide any limitation in addition to any limitations in effect on the date of the enactment of this section on the right of a taxpayer to raise an issue, theory, or justification on an appeal from a determination initially made by the Internal Revenue Service that was not within the scope of the initial determination.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7529. Prohibition on Internal Revenue Service raising new issues in an internal appeal.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to matters filed or pending with the Internal Revenue Service Office of Appeals on or after the date of the enactment of this Act.

SA 3151. Mr. GRAHAM (for himself and Mr. SCOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—OTHER PROVISIONS

SEC. __01. ALLOCATION OF CREDIT FOR PRODUCTION OF ADVANCED NUCLEAR POWER FACILITIES TO PRIVATE PARTNERS OF TAX-EXEMPT ENTITIES.

(a) IN GENERAL.—Section 45J is amended—

(1) by redesignating subsection (e) as subsection (f), and

(2) by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULE FOR PUBLIC-PRIVATE PARTNERSHIPS.—

''(1) IN GENERAL.—In the case of an advanced nuclear power facility which is owned by a public private partnership or co-owned by a qualified public entity and a non-public entity, any qualified public entity which is a member of such partnership or a co-owner of such facility may transfer such entity's allocation of the credit under subsection (a), or any portion thereof, to any non-public entity which is a member of such partnership or which is a co-owner of such facility, except that the aggregate allocations of such credit claimed by such non-public entity shall be subject to the limitations under subsections (b) and (c) and section 38.

''(2) QUALIFIED PUBLIC ENTITY.—For purposes of this subsection, the term 'qualified public entity' means—

''(A) a Federal, State, or local government entity, or any political subdivision, agency, or instrumentality thereof,

''(B) a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2), or

''(C) a not-for-profit electric utility which has or had received a loan or loan guarantee under the Rural Electrification Act of 1936.

''(3) VERIFICATION OF TRANSFER OF ALLOCATION.—A qualified public entity that makes a transfer under paragraph (1), and a nonpublic entity that receives an allocation under such a transfer, shall provide verification of such transfer in such manner and at such time as the Secretary shall prescribe.

''(4) TREATMENT OF TRANSFER UNDER PRIVATE USE RULES.—For purposes of section 141(b)(1), any benefit derived by a non-public entity in connection with a transfer under paragraph (1) shall not be taken into account as a private business use.''.

(b) COORDINATION WITH GENERAL BUSINESS CREDIT.—Subsection (c) of section 38 is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULE FOR CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.—

''(A) IN GENERAL.—In the case of the credit for production from advanced nuclear power facilities determined under section 45J(a), paragraph (1) shall not apply with respect to any qualified public entity (as defined in section 45J(e)(2)) which transfers the entity's allocation of such credit to a non-public partner or a co-owner of such facility as provided in section 45J(e)(1).

''(B) VERIFICATION OF TRANSFER.—Subparagraph (A) shall not apply to any qualified public entity unless such entity provides verification of a transfer of credit allocation as required under section 45J(e)(3).''.

(c) SPECIAL RULE FOR PROCEEDS OF TRANSFERS FOR MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—Section 501(c)(12) is amended by adding at the end the following new subparagraph:

''(I) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2), income received or accrued from a transfer described in section 45J(e)(1) shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3152. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DISCLOSURE OF PUBLIC COMPANIES RECEIVING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Notwithstanding section 6103 of the Internal Revenue Code of 1986 or any other provision of law, the Secretary of the Treasury, or the Secretary's delegate, shall provide to administrator of the website established under the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note), for purposes of inclusion on such website, the information described in subsection (b) with respect to any corporation—

(1) the stock of which is publicly traded on an established securities market, and

(2) which is allowed an applicable tax benefit.

(b) INFORMATION INCLUDED.—The information described in this subsection is—

(1) the name of the corporation,

(2) the type of applicable tax benefit, and

(3) the amount of the applicable tax benefit.

(c) APPLICABLE TAX BENEFIT.—For purposes of this section, the term ''applicable tax benefit'' means, with respect to any taxpayer for any taxable year beginning after December 31, 2013, any credit, deduction, or other benefit allowed to the taxpayer by reason of an amendment made by—

(1) part II or part III of subtitle A of title I of this Act,

(2) subtitle B of title I of this Act, or

(3) section 107(b) of this Act.

SA 3153. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike section 115.

SA 3154. Mr. LEE submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Beginning on page 47, strike line 10 and all that follows through page 50, line 9.

Beginning on page 50, strike line 19 and all that follows through page 55, line 17.

On page 56, strike line 6 and all that follows through line 14.

On page 58, strike line 3 and all that follows through line 11 and insert the following: case of any alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for periods after December 31, 2013, and before the date of the enactment of this Act,

Beginning on page 59, strike line 7 and all that follows through page 60, line 2.

At the appropriate place, insert the following:

TITLE VI—ENERGY FREEDOM AND ECONOMIC PROSPERITY ACT OF 2014

Subtitle A—Short Title; etc.

SEC. __01. SHORT TITLE.

This title may be cited as the ''Energy Freedom and Economic Prosperity Act of 2014''.

Subtitle B—Repeal of Energy Tax Subsidies

SEC. __11. EARLY TERMINATION OF CREDIT FOR QUALIFIED FUEL CELL MOTOR VEHICLES.

(a) IN GENERAL.—Section 30B is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 24(b)(3) is amended by striking '', 30B''.

(2) Paragraph (2) of section 25B(g) is amended by striking '', 30B,''.

(3) Subsection (b) of section 38 is amended by striking paragraph (25).

(4) Subsection (a) of section 1016 is amended by striking paragraph (35) and by redesignating paragraphs (36) and (37) as paragraphs (35) and (36), respectively.

(5) Subsection (m) of section 6501 is amended by striking '', 30B(h)(9)''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 30B.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014.

SEC. __12. EARLY TERMINATION OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) IN GENERAL.—Section 30D is repealed.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to vehicles placed in service after the date of the enactment of this Act.

SEC. __13. REPEAL OF CREDIT FOR ALCOHOL USED AS FUEL.

(a) IN GENERAL.—Section 40, as amended by this Act, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking paragraph (3).

(2) Subsection (c) of section 196 is amended by striking paragraph (3) and by redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively.

(3) Paragraph (1) of section 4101(a) is amended by striking '', and every person producing cellulosic biofuel (as defined in section 40(b)(6)(E))''.

(4) Paragraph (1) of section 4104(a) is amended by striking '', 40''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after the date of the enactment of this Act.

SEC. __14. REPEAL OF ENHANCED OIL RECOVERY CREDIT.

(a) IN GENERAL.—Section 43 is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking paragraph (6).

(2) Paragraph (4) of section 45Q(d) is amended by inserting ''(as in effect on the day before the date of the enactment of the Energy Freedom and Economic Prosperity Act of 2014)'' after ''section 43(c)(2)''.

(3) Subsection (c) of section 196, as amended by sections 105 and 106 of this Act, is amended by striking paragraph (5) and by redesignating paragraphs (6) through (12) as paragraphs (5) through (11), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 43.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred after December 31, 2014.

SEC. __15. REPEAL OF CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Section 45I is repealed.

(b) CONFORMING AMENDMENT.—Subsection (b) of section 38 is amended by striking paragraph (19).

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 45I.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2014.

SEC. __16. TERMINATION OF CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

(a) IN GENERAL.—Subparagraph (B) of section 45J(d)(1) is amended by striking ''January 1, 2021'' and inserting ''January 1, 2015''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014.

SEC. __17. REPEAL OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION.

(a) IN GENERAL.—Section 45Q is repealed.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to carbon dioxide captured after December 31, 2014.

SEC. __18. TERMINATION OF ENERGY CREDIT.

(a) IN GENERAL.—Section 48 is amended by adding at the end the following new subsection:

''(e) TERMINATION.—No credit shall be allowed under subsection (a) for any period after December 31, 2014.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014.

SEC. __19. REPEAL OF QUALIFYING ADVANCED COAL PROJECT.

(a) IN GENERAL.—Section 48A is repealed.

(b) CONFORMING AMENDMENT.—Section 46 is amended by striking paragraph (3) and by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 48A.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014.

SEC. __20. REPEAL OF QUALIFYING GASIFICATION PROJECT CREDIT.

(a) IN GENERAL.—Section 48B is repealed.

(b) CONFORMING AMENDMENT.—Section 46, as amended by this Act, is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 48B.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014.

SEC. __21. REPEAL OF QUALIFYING ADVANCED ENERGY PROJECT CREDIT.

(a) IN GENERAL.—Section 48C is repealed.

(b) CONFORMING AMENDMENT.—Section 46, as amended by this Act, is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 48C.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2014.

Subtitle C—Reduction of Corporate Income Tax Rate

SEC. __31. CORPORATE INCOME TAX RATE REDUCED.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe, in lieu of the rates of tax under paragraphs (1) and (2) of section 11(b), section 1201(a), and paragraphs (1), (2), and (6) of section 1445(e) of the Internal Revenue Code of 1986, such rates of tax as the Secretary estimates would result in—

(1) a decrease in revenue to the Treasury for taxable years beginning during the 10-year period beginning on the date of the enactment of this Act, equal to

(2) the increase in revenue for such taxable years by reason of the amendments made by title I of this Act.

(b) MAINTENANCE OF GRADUATED RATES.—In prescribing the tax rates under subsection (a), the Secretary shall ensure that each rate modified under such subsection is reduced by a uniform percentage.

(c) EFFECTIVE DATE.—The rates prescribed by the Secretary under subsection (a) shall apply to taxable years beginning more than 1 year after the date of the enactment of this Act.

SA 3155. Mr. MCCAIN (for himself, Mr. COBURN, and Mr. LEE) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike section 129.

SA 3156. Mr. MCCAIN (for himself, Mr. COBURN, and Mr. LEE) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike section 123.

SA 3157. Mr. MCCAIN (for himself, Mr. COBURN, and Mr. LEE) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike section 121.

SA 3158. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—FOREIGN EARNINGS REINVESTMENT

SEC. __01. SHORT TITLE.

This title may be cited as the ''Foreign Earnings Reinvestment Act''.

SEC. __02. ALLOWANCE OF TEMPORARY DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS RECEIVED FROM A CONTROLLED FOREIGN CORPORATION.

(a) APPLICABILITY OF PROVISION.—

(1) IN GENERAL.—Subsection (f) of section 965 is amended to read as follows:

''(f) ELECTION; ELECTION YEAR.—

''(1) IN GENERAL.—The taxpayer may elect to apply this section to—

''(A) the taxpayer's last taxable year which begins before the date of the enactment of the Foreign Earnings Reinvestment Act, or

''(B) the taxpayer's first taxable year which begins during the 1-year period beginning on such date.

Such election may be made for a taxable year only if made on or before the due date (including extensions) for filing the return of tax for such taxable year.

''(C) ELECTION YEAR.—For purposes of this section, the term 'election year' means the taxable year—

''(i) which begins after the date that is one year before the date of the enactment of the Foreign Earnings Reinvestment Act, and

''(ii) to which the taxpayer elects under paragraph (1) to apply this section.''.

(2) CONFORMING AMENDMENTS.—

(A) EXTRAORDINARY DIVIDENDS.—Section 965(b)(2) is amended—

(i) by striking ''June 30, 2003'' and inserting ''April 30, 2014'', and

(ii) by adding at the end the following new sentence: ''The amounts described in clauses (i), (ii), and (iii) shall not include any amounts which were taken into account in determining the deduction under subsection (a) for any prior taxable year.''.

(B) DETERMINATIONS RELATING TO RELATED PARTY INDEBTEDNESS.—Section 965(b)(3)(B) is amended by striking ''October 3, 2004'' and inserting ''April 30, 2014''.

(C) DETERMINATIONS RELATING TO BASE PERIOD.—Section 965(c)(2) is amended by striking ''June 30, 2003'' and inserting ''April 30, 2014''.

(b) DEDUCTION INCLUDES CURRENT AND ACCUMULATED FOREIGN EARNINGS.—

(1) IN GENERAL.—Paragraph (1) of section 965(b) is amended to read as follows:

''(1) IN GENERAL.—The amount of dividends taken into account under subsection (a) shall not exceed the sum of the current and accumulated earnings and profits described in section 959(c)(3) for the year a deduction is claimed under subsection (a), without diminution by reason of any distributions made during the election year, for all controlled foreign corporations of the United States shareholder.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 965(c), as amended by subsection (a), is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5), as paragraphs (1), (2), (3), and (4), respectively.

(B) Paragraph (4) of section 965(c), as redesignated by subparagraph (A), is amended to read as follows:

''(4) CONTROLLED GROUPS.—All United States shareholders which are members of an affiliated group filing a consolidated return under section 1501 shall be treated as one United States shareholder.''.

(c) AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (1) of section 965(a) is amended by striking ''85 percent'' and inserting ''75 percent''.

(2) BONUS DEDUCTION IN SUBSEQUENT TAXABLE YEAR FOR INCREASING JOBS.—Section 965 is amended by adding at the end the following new subsection:

''(g) BONUS DEDUCTION.—

''(1) IN GENERAL.—In the case of any taxpayer who makes an election to apply this section, there shall be allowed as a deduction for the first taxable year following the election year an amount equal to the applicable percentage of the cash dividends which are taken into account under subsection (a) with respect to such taxpayer for the election year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is the amount which bears the same ratio (not greater than 1) to 10 percent as—

''(A) the excess (if any) of—

''(i) the qualified payroll of the taxpayer for the calendar year which begins with or within the first taxable year following the election year, over

''(ii) the qualified payroll of the taxpayer for calendar year 2013, bears to

''(B) 10 percent of the qualified payroll of the taxpayer for calendar year 2013.

''(3) QUALIFIED PAYROLL.—For purposes of this paragraph:

''(A) IN GENERAL.—The term 'qualified payroll' means, with respect to a taxpayer for any calendar year, the aggregate wages (as defined in section 3121(a)) paid by the corporation during such calendar year.

''(B) EXCEPTION FOR CHANGES IN OWNERSHIP OF TRADES OR BUSINESSES.—

''(i) ACQUISITIONS.—If, after December 31, 2012, and before the close of the first taxable year following the election year, a taxpayer acquires the trade or business of a predecessor, then the qualified payroll of such taxpayer for any calendar year shall be increased by so much of the qualified payroll of the predecessor for such calendar year as was attributable to the trade or business acquired by the taxpayer.

''(ii) DISPOSITIONS.—If, after December 31, 2012, and before the close of the first taxable year following the election year, a taxpayer disposes of a trade or business, then—

''(I) the qualified payroll of such taxpayer for calendar year 2013 shall be decreased by the amount of wages for such calendar year as were attributable to the trade or business which was disposed of by the taxpayer, and

''(II) if the disposition occurs after the beginning of the first taxable year following the election year, the qualified payroll of such taxpayer for the calendar year which begins with or within such taxable year shall be decreased by the amount of wages for such calendar year as were attributable to the trade or business which was disposed of by the taxpayer.

''(C) SPECIAL RULE.—For purposes of determining qualified payroll for any calendar year after calendar year 2014, such term shall not include wages paid to any individual if such individual received compensation from the taxpayer for services performed—

''(i) after the date of the enactment of this paragraph, and

''(ii) at a time when such individual was not an employee of the taxpayer.''.

(3) REDUCTION FOR FAILURE TO MAINTAIN EMPLOYMENT LEVELS.—Paragraph (4) of section 965(b) is amended to read as follows:

''(4) REDUCTION IN BENEFITS FOR FAILURE TO MAINTAIN EMPLOYMENT LEVELS.—

''(A) IN GENERAL.—If, during the period consisting of the calendar month in which the taxpayer first receives a distribution described in subsection (a)(1) and the succeeding 23 calendar months, the taxpayer does not maintain an average employment level at least equal to the taxpayer's prior average employment, an additional amount equal to $75,000 multiplied by the number of employees by which the taxpayer's average employment level during such period falls below the prior average employment (but not exceeding the aggregate amount allowed as a deduction pursuant to subsection (a)(1)) shall be taken into income by the taxpayer during the taxable year that includes the final day of such period.

''(B) AVERAGE EMPLOYMENT LEVEL.—For purposes of this paragraph, the taxpayer's average employment level for a period shall be the average number of full-time United States employees of the taxpayer, measured at the end of each month during the period.

''(C) PRIOR AVERAGE EMPLOYMENT.—For purposes of this paragraph, the taxpayer's 'prior average employment' shall be the average number of full-time United States employees of the taxpayer during the period consisting of the 24 calendar months immediately preceding the calendar month in which the taxpayer first receives a distribution described in subsection (a)(1).

''(D) FULL-TIME UNITED STATES EMPLOYEE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'full-time United States employee' means an individual who provides services in the United States as a full-time employee, based on the employer's standards and practices; except that regardless of the employer's classification of the employee, an employee whose normal schedule is 40 hours or more per week is considered a full-time employee.

''(ii) EXCEPTION FOR CHANGES IN OWNERSHIP OF TRADES OR BUSINESSES.—Such term does not include—

''(I) any individual who was an employee, on the date of acquisition, of any trade or business acquired by the taxpayer during the 24-month period referred to in subparagraph (A), and

''(II) any individual who was an employee of any trade or business disposed of by the taxpayer during the 24-month period referred to in subparagraph (A) or the 24-month period referred to in subparagraph (C).

''(E) AGGREGATION RULES.—In determining the taxpayer's average employment level and prior average employment, all domestic members of a controlled group shall be treated as a single taxpayer.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SA 3159. Mr. PORTMAN submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—OTHER PROVISIONS

SEC. __01. MACROECONOMIC IMPACT ANALYSES FOR MAJOR REVENUE LEGISLATION.

(a) IN GENERAL.—Part A of title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

''MACROECONOMIC IMPACT ANALYSIS OF MAJOR REVENUE LEGISLATION

''SEC. 407. (a) JOINT COMMITTEE ON TAXATION.—The Joint Committee on Taxation shall, to the extent practicable, prepare for each major revenue bill or resolution which is—

''(1) reported by the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate; or

''(2) considered on the floor of the House of Representatives or the Senate,

as a supplement to estimates prepared under section 402, a macroeconomic impact analysis of the budgetary effects of such bill or resolution for the 10 fiscal-year period beginning with the first fiscal year for which an estimate was prepared under section 402 and each of the next three 10 fiscal-year periods. To the extent practicable, the Joint Committee on Taxation's macroeconomic impact analysis shall be included in full as part of the Congressional Budget Office report accompanying such bill or resolution under section 402. If a macroeconomic impact analysis is not included as part of the Congressional Budget Office report relating to a major revenue bill or resolution, the Chairman of the Committee reporting the bill or resolution shall cause the analysis to be entered into the Congressional Record of the Senate and House of Representatives.

''(b) DEFINITIONS.—As used in this section:

''(1) MACROECONOMIC IMPACT ANALYSIS.—The term 'macroeconomic impact analysis' means—

''(A) an estimate of the changes in economic output, employment, interest rates, capital stock, and tax revenues expected to result from the revenue provisions in the proposal to which section 201(f) applies;

''(B) an estimate of revenue feedback expected to result from those revenue provisions; and

''(C) a statement identifying the critical assumptions and the source of data underlying that estimate, to the extent necessary to make the models comprehensible to academic and public policy analysts.

''(2) MAJOR REVENUE BILL OR RESOLUTION.—The term 'major revenue bill or resolution' means a bill, resolution, or conference report for which—

''(A) either—

''(i) the sum of the positive changes in revenues resulting from such measure (not including the impact of any timing shifts for the due date for estimated corporate income tax payments) for any fiscal year in the period for which an estimate is prepared under section 402; or

''(ii) the absolute value of the sum of the negative changes in revenues resulting from such measure (not including the impact of any timing shifts for the due date for estimated corporate income tax payments) for any fiscal year for which such an estimate is prepared,

is greater than

''(B) 0.25 percent of the current projected gross domestic product of the United States (as determined by the Bureau of Economic Analysis of the Department of Commerce) for such fiscal year.

''(3) REVENUE FEEDBACK.—The term 'revenue feedback' means changes in revenue resulting from changes in economic growth as the result of the enactment of any major revenue bill or resolution.''.

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 406 the following new item:

''Sec. 407. Macroeconomic impact analysis of major revenue legislation.''.

SA 3160. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DISCLOSURE OF PUBLIC COMPANIES RECEIVING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Notwithstanding section 6103 of the Internal Revenue Code of 1986 or any other provision of law, the Secretary of the Treasury, or the Secretary's delegate, shall provide to administrator of the website established under the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note), for purposes of inclusion on such website, the information described in subsection (b) with respect to any corporation—

(1) the stock of which is publicly traded on an established securities market, and

(2) which is allowed an applicable tax benefit.

(b) INFORMATION INCLUDED.—The information described in this subsection is—

(1) the name of the corporation,

(2) the type of applicable tax benefit, and

(3) the amount of the applicable tax benefit.

(c) APPLICABLE TAX BENEFIT.—For purposes of this section, the term ''applicable tax benefit'' means, with respect to any taxpayer for any taxable year beginning after December 31, 2013, any credit, deduction, or other benefit allowed to the taxpayer by reason of an amendment made by—

(1) part II or part III of subtitle A of title I of this Act,

(2) subtitle B of title I of this Act, or

(3) section 107(b) of this Act.

SA 3161. Mr. TOOMEY (for himself, Mr. BURR, Mr. CORNYN, Mr. COATS, Ms. AYOTTE, Mr. MCCONNELL, Mr. ROBERTS, Mr. CRAPO, Mr. ALEXANDER, Mr. HATCH, Mr. ISAKSON, Ms. COLLINS, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—OTHER PROVISIONS

SEC. ____. REPEAL OF MEDICAL DEVICE TAX.

(a) IN GENERAL.—Chapter 32 is amended by striking subchapter E.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 4221 is amended by striking the last sentence.

(2) Paragraph (2) of section 6416(b) is amended by striking the last sentence.

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 32 is amended by striking the item related to subchapter E.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

SA 3162. Mr. ENZI (for himself and Mr. BARRASSO) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—TAX RETURN DUE DATE SIMPLIFICATION AND MODERNIZATION

SEC. __01. SHORT TITLE.

This title may be cited as the ''Tax Return Due Date Simplification and Modernization Act of 2013''.

SEC. __02. NEW DUE DATE FOR PARTNERSHIP FORM 1065, S CORPORATION FORM 1120S, AND C CORPORATION FORM 1120.

(a) PARTNERSHIPS.—

(1) IN GENERAL.—Section 6072 is amended by adding at the end the following new subsection:

''(f) RETURNS OF PARTNERSHIPS.—Returns of partnerships under section 6031 made on the basis of the calendar year shall be filed on or before the 15th day of March following the close of the calendar year, and such returns made on the basis of a fiscal year shall be filed on or before the 15th day of the third month following the close of the fiscal year.''.

(2) CONFORMING AMENDMENT.—Section 6072(a) is amended by striking ''6017, or 6031'' and inserting ''or 6017''.

(b) S CORPORATIONS.—

(1) IN GENERAL.—So much of subsection (b) of 6072 as precedes the second sentence thereof is amended to read as follows:

''(b) RETURNS OF CERTAIN CORPORATIONS.—Returns of S corporations under sections 6012 and 6037 made on the basis of the calendar year shall be filed on or before the 31st day of March following the close of the calendar year, and such returns made on the basis of a fiscal year shall be filed on or before the last day of the third month following the close of the fiscal year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1362(b) is amended—

(i) by striking ''15th'' each place it appears and inserting ''last'',

(ii) by striking ''2½'' each place it appears and inserting ''3'', and

(iii) by striking ''2 months and 15 days'' in paragraph (4) and inserting ''3 months''.

(B) Section 1362(d)(1)(C)(i) is amended by striking ''15th'' and inserting ''last''.

(C) Section 1362(d)(1)(C)(ii) is amended by striking ''such 15th day'' and inserting ''the last day of the 3d month thereof''.

(c) CONFORMING AMENDMENTS RELATING TO C CORPORATIONS.—

(1) Section 170(a)(2)(B) is amended by striking ''third month'' and inserting ''4th month''.

(2) Section 563 is amended by striking ''third month'' each place it appears and inserting ''4th month''.

(3) Section 1354(d)(1)(B)(i) is amended by striking ''3d month'' and inserting ''4th month''.

(4) Subsection (a) and (c) of section 6167 are each amended by striking ''third month'' and inserting ''4th month''.

(5) Section 6425(a)(1) is amended by striking ''third month'' and inserting ''4th month''.

(6) Subsections (b)(2)(A), (g)(3), and (h)(1) of section 6655 are each amended by striking ''3rd month'' and inserting ''4th month''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after December 31, 2013.

SEC. __03. MODIFICATION OF DUE DATES BY REGULATION.

In the case of returns for taxable years beginning after December 31, 2013, the Secretary of the Treasury or the Secretary's delegate shall modify appropriate regulations to provide as follows:

(1) The maximum extension for the returns of partnerships filing Form 1065 shall be a 6-month period beginning on the due date for filing the return (without regard to any extensions).

(2) The maximum extension for the returns of trusts and estates filing Form 1041 shall be a 5½-month period beginning on the due date for filing the return (without regard to any extensions).

(3) The maximum extension for the returns of employee benefit plans filing Form 5500 shall be an automatic 3½-month period beginning on the due date for filing the return (without regard to any extensions).

(4) The maximum extension for the Forms 990 (series) returns of organizations exempt from income tax shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

(5) The maximum extension for the returns of organizations exempt from income tax that are required to file Form 4720 returns of excise taxes shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

(6) The maximum extension for the returns of trusts required to file Form 5227 shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

(7) The maximum extension for the returns of Black Lung Benefit Trusts required to file Form 6069 returns of excise taxes shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

(8) The maximum extension for a taxpayer required to file Form 8870 shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

(9) The due date of Form 3520–A, Annual Information Return of a Foreign Trust with a United States Owner, shall be the 15th day of the 4th month after the close of the trust's taxable year, and the maximum extension shall be a 6-month period beginning on such day.

(10) The due date of Form TD F 90–22.1 (relating to Report of Foreign Bank and Financial Accounts) shall be April 15 with a maximum extension for a 6-month period ending on October 15, and with provision for an extension under rules similar to the rules of 26 C.F.R. 1.6081–5. For any taxpayer required to file such form for the first time, the Secretary of the Treasury may waive any penalty for failure to timely request or file an extension.

(11) Taxpayers filing Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts, shall be allowed to extend the time for filing such form separately from the income tax return of the taxpayer, for an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

SEC. __04. CORPORATIONS PERMITTED STATUTORY AUTOMATIC 6-MONTH EXTENSION OF INCOME TAX RETURNS.

(a) IN GENERAL.—Section 6081(b) is amended by striking ''3 months'' and inserting ''6 months''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns for taxable years beginning after December 31, 2013.

SA 3163. Mr. GRASSLEY (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—OTHER PROVISIONS

SEC. __01. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) is amended—

(1) in subparagraph (B) by inserting after ''509(a))'' the following: ''or as a private operating foundation (as defined in section 4942(j)(3))''; and

(2) by amending subparagraph (C) to read as follows:

''(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) which is exempt from tax under section 501(a), or''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after December 31, 2014.

SA 3164. Mr. JOHANNS submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 46, strike line 10 and all that follows through line 18.

SA 3165. Mr. HATCH (for himself, Mr. ALEXANDER, Mr. ENZI, Ms. COLLINS, Mr. COCHRAN, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—REPEAL OF EMPLOYEE MANDATE

SEC. __ PROTECT JOB CREATION.

Sections 1513 and 1514 and subsections (e), (f), and (g) of section 10106 of the Patient Protection and Affordable Act (and the amendments made by such sections and subsections) are repealed and the Internal Revenue Code of 1986 shall be applied and administered as if such provisions and amendments had never been acted.

SA 3166. Mr. HATCH (for himself, Mr. ALEXANDER, Mr. COATS, Mr. THUNE, Ms. AYOTTE, Mr. MCCONNELL, Mr. ENZI, Ms. COLLINS, Mr. COCHRAN, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—ELIMINATION OF INDIVIDUAL MANDATE

SEC. __01. RESTORING INDIVIDUAL LIBERTY.

Sections 1501 and 1502 and subsections (a), (b), (c), and (d) of section 10106 of the Patient Protection and Affordable Care Act (and the amendments made by such sections and subsections) are repealed and the Internal Revenue Code of 1986 shall be applied and administered as if such provisions and amendments had never been enacted.

SA 3167. Mr. TOOMEY (for himself, Mr. CASEY, Mr. CRAPO, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—OTHER PROVISIONS

SEC. __01. CLARIFICATION OF ORPHAN DRUG EXCEPTION TO ANNUAL FEE ON BRANDED PRESCRIPTION PHARMACEUTICAL MANUFACTURERS AND EMPLOYERS.

(a) IN GENERAL.—Paragraph (3) of section 9008(e) of the Patient Protection and Affordable Care Act (Public Law 111-148) is amended to read as follows:

''(3) EXCLUSION OF ORPHAN DRUG SALES.—

''(A) IN GENERAL.—The term 'branded prescription drug sales' shall not include sales of any drug or biological product—

''(i) with respect to which a credit was allowed for any taxable year under section 45C of the Internal Revenue Code of 1986; or

''(ii) which is approved or licensed by the Food and Drug Administration for marketing solely for 1 or more rare diseases or conditions.

''(B) LIMITATION.—Subparagraph (A) shall not apply with respect to any drug or biological product after the date on which the drug or biological product is approved or licensed by the Food and Drug Administration for marketing for any indication other than the treatment of a rare disease or condition.

''(C) RARE DISEASE OR CONDITION.—For purposes of this paragraph, the term 'rare disease or condition' has the meaning given such term under section 45C(d)(1) of the Internal Revenue Code of 1986, except that in the case of any drug or biological product that has not been designated under section 526 of the Federal Food, Drug, and Cosmetic Act for a particular indication, determinations under such section 45C(d)(1) shall be made on the basis of the facts and circumstances as of the date such drug or biological product is approved or licensed by the Food and Drug Administration for marketing for the treatment of such disease or condition.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to branded prescription drug sales after the date of the enactment of this Act.

SA 3168. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

After section 157, insert the following:

SEC. 158. ADDITIONAL TAX CREDITS FOR QUALIFYING SUPERCRITICAL ADVANCED COAL PROJECTS.

(a) 30 PERCENT CREDIT PERCENTAGE.—Paragraph (3) of section 48A(a) is amended by inserting ''or (iv)'' after ''(iii)''.

(b) SUPERCRITICAL ADVANCED COAL-BASED GENERATION TECHNOLOGY PROJECT DEFINED.—Subsection (c) of section 48A is amended by adding at the end the following:

''(8) The term 'supercritical advanced coal-based generation technology project' means a qualifying advanced coal-based generation technology project which includes a coal-fired boiler that—

''(A) in lieu of the requirements under subsection (f)(1)(A)(ii), reaches an electricity generating efficiency of at least 36 percent, and

''(B) operates at a minimum pressure of 3,200 pounds per square inch.''.

(c) APPLICATION PERIOD FOR CERTIFICATION.—Subparagraph (A) of section 48A(d)(2) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end the following:

''(iii) for an allocation from the dollar amount specified in paragraph (3)(B)(iv) during the 3-year period beginning at earlier of the termination of the period described in clause (ii) or the date prescribed by the Secretary.''.

(d) AGGREGATE CREDITS.—

(1) IN GENERAL.—Subparagraph (A) of section 48A(d)(3) is amended by striking ''$2,550,000,000'' and inserting ''$3,800,000,000''.

(2) SUPERCRITICAL ADVANCED COAL-BASED GENERATION TECHNOLOGY PROJECTS.—Subparagraph (B) of section 48A(d)(3)(B) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) $1,250,000,000 for supercritical advanced coal-based generation technology projects the application for which is submitted during the period described in paragraph (2)(A)(iii).''.

(e) CARBON DIOXIDE SEQUESTER.—Subparagraph (G) of section 48A(e)(1) is amended by striking ''subsection (d)(2)(A)(ii)'' and inserting ''clause (ii) or (iii) of subsection (d)(2)(A)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3169. Mr. ENZI (for himself, Mr. DURBIN, Mr. ALEXANDER, Ms. HEITKAMP, Mr. ROCKEFELLER, Mr. KING, Mr. CARDIN, Ms. LANDRIEU, Mr. FRANKEN, Mr. WHITEHOUSE, Mr. REED, Mr. MANCHIN, Mr. JOHNSON of South Dakota, Mr. BLUNT, Mr. UDALL of Colorado, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE __—MARKETPLACE FAIRNESS

SEC. __01. SHORT TITLE.

This title may be cited as the ''Marketplace Fairness Act of 2013''.

SEC. __02. AUTHORIZATION TO REQUIRE COLLECTION OF SALES AND USE TAXES.

(a) STREAMLINED SALES AND USE TAX AGREEMENT.—Each Member State under the Streamlined Sales and Use Tax Agreement is authorized to require all sellers not qualifying for the small seller exception described in subsection (c) to collect and remit sales and use taxes with respect to remote sales sourced to that Member State pursuant to the provisions of the Streamlined Sales and Use Tax Agreement, but only if any changes to the Streamlined Sales and Use Tax Agreement made after the date of the enactment of this Act are not in conflict with the minimum simplification requirements in subsection (b)(2). A State may exercise authority under this title beginning 180 days after the State publishes notice of the State's intent to exercise the authority under this title, but no earlier than the first day of the calendar quarter that is at least 180 days after the date of the enactment of this Act.

(b) ALTERNATIVE.—A State that is not a Member State under the Streamlined Sales and Use Tax Agreement is authorized notwithstanding any other provision of law to require all sellers not qualifying for the small seller exception described in subsection (c) to collect and remit sales and use taxes with respect to remote sales sourced to that State, but only if the State adopts and implements the minimum simplification requirements in paragraph (2). Such authority shall commence beginning no earlier than the first day of the calendar quarter that is at least 6 months after the date that the State—

(1) enacts legislation to exercise the authority granted by this title—

(A) specifying the tax or taxes to which such authority and the minimum simplification requirements in paragraph (2) shall apply; and

(B) specifying the products and services otherwise subject to the tax or taxes identified by the State under subparagraph (A) to which the authority of this title shall not apply; and

(2) implements each of the following minimum simplification requirements:

(A) Provide—

(i) a single entity within the State responsible for all State and local sales and use tax administration, return processing, and audits for remote sales sourced to the State;

(ii) a single audit of a remote seller for all State and local taxing jurisdictions within that State; and

(iii) a single sales and use tax return to be used by remote sellers to be filed with the single entity responsible for tax administration.

A State may not require a remote seller to file sales and use tax returns any more frequently than returns are required for nonremote sellers or impose requirements on remote sellers that the State does not impose on nonremote sellers with respect to the collection of sales and use taxes under this title. No local jurisdiction may require a remote seller to submit a sales and use tax return or to collect sales and use taxes other than as provided by this paragraph.

(B) Provide a uniform sales and use tax base among the State and the local taxing jurisdictions within the State pursuant to paragraph (1).

(C) Source all remote sales in compliance with the sourcing definition set forth in section __04(7).

(D) Provide—

(i) information indicating the taxability of products and services along with any product and service exemptions from sales and use tax in the State and a rates and boundary database;

(ii) software free of charge for remote sellers that calculates sales and use taxes due on each transaction at the time the transaction is completed, that files sales and use tax returns, and that is updated to reflect rate changes as described in subparagraph (H); and

(iii) certification procedures for persons to be approved as certified software providers.

For purposes of clause (iii), the software provided by certified software providers shall be capable of calculating and filing sales and use taxes in all States qualified under this title.

(E) Relieve remote sellers from liability to the State or locality for the incorrect collection, remittance, or noncollection of sales and use taxes, including any penalties or interest, if the liability is the result of an error or omission made by a certified software provider.

(F) Relieve certified software providers from liability to the State or locality for the incorrect collection, remittance, or noncollection of sales and use taxes, including any penalties or interest, if the liability is the result of misleading or inaccurate information provided by a remote seller.

(G) Relieve remote sellers and certified software providers from liability to the State or locality for incorrect collection, remittance, or noncollection of sales and use taxes, including any penalties or interest, if the liability is the result of incorrect information or software provided by the State.

(H) Provide remote sellers and certified software providers with 90 days notice of a rate change by the State or any locality in the State and update the information described in subparagraph (D)(i) accordingly and relieve any remote seller or certified software provider from liability for collecting sales and use taxes at the immediately preceding effective rate during the 90-day notice period if the required notice is not provided.

(c) SMALL SELLER EXCEPTION.—A State is authorized to require a remote seller to collect sales and use taxes under this title only if the remote seller has gross annual receipts in total remote sales in the United States in the preceding calendar year exceeding $1,000,000. For purposes of determining whether the threshold in this section is met, the gross annual receipts from remote sales of 2 or more persons shall be aggregated if—

(1) such persons are related to the remote seller within the meaning of subsections (b) and (c) of section 267 or section 707(b)(1) of the Internal Revenue Code of 1986; or

(2) such persons have 1 or more ownership relationships and such relationships were designed with a principal purpose of avoiding the application of these rules.

SEC. __03. LIMITATIONS.

(a) IN GENERAL.—Nothing in this title shall be construed as—

(1) subjecting a seller or any other person to franchise, income, occupation, or any other type of taxes, other than sales and use taxes;

(2) affecting the application of such taxes; or

(3) enlarging or reducing State authority to impose such taxes.

(b) NO EFFECT ON NEXUS.—This title shall not be construed to create any nexus or alter the standards for determining nexus between a person and a State or locality.

(c) NO EFFECT ON SELLER CHOICE.—Nothing in this title shall be construed to deny the ability of a remote seller to deploy and utilize a certified software provider of the seller's choice.

(d) LICENSING AND REGULATORY REQUIREMENTS.—Nothing in this title shall be construed as permitting or prohibiting a State from—

(1) licensing or regulating any person;

(2) requiring any person to qualify to transact intrastate business;

(3) subjecting any person to State or local taxes not related to the sale of products or services; or

(4) exercising authority over matters of interstate commerce.

(e) NO NEW TAXES.—Nothing in this title shall be construed as encouraging a State to impose sales and use taxes on any products or services not subject to taxation prior to the date of the enactment of this Act.

(f) NO EFFECT ON INTRASTATE SALES.—The provisions of this title shall apply only to remote sales and shall not apply to intrastate sales or intrastate sourcing rules. States granted authority under section __02(a) shall comply with all intrastate provisions of the Streamlined Sales and Use Tax Agreement.

(g) NO EFFECT ON MOBILE TELECOMMUNICATIONS SOURCING ACT.—Nothing in this title shall be construed as altering in any manner or preempting the Mobile Telecommunications Sourcing Act (4 U.S.C. 116–126).

SEC. __04. DEFINITIONS AND SPECIAL RULES.

In this title:

(1) CERTIFIED SOFTWARE PROVIDER.—The term ''certified software provider'' means a person that—

(A) provides software to remote sellers to facilitate State and local sales and use tax compliance pursuant to section __02(b)(2)(D)(ii); and

(B) is certified by a State to so provide such software.

(2) LOCALITY; LOCAL.—The terms ''locality'' and ''local'' refer to any political subdivision of a State.

(3) MEMBER STATE.—The term ''Member State''—

(A) means a Member State as that term is used under the Streamlined Sales and Use Tax Agreement as in effect on the date of the enactment of this Act; and

(B) does not include any associate member under the Streamlined Sales and Use Tax Agreement.

(4) PERSON.—The term ''person'' means an individual, trust, estate, fiduciary, partnership, corporation, limited liability company, or other legal entity, and a State or local government.

(5) REMOTE SALE.—The term ''remote sale'' means a sale into a State, as determined under the sourcing rules under paragraph (7), in which the seller would not legally be required to pay, collect, or remit State or local sales and use taxes unless provided by this title.

(6) REMOTE SELLER.—The term ''remote seller'' means a person that makes remote sales in the State.

(7) SOURCED.—For purposes of a State granted authority under section __02(b), the location to which a remote sale is sourced refers to the location where the product or service sold is received by the purchaser, based on the location indicated by instructions for delivery that the purchaser furnishes to the seller. When no delivery location is specified, the remote sale is sourced to the customer's address that is either known to the seller or, if not known, obtained by the seller during the consummation of the transaction, including the address of the customer's payment instrument if no other address is available. If an address is unknown and a billing address cannot be obtained, the remote sale is sourced to the address of the seller from which the remote sale was made. A State granted authority under section __02(a) shall comply with the

sourcing provisions of the Streamlined Sales and Use Tax Agreement.

(8) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any tribal organization (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)).

(9) STREAMLINED SALES AND USE TAX AGREEMENT.—The term ''Streamlined Sales and Use Tax Agreement'' means the multi-State agreement with that title adopted on November 12, 2002, as in effect on the date of the enactment of this Act and as further amended from time to time.

SEC. _05. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. _06. PREEMPTION.

Except as otherwise provided in this title, this title shall not be construed to preempt or limit any power exercised or to be exercised by a State or local jurisdiction under the law of such State or local jurisdiction or under any other Federal law.

SA 3170. Mr. TOOMEY (for himself, Mr. LEE, and Mr. FLAKE) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Beginning on page 47, strike line 10 and all that follows through page 53, line 3.

Beginning on page 56, strike line 4 and all that follows through page 59, line 4.

Beginning on page 59, strike line 7 and all that follows through page 60, line 2.

SA 3171. Mr. TOOMEY submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 23, strike line 5 and all that follows through line 21 and insert the following:

(a) PERMANENT EXTENSION.—Section 45P is amended by striking subsection (f).

(b) EXPANSION OF CREDIT.—

(1) EXPANSION TO 100 PERCENT OF ELIGIBLE DIFFERENTIAL WAGE PAYMENTS.—Subsection (a) of section 45P is amended by striking ''20 percent of''.

(2) ADJUSTMENT FOR INFLATION.—Subsection (b) of section 45P is amended by adding at the end the following new paragraph:

''(4) ADJUSTMENT FOR INFLATION.—In the case of any taxable year beginning after 2014, the $20,000 amount in paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2013' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount as increased under the preceding sentence is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.''.

(3) APPLICABILITY TO ALL EMPLOYERS.—

(A) IN GENERAL.—Subsection (a) of section 45P, as amended by paragraph (1), is amended by striking ''eligible small business employer'' and inserting ''eligible employer''.

(B) CONFORMING AMENDMENTS.—Paragraph (3) of section 45P(b) is amended—

(i) in subparagraph (A)—

(I) by striking ''eligible small business employer'' and inserting ''eligible employer'', and

(II) by striking ''any employer which'' and all that follows and inserting ''any employer which, under a written plan of the employer, provides eligible differential wage payments to every qualified employee of the employer.'', and

(ii) by striking ''ELIGIBLE SMALL BUSINESS EMPLOYER'' in the heading and inserting ''ELIGIBLE EMPLOYER''.

SA 3172. Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. _01. PROHIBITION ON USE OF WAIVER THREATENING BALD EAGLES.

(a) IN GENERAL.—Subsection (e) of section 45 is amended by adding at the end the following new paragraph:

''(12) PROTECTION OF BALD EAGLES.—

''(A) IN GENERAL.—Sales shall be taken into account under this section only with respect to electricity produced by a taxpayer who does not have in effect a waiver granted by the Federal government or any agency or instrumentality thereof from any Federal law or provision thereof protecting the life, well-being, or habitat of the bald eagle.

''(B) RECAPTURE OF BENEFIT.—In the case of any taxpayer—

''(i) who has in effect a waiver described in subparagraph (A) as of the date of the enactment of this paragraph, and

''(ii) who has claimed the credit under section 38 by reason of this section for any preceding taxable year,

the tax imposed under subtitle A on the taxpayer for the taxable year that includes such date of enactment shall be increased by so much of such credit as was allowed under section 38, and the general business carryforwards under section 39 shall be adjusted so as to recapture the portion of such credit which is equal to such amount.

''(C) RENUNCIATION OF WAIVER.—Any taxpayer to whom subparagraph (B) would otherwise apply (but for the second sentence of this subparagraph) may elect to renounce in writing the waiver described in subparagraph (A). If such renunciation is made to the Secretary and to the appropriate Federal officer of the agency that issued such waiver not later than 12 months after the date of the enactment of this paragraph, such taxpayer shall be exempt from the increase in tax under subparagraph (B).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to electricity produced and sold after the date of the enactment of this Act.

SA 3173. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. _01. REPEAL OF DISTRIBUTIONS FOR MEDICINE QUALIFIED ONLY IF FOR PRESCRIBED DRUG OR INSULIN.

Section 9003 of the Patient Protection and Affordable Care Act (Public Law 111–148) and the amendments made by such section are repealed, and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.

SA 3174. Mr. TOOMEY (for himself, Mr. BURR, Mr. CORNYN, Mr. CRAPO, Mr. COATS, Ms. AYOTTE, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ROBERTS, Mr. ISAKSON, Ms. COLLINS, Mr. ENZI, and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. _____. REPEAL OF MEDICAL DEVICE TAX.

(a) IN GENERAL.—Chapter 32 is amended by striking subchapter E.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 4221 is amended by striking the last sentence.

(2) Paragraph (2) of section 6416(b) is amended by striking the last sentence.

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 32 is amended by striking the item related to subchapter E.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

SA 3175. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page __, between lines __ and __, insert the following:

(c) SPECIAL RULE FOR CERTAIN FACILITIES.—Section 45(e) is amended by adding at the end the following new paragraph:

''(12) SPECIAL RULE FOR CERTAIN QUALIFIED FACILITIES.—

''(A) IN GENERAL.—In the case of a qualified facility described in paragraph (3) or (7) of subsection (d) and placed in service before the date of the enactment of this paragraph, subsection (a)(2)(A)(ii) shall be applied by substituting 'the period beginning after December 31, 2013, and ending before January 1, 2016' for 'the 10-year period beginning on the date the facility was originally placed in service'.

''(B) LIMITATION.—No credit shall be allowed under subsection (a) by reason of subparagraph (A) with respect to electricity produced and sold at a facility during any period which, when aggregated with all other periods for which a credit is allowed under this section with respect to electricity produced and sold at such facility, is in excess of 10 years.''.

SA 3176. Mr. KIRK submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SHIFT IN THE COLLECTION OF THE PAYMENT FOR THE TRANSITIONAL REINSURANCE PROGRAM.

(a) IN GENERAL.—Section 1341(b) of the Patient Protection and Affordable Care Act (42 U.S.C. 18061(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by inserting ''beginning on January 1, 2018,'' after ''required to make payments''; and

(ii) by striking ''any plan year beginning in the 3-year period'' and all that follows through the end and inserting ''payments made under subparagraph (C) (as specified in paragraph (3));''

(B) in subparagraph (B), by striking ''and uses'' and all that follows through the period and inserting ''; and' '' and

(C) by adding at the end the following:

''(C) the applicable reinsurance entity makes reinsurance payments to health insurance issuers described in subparagraph (A) that cover high risk individuals in the individual market (excluding grandfathered health plans) for any plan year beginning in the 3-year period beginning January 1, 2014, in an aggregate amount of up to the total of the aggregate contribution amounts described in paragraph (3)(B)(iv), subject to paragraph (4).'';

(2) in paragraph (2), by striking ''paragraph (1)(B)'' and inserting ''paragraph (1)(C)'';

(3) in paragraph (3)—

(A) in subparagraph (A), by striking ''2014'' and inserting ''2018''; and

(B) in subparagraph (B)—

(i) in clause (ii), by striking ''administrative'' and inserting ''operational'';

(ii) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(iii) by inserting after clause (ii), the following:

''(iii) the aggregate contribution amount for all States shall be based on the total amount of reinsurance payments made under paragraph (1)(C);'';

(iv) by striking clause (iv), as so redesignated, and inserting the following:

''(iv) the aggregate contribution amount collected under clause (iii) shall, without regard to amounts described in clause (ii), be limited to $10,000,000,000 based on the plan years beginning in 2014, $6,000,000,000 based on the plan years beginning in 2015, and $4,000,000,000 based on the plan years beginning in 2016;'';

(v) in clause (v), as so redesignated, by striking ''clause (iii)'' each place that such term appears and inserting ''clause (iv)'';

(vi) by inserting after clause (v), the following:

''(vi) in addition to the contribution amounts under clauses (iii), (iv), and (v), each issuer's contribution amount—

''(I) shall reflect its proportionate share of an additional $20,300,000 for operational expenses for reinsurance payments for calendar year 2014 and for reinsurance collections for calendar year 2018;

''(II) shall reflect its proportionate share of operational expenses for reinsurance payments for calendar year 2015 and for reinsurance collections for calendar year 2019; and

''(III) shall reflect its proportionate share of operational expenses for reinsurance payments for calendar year 2016 and for reinsurance collections for calendar year 2020; and

''(vii) collection of the contribution amounts provided for in clauses (ii) through (vi) shall be initiated—

''(I) for calendar year 2014, not earlier than January 1, 2018;

''(II) for calendar year 2015, not earlier than January 1, 2019; and

''(III) for calendar year 2016, not earlier than January 1, 2020.'';

(4) in paragraph (4)—

(A) in subparagraph (A)—

(i) by striking ''contribution amounts collected for any calendar year'' and inserting ''amount provided under paragraph (5) for reinsurance payments described in paragraph (1)(C)''; and

(ii) by striking ''; and'' and inserting a period;

(B) by striking subparagraph (B);

(C) by striking ''that—'' and all that follows through ''the contribution'' in subparagraph (A) and inserting ''that the contribution''; and

(D) in the flush matter at the end, by striking ''paragraph (3)(B)(iv)'' and inserting the following: ''paragraph (3)(B)(v) and any amounts collected under clauses (ii) of paragraph (3)(B) that, when combined with the funding provided for under paragraph (5), exceed the aggregate amount permitted for making the reinsurance payments described in paragraph (1)(C) and to fund the operational expenses of applicable reinsurance entities,''; and

(5) by adding at the end the following:

''(5) FUNDING.—To carry out this section, there is appropriated, out of any money in the Treasury not otherwise appropriated, an amount equal to the aggregate amount to be collected for plan years beginning in 2014 set forth in paragraph (3)(B)(iv) for reinsurance payments described in paragraph (1)(C), and an amount equal to the contribution amounts set forth in paragraph (3)(B)(vi) to fund operational expenses of applicable reinsurance entities.''.

(b) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to increase the amount of payments to be collected under subsection (b)(1)(A) or to decrease the amount of the reinsurance payments to be made under subsection (b)(1)(C) of section 1341 of the Patient Protection and Affordable Care Act (42 U.S.C. 18061).

(c) MEDICAL LOSS RATIO.—The Secretary of Health and Human Services shall promulgate regulations or guidance to ensure that health insurance issuers reflect changes made in section 1341 of the Patient Protection and Affordable Care Act with section 2718 of the Public Health Service Act (42 U.S.C.1 300gg-18) and sections 1342 and 1312(c) of the Patient Protection and Affordable Care Act (42 U.S.C. 18063 and 18032(c)).

SA 3177. Mr. CARDIN (for himself, Mr. ROBERTS, Mr. THUNE, Mr. MORAN, Mr. WHITEHOUSE, Mr. CRAPO, Mr. BLUNT, Ms. COLLINS, Mr. LEAHY, Ms. LANDRIEU, Mr. FRANKEN, Mr. SANDERS, Ms. STABENOW, Mr. BROWN, and Mr. JOHNSON of South Dakota) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—PROMOTION AND EXPANSION OF PRIVATE EMPLOYEE OWNERSHIP ACT OF 2014

SEC. __01. SHORT TITLE.

This title may be cited as the ''Promotion and Expansion of Private Employee Ownership Act of 2014''.

SEC. __02. FINDINGS.

Congress finds that—

(1) on January 1, 1998—nearly 25 years after the Employee Retirement Income Security Act of 1974 was enacted and the employee stock ownership plan (hereafter in this section referred to as an ''ESOP'') was created—employees were first permitted to be owners of subchapter S corporations pursuant to the Small Business Job Protection Act of 1996 (Public Law 104–188);

(2) with the passage of the Taxpayer Relief Act of 1997 (Public Law 105–34), Congress designed incentives to encourage businesses to become ESOP-owned S corporations;

(3) since that time, several thousand companies have become ESOP-owned S corporations, creating an ownership interest for several million Americans in companies in every State in the country, in industries ranging from heavy manufacturing to technology development to services;

(4) while estimates show that 40 percent of working Americans have no formal retirement account at all, every United States worker who is an employee-owner of an S corporation company through an ESOP has a valuable qualified retirement savings account;

(5) recent studies have shown that employees of ESOP-owned S corporations enjoy greater job stability than employees of comparable companies;

(6) studies also show that employee-owners of S corporation ESOP companies have amassed meaningful retirement savings through their S ESOP accounts that will give them the means to retire with dignity;

(7) under the Small Business Act (15 U.S.C. 631 et seq.) and the regulations promulgated by the Administrator of the Small Business Administration, a small business concern that was eligible under the Small Business Act for the numerous preferences of the Act is denied treatment as a small business concern after an ESOP acquires more than 49

percent of the business, even if the number of employees, the revenue of the small business concern, and the racial, gender, or other criteria used under the Act to determine whether the small business concern is eligible for benefits under the Act remain the same, solely because of the acquisition by the ESOP; and

(8) it is the goal of Congress to both preserve and foster employee ownership of S corporations through ESOPs.

SEC. __03. DEFERRAL OF TAX FOR CERTAIN SALES OF EMPLOYER STOCK TO EMPLOYEE STOCK OWNERSHIP PLAN SPONSORED BY S CORPORATION.

(a) IN GENERAL.—Subparagraph (A) of section 1042(c)(1) of the Internal Revenue Code of 1986 (defining qualified securities) is amended by striking ''domestic C corporation'' and inserting ''domestic corporation''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the date of the enactment of this Act.

SEC. __04. DEPARTMENT OF TREASURY TECHNICAL ASSISTANCE OFFICE.

(a) ESTABLISHMENT REQUIRED.—Before the end of the 90-day period beginning on the date of enactment of this Act, the Secretary of Treasury shall establish the S Corporation Employee Ownership Assistance Office to foster increased employee ownership of S corporations.

(b) DUTIES OF THE OFFICE.—The S Corporation Employee Ownership Assistance Office shall provide—

(1) education and outreach to inform companies and individuals about the possibilities and benefits of employee ownership of S corporations; and

(2) technical assistance to assist S corporations in sponsoring employee stock ownership plans.

SEC. __05. SMALL BUSINESS AND EMPLOYEE STOCK OWNERSHIP.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 47 as section 48; and

(2) by inserting after section 46 the following:

''SEC. 47. EMPLOYEE STOCK OWNERSHIP PLANS.

''(a) DEFINITIONS.—In this section—

''(1) the term 'ESOP' means an employee stock ownership plan, as defined in section 4975(e)(7) of the Internal Revenue Code of 1986, as amended; and

''(2) the term 'ESOP business concern' means a business concern that was a small business concern eligible for a loan or to participate in a contracting assistance or business development program under this Act before the date on which more than 49 percent of the business concern was acquired by an ESOP.

''(b) CONTINUED ELIGIBILITY.—In determining whether an ESOP business concern qualifies as a small business concern for purposes of a loan, preference, or other program under this Act, each ESOP participant shall be treated as directly owning his or her proportionate share of the stock in the ESOP business concern owned by the ESOP.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1 of the first calendar year beginning after the date of the enactment of this Act.

SA 3178. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 56, between lines 23 and 24, insert the following:

(3) INCLUSION OF LIQUID DERIVED FROM NATURAL GAS.—Subparagraph (E) of section 6426(d)(2) is amended to read as follows:

''(E) any liquid fuel—

''(i) which meets the requirements of paragraph (4) and which is derived from coal (including peat) through the Fischer-Tropsch process, or

''(ii) which is derived from natural gas through such process,''.

SA 3179. Mr. GRASSLEY (for himself and Mr. NELSON) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS

SEC. __01. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

(a) EMPLOYMENT TAXES.—Chapter 25 is amended by adding at the end the following new section:

''SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

''(a) GENERAL RULES.—For purposes of the taxes, and other obligations, imposed by this subtitle—

''(1) a certified professional employer organization shall be treated as the employer (and no other person shall be treated as the employer) of any work site employee performing services for any customer of such organization, but only with respect to remuneration remitted by such organization to such work site employee, and

''(2) exclusions, definitions, and other rules which are based on the type of employer and which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

''(b) SUCCESSOR EMPLOYER STATUS.—For purposes of sections 3121(a)(1), 3231(e)(2)(C), and 3306(b)(1)—

''(1) a certified professional employer organization entering into a service contract with a customer with respect to a work site employee shall be treated as a successor employer and the customer shall be treated as a predecessor employer during the term of such service contract, and

''(2) a customer whose service contract with a certified professional employer organization is terminated with respect to a work site employee shall be treated as a successor employer and the certified professional employer organization shall be treated as a predecessor employer.

''(c) LIABILITY OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION.—Solely for purposes of its liability for the taxes, and other obligations, imposed by this subtitle—

''(1) a certified professional employer organization shall be treated as the employer of any individual (other than a work site employee or a person described in subsection (f)) who is performing services covered by a contract meeting the requirements of section 7705(e)(2), but only with respect to remuneration remitted by such organization to such individual, and

''(2) exclusions, definitions, and other rules which are based on the type of employer and which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

''(d) TREATMENT OF CREDITS.—

''(1) IN GENERAL.—For purposes of any credit specified in paragraph (2)—

''(A) such credit with respect to a work site employee performing services for the customer applies to the customer, not the certified professional employer organization,

''(B) the customer, and not the certified professional employer organization, shall take into account wages and employment taxes—

''(i) paid by the certified professional employer organization with respect to the work site employee, and

''(ii) for which the certified professional employer organization receives payment from the customer, and

''(C) the certified professional employer organization shall furnish the customer with any information necessary for the customer to claim such credit.

''(2) CREDITS SPECIFIED.—A credit is specified in this paragraph if such credit is allowed under—

''(A) section 41 (credit for increasing research activity),

''(B) section 45A (Indian employment credit),

''(C) section 45B (credit for portion of employer social security taxes paid with respect to employee cash tips),

''(D) section 45C (clinical testing expenses for certain drugs for rare diseases or conditions),

''(E) section 45R (employee health insurance expenses of small employers),

''(F) section 51 (work opportunity credit),

''(G) section 1396 (empowerment zone employment credit),

''(H) 1400(d) (DC Zone employment credit),

''(I) Section 1400H (renewal community employment credit), and

''(J) any other section as provided by the Secretary.

''(e) SPECIAL RULE FOR RELATED PARTY.—This section shall not apply in the case of a customer which bears a relationship to a certified professional employer organization described in section 267(b) or 707(b). For purposes of the preceding sentence, such sections shall be applied by substituting '10 percent' for '50 percent'.

''(f) SPECIAL RULE FOR CERTAIN INDIVIDUALS.—For purposes of the taxes imposed under this subtitle, an individual with net earnings from self-employment derived from the customer's trade or business is not a work site employee with respect to remuneration paid by a certified professional employer organization.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION DEFINED.—Chapter 79 is amended by adding at the end the following new section:

''SEC. 7705. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS DEFINED.

''(a) IN GENERAL.—For purposes of this title, the term 'certified professional employer organization' means a person who has been certified by the Secretary for purposes of section 3511 as meeting the requirements of subsection (b).

''(b) GENERAL REQUIREMENTS.—A person meets the requirements of this subsection if such person—

''(1) demonstrates that such person (and any owner, officer, and such other persons as may be specified in regulations) meets such requirements as the Secretary shall establish with respect to tax status, background, experience, business location, and annual financial audits,

''(2) computes its taxable income using an accrual method of accounting unless the Secretary approves another method,

''(3) agrees that it will satisfy the bond and independent financial review requirements of subsection (c) on an ongoing basis,

''(4) agrees that it will satisfy such reporting obligations as may be imposed by the Secretary,

''(5) agrees to verify on such periodic basis as the Secretary may prescribe that it continues to meet the requirements of this subsection, and

''(6) agrees to notify the Secretary in writing within such time as the Secretary may prescribe of any change that materially affects whether it continues to meet the requirements of this subsection.

''(c) BOND AND INDEPENDENT FINANCIAL REVIEW REQUIREMENTS.—

''(1) IN GENERAL.—An organization meets the requirements of this paragraph if such organization—

''(A) meets the bond requirements of paragraph (2), and

''(B) meets the independent financial review requirements of paragraph (3).

''(2) BOND.—

''(A) IN GENERAL.—A certified professional employer organization meets the requirements of this paragraph if the organization has posted a bond for the payment of taxes under subtitle C (in a form acceptable to the Secretary) in an amount at least equal to the amount specified in subparagraph (B).

''(B) AMOUNT OF BOND.—For the period April 1 of any calendar year through March 31 of the following calendar year, the amount of the bond required is equal to the greater of—

''(i) 5 percent of the organization's liability under section 3511 for taxes imposed by subtitle C during the preceding calendar year (but not to exceed $1,000,000), or

''(ii) $50,000.

''(3) INDEPENDENT FINANCIAL REVIEW REQUIREMENTS.—A certified professional employer organization meets the requirements of this paragraph if such organization—

''(A) has, as of the most recent review date, caused to be prepared and provided to the Secretary (in such manner as the Secretary may prescribe) an opinion of an independent certified public accountant that the certified professional employer organization's financial statements are presented fairly in accordance with generally accepted accounting principles, and

''(B) provides, not later than the last day of the second month beginning after the end of each calendar quarter, to the Secretary from an independent certified public accountant an assertion regarding Federal employment tax payments and an examination level attestation on such assertion.

Such assertion shall state that the organization has withheld and made deposits of all taxes imposed by chapters 21, 22, and 24 of the Internal Revenue Code in accordance with regulations imposed by the Secretary for such calendar quarter and such examination level attestation shall state that such assertion is fairly stated, in all material respects.

''(4) CONTROLLED GROUP RULES.—For purposes of the requirements of paragraphs (2) and (3), all professional employer organizations that are members of a controlled group within the meaning of sections 414(b) and (c) shall be treated as a single organization.

''(5) FAILURE TO FILE ASSERTION AND ATTESTATION.—If the certified professional employer organization fails to file the assertion and attestation required by paragraph (3) with respect to any calendar quarter, then the requirements of paragraph (3) with respect to such failure shall be treated as not satisfied for the period beginning on the due date for such attestation.

''(6) REVIEW DATE.—For purposes of paragraph (3)(A), the review date shall be 6 months after the completion of the organization's fiscal year.

''(d) SUSPENSION AND REVOCATION AUTHORITY.—The Secretary may suspend or revoke a certification of any person under subsection (b) for purposes of section 3511 if the Secretary determines that such person is not satisfying the representations or requirements of subsections (b) or (c), or fails to satisfy applicable accounting, reporting, payment, or deposit requirements.

''(e) WORK SITE EMPLOYEE.—For purposes of this title—

''(1) IN GENERAL.—The term 'work site employee' means, with respect to a certified professional employer organization, an individual who—

''(A) performs services for a customer pursuant to a contract which is between such customer and the certified professional employer organization and which meets the requirements of paragraph (2), and

''(B) performs services at a work site meeting the requirements of paragraph (3).

''(2) SERVICE CONTRACT REQUIREMENTS.—A contract meets the requirements of this paragraph with respect to an individual performing services for a customer if such contract is in writing and provides that the certified professional employer organization shall—

''(A) assume responsibility for payment of wages to such individual, without regard to the receipt or adequacy of payment from the customer for such services,

''(B) assume responsibility for reporting, withholding, and paying any applicable taxes under subtitle C, with respect to such individual's wages, without regard to the receipt or adequacy of payment from the customer for such services,

''(C) assume responsibility for any employee benefits which the service contract may require the organization to provide, without regard to the receipt or adequacy of payment from the customer for such services,

''(D) assume responsibility for hiring, firing, and recruiting workers in addition to the customer's responsibility for hiring, firing and recruiting workers,

''(E) maintain employee records relating to such individual, and

''(F) agree to be treated as a certified professional employer organization for purposes of section 3511 with respect to such individual.

''(3) WORK SITE COVERAGE REQUIREMENT.—The requirements of this paragraph are met with respect to an individual if at least 85 percent of the individuals performing services for the customer at the work site where such individual performs services are subject to 1 or more contracts with the certified professional employer organization which meet the requirements of paragraph (2) (but not taking into account those individuals who are excluded employees within the meaning of section 414(q)(5)).

''(f) DETERMINATION OF EMPLOYMENT STATUS.—Except to the extent necessary for purposes of section 3511, nothing in this section shall be construed to affect the determination of who is an employee or employer for purposes of this title.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 3302 is amended by adding at the end the following new subsection:

''(h) TREATMENT OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a certified professional employer organization (as defined in section 7705), or a customer of such organization, makes a contribution to the State's unemployment fund with respect to a work site employee, such organization shall be eligible for the credits available under this section with respect to such contribution.''.

(2) Section 3303(a) is amended—

(A) by striking the period at the end of paragraph (3) and inserting ''; and'' and by inserting after paragraph (3) the following new paragraph:

''(4) if the taxpayer is a certified professional employer organization (as defined in section 7705) that is treated as the employer under section 3511, such certified professional employer organization is permitted to collect and remit, in accordance with paragraphs (1), (2), and (3), contributions during the taxable year to the State unemployment fund with respect to a work site employee.'', and

(B) in the last sentence—

(i) by striking ''paragraphs (1), (2), and (3)'' and inserting ''paragraphs (1), (2), (3), and (4)'', and

(ii) by striking ''paragraph (1), (2), or (3)'' and inserting ''paragraph (1), (2), (3), or (4)''.

(3) Section 6053(c) is amended by adding at the end the following new paragraph:

''(8) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of any report required by this subsection, in the case of a certified professional employer organization that is treated under section 3511 as the employer of a work site employee, the customer with respect to whom a work site employee performs services shall be the employer for purposes of reporting under this section and the certified professional employer organization shall furnish to the customer any information necessary to complete such reporting no later than such time as the Secretary shall prescribe.''.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 25 is amended by adding at the end the following new item:

''Sec. 3511. Certified professional employer organizations.''.

(2) The table of sections for chapter 79 is amended by inserting after the item relating to section 7704 the following new item:

''Sec. 7705. Certified professional employer organizations defined.''.

(e) REPORTING REQUIREMENTS AND OBLIGATIONS.—The Secretary of the Treasury shall develop such reporting and recordkeeping rules, regulations, and procedures as the Secretary determines necessary or appropriate to ensure compliance with the amendments made by this section with respect to entities applying for certification as certified professional employer organizations or entities that have been so certified. Such rules shall include—

(1) notification of the Secretary in the case of the commencement or termination of a service contract described in section 7705(e)(2) of the Internal Revenue Code of 1986 between such a person and a customer, and the employer identification number of such customer, and

(2) such other information as the Secretary determines is essential to promote compliance with respect to the credits identified in section 3511(d) of such Code, and

shall be designed in a manner which streamlines, to the extent possible, the application

of requirements of such amendments, the exchange of information between a certified professional employer organization and its customers, and the reporting and recordkeeping obligations of the certified professional employer organization.

(f) USER FEES.—Subsection (b) of section 7528 is amended by adding at the end the following new paragraph:

''(4) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The annual fee charged under the program in connection with the ongoing certification by the Secretary of a professional employer organization under section 7705 shall not exceed $1,000.''.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to wages for services performed on or after January 1 of the first calendar year beginning more than 12 months after the date of the enactment of this Act.

(2) CERTIFICATION PROGRAM.—The Secretary of the Treasury shall establish the certification program described in section 7705(b) of the Internal Revenue Code of 1986, as added by subsection (b), not later than 6 months before the effective date determined under paragraph (1).

(h) NO INFERENCE.—Nothing contained in this section or the amendments made by this section shall be construed to create any inference with respect to the determination of who is an employee or employer—

(1) for Federal tax purposes (other than the purposes set forth in the amendments made by this section), or

(2) for purposes of any other provision of law.

SA 3180. Mr. COONS (for himself, Mr. MORAN, Ms. STABENOW, Ms. MURKOWSKI, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—MASTER LIMITED PARTNERSHIPS

SEC. __01. SHORT TITLE.

This title may be cited as the ''Master Limited Partnerships Parity Act''.

SEC. __02. EXTENSION OF PUBLICLY TRADED PARTNERSHIP OWNERSHIP STRUCTURE TO ENERGY POWER GENERATION PROJECTS, TRANSPORTATION FUELS, AND RELATED ENERGY ACTIVITIES.

(a) IN GENERAL.—Subparagraph (E) of section 7704(d)(1) is amended—

(1) by striking ''income and gains derived from the exploration'' and inserting ''income and gains derived from the following:

''(i) MINERALS, NATURAL RESOURCES, ETC.—The exploration'',

(2) by inserting ''or'' before ''industrial source'',

(3) by inserting a period after ''carbon dioxide'', and

(4) by striking '', or the transportation or storage'' and all that follows and inserting the following:

''(ii) RENEWABLE ENERGY.—The generation of electric power exclusively utilizing any resource described in section 45(c)(1) or energy property described in section 48 (determined without regard to any termination date), or in the case of a facility described in paragraph (3) or (7) of section 45(d) (determined without regard to any placed in service date or date by which construction of the facility is required to begin), the accepting or processing of such resource.

''(iii) ELECTRICITY STORAGE DEVICES.—The receipt and sale of electric power that has been stored in a device directly connected to the grid.

''(iv) COMBINED HEAT AND POWER.—The generation, storage, or distribution of thermal energy exclusively utilizing property described in section 48(c)(3) (determined without regard to subparagraphs (B) and (D) thereof and without regard to any placed in service date).

''(v) RENEWABLE THERMAL ENERGY.—The generation, storage, or distribution of thermal energy exclusively using any resource described in section 45(c)(1) or energy property described in clause (i) or (iii) of section 48(a)(3)(A).

''(vi) WASTE HEAT TO POWER.—The use of recoverable waste energy, as defined in section 371(5) of the Energy Policy and Conservation Act (42 U.S.C. 6341(5)) (as in effect on the date of the enactment of the Master Limited Partnerships Parity Act).

''(vii) RENEWABLE FUEL INFRASTRUCTURE.—The storage or transportation of any fuel described in subsection (b), (c), (d), or (e) of section 6426.

''(viii) RENEWABLE FUELS.—The production, storage, or transportation of any renewable fuel described in section 211(o)(1)(J) of the Clean Air Act (42 U.S.C. 7545(o)(1)(J)) (as in effect on the date of the enactment of the Master Limited Partnerships Parity Act) or section 40A(d)(1).

''(ix) RENEWABLE CHEMICALS.—The production, storage, or transportation of any renewable chemical (as defined in paragraph (6)).

''(x) ENERGY EFFICIENT BUILDINGS.—The audit and installation through contract or other agreement of any energy efficient building property described in section 179D(c)(1).

''(xi) GASIFICATION WITH SEQUESTRATION.—The production of any product from a project that meets the requirements of subparagraphs (A) and (B) of section 48B(c)(1) and that separates and sequesters in secure geological storage (as determined under section 45Q(d)(2)) at least 75 percent of such project's total qualified carbon dioxide (as defined in section 45Q(b)).

''(xii) CARBON CAPTURE AND SEQUESTRATION.—The generation or storage of electric power produced from any facility which is a qualified facility described in section 45Q(c) and which disposes of any captured qualified carbon dioxide (as defined in section 45Q(b)) in secure geological storage (as determined under section 45Q(d)(2)).''.

(b) RENEWABLE CHEMICAL.—Section 7704(d) is amended by adding at the end the following new paragraph:

''(6) RENEWABLE CHEMICAL.—The term 'renewable chemical' means a monomer, polymer, plastic, formulated product, or chemical substance produced from renewable biomass (as defined in section 9001(12) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101(12)), as in effect on the date of the enactment of the Master Limited Partnerships Parity Act).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, in taxable years ending after such date.

SA 3181. Mr. LEVIN (for himself, Mr. BROWN, Mrs. SHAHEEN, Ms. HIRONO, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike section 135.

SA 3182. Mr. CARDIN (for himself, Mrs. FEINSTEIN, and Mr. SCHATZ) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike section 151 and insert the following:

SEC. 151. EXTENSION AND MODIFICATION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) TREATMENT IN 2014.—

(1) IN GENERAL.—Paragraph (2) of section 25C(g) is amended by striking ''December 31, 2013'' and inserting ''December 31, 2014''.

(2) UPDATED ENERGY STAR REQUIREMENTS FOR WINDOWS, DOORS, SKYLIGHTS, AND ROOFING.—

(A) IN GENERAL.—Paragraph (1) of section 25C(c) is amended by striking ''which meets'' and all that follows through ''requirements)''.

(B) ENERGY EFFICIENT BUILDING ENVELOPE COMPONENT.—Subsection (c) of section 25C is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) ENERGY EFFICIENT BUILDING ENVELOPE COMPONENT.—The term 'energy efficient building envelope component' means a building envelope component which meets—

''(A) applicable Energy Star program requirements, in the case of a roof or roof products,

''(B) version 6.0 Energy Star program requirements, in the case of an exterior window, a skylight, or an exterior door, and

''(C) the prescriptive criteria for such component established by the 2009 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009, in the case of any other component.''.

(C) CONFORMING AMENDMENT.—Subparagraph (D) of section 25C(c)(3), as so redesignated, is amended to read as follows:

''(D) any roof or roof products which are installed on a dwelling unit and are specifically and primarily designed to reduce the heat gain of such dwelling unit.''.

(3) SEPARATE STANDARDS FOR TANKLESS AND STORAGE WATER HEATERS.—

(A) IN GENERAL.—Subparagraph (D) of section 25C(d)(3) is amended by striking ''which has either'' and all that follows and inserting ''which has either—

''(i) in the case of a storage water heater, an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent, and

''(ii) in the case of any other water heater, an energy factor of at least 0.90 or a thermal efficiency of at least 90 percent, and''.

(B) STORAGE WATER HEATERS.—Paragraph (3) of section 25C(d) is amended by adding at the end the following flush sentence:

''For purposes of subparagraph (D)(i), the term 'storage water heater' means a water heater that has a water storage capacity of more than 20 gallons but not more than 55 gallons.''.

(4) MODIFICATION OF TESTING STANDARDS FOR BIOMASS STOVES.—Subparagraph (E) of section 25C(d)(3) is amended by inserting before the period the following: '', when tested using the higher heating value of the fuel and in accordance with the Canadian Standards Administration B415.1 test protocol''.

(5) SEPARATE STANDARD FOR OIL HOT WATER BOILERS.—Paragraph (4) of section 25C(d) is amended by striking ''95'' and inserting ''95 (90 in the case of an oil hot water boiler)''.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2013.

(b) TREATMENT IN 2015.—

(1) PERFORMANCE BASED HOME ENERGY IMPROVEMENTS.—Subpart A of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 25E. PERFORMANCE BASED ENERGY IMPROVEMENTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year for a qualified whole home energy efficiency retrofit an amount determined under subsection (b).

''(b) AMOUNT DETERMINED.—

''(1) IN GENERAL.—Subject to paragraph (4), the amount determined under this subsection is equal to—

''(A) the base amount under paragraph (2), increased by

''(B) the amount determined under paragraph (3).

''(2) BASE AMOUNT.—For purposes of paragraph (1)(A), the base amount is $2,000, but only if the energy use for the residence is reduced by at least 20 percent below the baseline energy use for such residence as calculated according to paragraph (5).

''(3) INCREASE AMOUNT.—For purposes of paragraph (1)(B), the amount determined under this paragraph is $500 for each additional 5 percentage point reduction in energy use.

''(4) LIMITATION.—In no event shall the amount determined under this subsection exceed the lesser of—

''(A) $5,000 with respect to any residence, or

''(B) 30 percent of the qualified home energy efficiency expenditures paid or incurred by the taxpayer under subsection (c) with respect to such residence.

''(5) DETERMINATION OF ENERGY USE REDUCTION.—For purposes of this subsection—

''(A) IN GENERAL.—The reduction in energy use for any residence shall be determined by modeling the annual predicted percentage reduction in total energy costs for heating, cooling, hot water, and permanent lighting. It shall be modeled using computer modeling software approved under subsection (d)(2) and a baseline energy use calculated according to subsection (d)(1)(C).

''(B) ENERGY COSTS.—For purposes of subparagraph (A), the energy cost per unit of fuel for each fuel type shall be determined by dividing the total actual energy bill for the residence for that fuel type for the most recent available 12-month period by the total energy units of that fuel type used over the same period.

''(c) QUALIFIED HOME ENERGY EFFICIENCY EXPENDITURES.—For purposes of this section, the term 'qualified home energy efficiency expenditures'—

''(1) means any amount paid or incurred by the taxpayer during the taxable year for a qualified whole home energy efficiency retrofit, including the cost of diagnostic procedures, labor, and modeling,

''(2) includes only measures that have an average estimated life of 5 years or more as determined by the Secretary, after consultation with the Secretary of Energy, and

''(3) does not include any amount which is paid or incurred in connection with any expansion of the building envelope of the residence.

''(d) QUALIFIED WHOLE HOME ENERGY EFFICIENCY RETROFIT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified whole home energy efficiency retrofit' means the implementation of measures placed in service during the taxable year intended to reduce the energy use of the principal residence of the taxpayer which is located in the United States. A qualified whole home energy efficiency retrofit shall—

''(A) subject to paragraph (4), be designed, implemented, and installed by a contractor which is—

''(i) accredited by the Building Performance Institute (hereafter in this section referred to as 'BPI') or a preexisting BPI accreditation-based State certification program with enhancements to achieve State energy policy,

''(ii) a Residential Energy Services Network (hereafter in this section referred to as 'RESNET') accredited Energy Smart Home Performance Team, or

''(iii) accredited by an equivalent certification program approved by the Secretary, after consultation with the Secretary of Energy, for this purpose,

''(B) install a set of measures modeled to achieve a reduction in energy use of at least 20 percent below the baseline energy use established in subparagraph (C), using computer modeling software approved under paragraph (2),

''(C) establish the baseline energy use by calibrating the model using sections 3 and 4 and Annex D of BPI Standard BPI–2400–S–2011: Standardized Qualification of Whole House Energy Savings Estimates, or an equivalent standard approved by the Secretary, after consultation with Secretary of Energy, for this purpose,

''(D) document the measures implemented in the residence through photographs taken before and after the retrofit, including photographs of its visible energy systems and envelope as relevant, and

''(E) implement a test-out procedure, following guidelines of the applicable certification program specified under clause (i) or (ii) of subparagraph (A), or equivalent guidelines approved by the Secretary, after consultation with the Secretary of Energy, for this purpose, to ensure—

''(i) the safe operation of all systems post retrofit, and

''(ii) that all improvements are included in, and have been installed according to, standards of the applicable certification program specified under clause (i) or (ii) of subparagraph (A), or equivalent standards approved by the Secretary, after consultation with the Secretary of Energy, for this purpose.

For purposes of subparagraph (A)(iii), an organization or State may submit an equivalent certification program for approval by the Secretary, in consultation with the Secretary of Energy. The Secretary shall approve or deny such submission not later than 180 days after receipt, and, if the Secretary fails to respond in that time period, the submitted equivalent certification program shall be considered approved.

''(2) APPROVED MODELING SOFTWARE.—For purposes of paragraph (1)(B), the contractor (or, if applicable, the person described in paragraph (4)) shall use modeling software certified by RESNET as following the software verification test suites in section 4.2.1 of RESNET Publication No. 06–001 or certified by an alternative organization as following an equivalent standard, as approved by the Secretary, after consultation with the Secretary of Energy, for this purpose.

''(3) DOCUMENTATION.—The Secretary, after consultation with the Secretary of Energy, shall prescribe regulations directing what specific documentation is required to be retained or submitted by the taxpayer in order to claim the credit under this section, which shall include, in addition to the photographs under paragraph (1)(D), a form approved by the Secretary that is completed and signed by the qualified whole home energy efficiency retrofit contractor under penalties of perjury. Such form shall include—

''(A) a statement that the contractor (or, if applicable, the person described in paragraph (4)) followed the specified procedures for establishing baseline energy use and estimating reduction in energy use,

''(B) the name of the software used for calculating the baseline energy use and reduction in energy use, the percentage reduction in projected energy savings achieved, and a statement that such software was certified for this program by the Secretary, after consultation with the Secretary of Energy,

''(C) a statement that the contractor (or, if applicable, the person described in paragraph (4)) will retain the details of the calculations and underlying energy bills for 5 years and will make such details available for inspection by the Secretary or the Secretary of Energy, if so requested,

''(D) a list of measures installed and a statement that all measures included in the reduction in energy use estimate are included in, and installed according to, standards of the applicable certification program specified under clause (i) or (ii) of subparagraph (A), or equivalent standards approved by the Secretary, after consultation with the Secretary of Energy,

''(E) a statement that the contractor (or, if applicable, the person described in paragraph (4)) meets the requirements of paragraph (1)(A), and

''(F) documentation of the total cost of the project in order to comply with the limitation under subsection (b)(4)(B).

''(4) CERTIFIED HOME ENERGY RATER.—For purposes of paragraph (1)(A), a contractor shall be deemed to have satisfied the accreditation requirement under such paragraph if the contractor enters into a contract with a person that satisfies such accreditation requirement for purposes of modeling the energy use reduction described in paragraph (1)(B).

''(e) ADDITIONAL RULES.—For purposes of this section—

''(1) NO DOUBLE BENEFIT.—

''(A) IN GENERAL.—With respect to any residence, no credit shall be allowed under this section for any taxable year in which the taxpayer claims a credit under section 25C.

''(B) RENEWABLE ENERGY SYSTEMS AND APPLIANCES.—In the case of a renewable energy system or appliance that qualifies for another credit under this chapter, the resulting reduction in energy use shall not be taken into account in determining the percentage energy use reductions under subsection (b).

''(C) NO DOUBLE BENEFIT FOR CERTAIN EXPENDITURES.—The term 'qualified home energy efficiency expenditures' shall not include any expenditure for which a deduction or credit is claimed by the taxpayer under

this chapter for the taxable year or with respect to which the taxpayer receives any Federal energy efficiency rebate.

''(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

''(3) SPECIAL RULES.—Rules similar to the rules under paragraphs (4), (5), (6), (7), and (8) of section 25D(e) and section 25C(e)(2) shall apply, as determined by the Secretary, after consultation with the Secretary of Energy.

''(4) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section with respect to any expenditure with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(5) ELECTION NOT TO CLAIM CREDIT.—No credit shall be determined under subsection (a) for the taxable year if the taxpayer elects not to have subsection (a) apply to such taxable year.

''(6) MULTIPLE YEAR RETROFITS.—If the taxpayer has claimed a credit under this section in a previous taxable year, the baseline energy use for the calculation of reduced energy use must be established after the previous retrofit has been placed in service.

''(f) TERMINATION.—This section shall not apply with respect to any costs paid or incurred after December 31, 2015.

''(g) SECRETARY REVIEW.—The Secretary, after consultation with the Secretary of Energy, shall establish a review process for the retrofits performed, including an estimate of the usage of the credit and a statistically valid analysis of the average actual energy use reductions, utilizing utility bill data collected on a voluntary basis, and report to Congress not later than June 30, 2015, any findings and recommendations for—

''(1) improvements to the effectiveness of the credit under this section, and

''(2) expansion of the credit under this section to rental units.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1016(a) is amended—

(i) by striking ''and'' at the end of paragraph (36),

(ii) by striking the period at the end of paragraph (37) and inserting '', and'', and

(iii) by adding at the end the following new paragraph:

''(38) to the extent provided in section 25E(e)(4), in the case of amounts with respect to which a credit has been allowed under section 25E.''.

(B) Section 6501(m) is amended by inserting ''25E(e)(5),'' after ''section''.

(C) The table of sections for subpart A of part IV of subchapter A chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Performance based energy improvements.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred for a qualified whole home energy efficiency retrofit placed in service after December 31, 2014.

SA 3183. Mr. CARDIN (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—OTHER PROVISIONS

SEC. ___. TREATMENT OF PARTNERSHIP ALLOCATIONS OF THE REHABILITATION TAX CREDIT BEFORE 2014.

(a) SAFE HARBOR.—

(1) IN GENERAL.—An arrangement for the allocation of the credit determined under section 47(a) of the Internal Revenue Code of 1986 with respect to any building placed in service before January 1, 2014, shall not fail to be treated as a partnership for purposes of the Internal Revenue Code of 1986 if such arrangement meets the requirements of paragraph (2).

(2) SAFE-HARBOR REQUIREMENTS.—An arrangement meets the requirements of this paragraph if—

(A) such arrangement is a written agreement which is intended to be a partnership agreement for purposes of the Internal Revenue Code of 1986,

(B) such arrangement allows for a distributive share of the credit determined under section 47(a) of such Code to taxpayers who make a qualified substantial capital contribution with respect to the rehabilitation of a qualified rehabilitated building, and

(C) under the terms of such arrangement, after the date that is 1 year after the date of the enactment of this Act, neither any principal nor any related person—

(i) is obligated to acquire an interest of another person in the partnership for a price that exceeds the fair market value of the interest,

(ii) is permitted to acquire another person's interest in the partnership for a price that is less than the fair market value of the interest,

(iii) is required—

(I) to distribute to another partner any amount which is secured by cash or cash equivalents, or

(II) to acquire the interest of any other partner through funds secured by cash or cash equivalents, and

(iv) directly or indirectly guarantees or otherwise insures the amount of any credit determined under section 47(a) of such Code, or the cash equivalent of any such credit.

(3) DEFINITIONS.—For purposes of this section—

(A) QUALIFIED SUBSTANTIAL CAPITAL CONTRIBUTION.—The term ''qualified substantial capital contribution'' means, with respect to any qualified rehabilitated building, a capital contribution which—

(i) is made not later than the date that is 12 months after the date such qualified rehabilitated building was placed in service, and

(ii) is greater than the lesser of—

(I) 5 percent of the reasonably anticipated qualified rehabilitation expenditures (as defined in section 47(c)(2) of the Internal Revenue Code of 1986) with respect to such qualified rehabilitated building, or

(II) $200,000.

(B) PRINCIPAL.—The term ''principal'' means any person under the arrangement—

(i) who owns the qualified rehabilitated building described in paragraph (2)(B),

(ii) who is treated as having acquired such qualified rehabilitated building by reason of an election under 50(d)(5) of the Internal Revenue Code of 1986 , or

(iii) who manages the partnership or is authorized to act on behalf of the partnership.

(C) RELATED PERSON.—The term ''related person'' has the meaning given such term under section 465(b)(3)(C) of the Internal Revenue Code of 1986.

(D) QUALIFIED REHABILITATED BUILDING.—The term ''qualified rehabilitated building'' has the meaning given such term under section 47(c)(1) of the Internal Revenue Code of 1986.

(b) TREATMENT OF ASSESSMENTS AND ENFORCEMENT ACTIONS RELATING TO CREDIT.—In the case of any arrangement for the allocation of the credit determined under section 47(a) of the Internal Revenue Code of 1986 with respect to any qualified rehabilitated building placed in service before January 1, 2014—

(1) no assessment shall be made under section 6201 of the Internal Revenue Code of 1986 with respect to such arrangement, and no enforcement action with respect to any such assessment (including any notice of deficiency or the imposition of any lien or levy) shall proceed, before the date that is 1 year after the date of the enactment of this Act, and

(2) the running of the period of limitations under section 6229, 6501, or 6502 of the Internal Revenue Code of 1986 with respect to such arrangement shall be suspended for the period described in paragraph (1).

SA 3184. Mr. CARDIN (for himself, Ms. COLLINS, Mr. CASEY, Mrs. SHAHEEN, Mr. PORTMAN, Mr. KING, Mr. WICKER, Mr. COONS, Ms. HIRONO, Mr. SCHUMER, Mr. LEAHY, Ms. MIKULSKI, Ms. AYOTTE, Mr. BEGICH, Mr. HEINRICH, Mr. UDALL of Colorado, Ms. MURKOWSKI, Mr. SCHATZ, and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—SMALL BREWER REINVESTMENT

SEC. __01. SHORT TITLE.

This Act may be cited as the ''Small Brewer Reinvestment and Expanding Workforce Act of 2013''.

SEC. __02. REDUCED RATE OF EXCISE TAX ON BEER PRODUCED DOMESTICALLY BY CERTAIN QUALIFYING PRODUCERS.

(a) IN GENERAL.—Paragraph (2) of section 5051(a) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and

(2) by striking subparagraph (A) and inserting the following new subparagraphs:

''(A) IN GENERAL.—In the case of a brewer who produces not more than 6,000,000 barrels of beer during the calendar year, the per barrel rate of tax imposed by this section shall be—

''(i) $3.50 on the first 60,000 qualified barrels of production, and

''(ii) $16 on the first 1,940,000 qualified barrels of production to which clause (i) does not apply.

''(B) QUALIFIED BARRELS OF PRODUCTION.—For purposes of this paragraph, the term 'qualified barrels of production' means, with respect to any brewer for any calendar year, the number of barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 5051(a)(2), as redesignated by this section, is amended—

(A) by striking ''2,000,000 barrel quantity'' and inserting ''6,000,000 barrel quantity'', and

(B) by striking ''60,000 barrel quantity'' and inserting ''60,000 and 1,940,000 barrel quantities''.

(2) Subparagraph (D) of such section, as so redesignated, is amended by striking ''2,000,000 barrels'' and inserting ''6,000,000 barrels''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to beer removed during calendar years beginning after the date of the enactment of this Act.

SA 3185. Mr. CARDIN (for himself, Mrs. FEINSTEIN, and Mr. SCHATZ) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike section 159 and insert the following:

SEC. 159. EXTENSION AND MODIFICATION OF DEDUCTION FOR ENERGY-EFFICIENT COMMERCIAL BUILDINGS; DEDUCTION FOR RETROFITS OF EXISTING COMMERCIAL AND MULTIFAMILY BUILDINGS.

(a) EXTENSION.—

(1) THROUGH 2015.—Section 179D(h) is amended by striking ''December 31, 2013'' and inserting ''December 31, 2015''.

(2) INCLUSION OF MULTIFAMILY BUILDINGS.—

(A) IN GENERAL.—Subparagraph (B) of section 179D(c)(1) is amended by striking ''building'' and inserting ''commercial building or multifamily building''.

(B) DEFINITIONS.—Subsection (c) of section 179D is amended by adding at the end the following new paragraphs:

''(3) COMMERCIAL BUILDING.—The term 'commercial building' means a building with a primary use or purpose other than as residential housing.

''(4) MULTIFAMILY BUILDING.—The term 'multifamily building' means a structure of 5 or more dwelling units with a primary use as residential housing, and includes such buildings owned and operated as a condominium, cooperative, or other common interest community.''.

(b) INCREASE IN MAXIMUM AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) is amended by striking ''$1.80'' and inserting ''$3.00''.

(2) PARTIAL ALLOWANCE.—Paragraph (1) of section 179D(d) is amended to read as follows:

''(1) PARTIAL ALLOWANCE.—

''(A) IN GENERAL.—Except as provided in subsection (f), if—

''(i) the requirement of subsection (c)(1)(D) is not met, but

''(ii) there is a certification in accordance with paragraph (6) that—

''(I) any system referred to in subsection (c)(1)(C) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system, or

''(II) the systems referred to in subsection (c)(1)(C)(ii) and subsection (c)(1)(C)(iii) together satisfy the energy-savings targets established by the Secretary under subparagraph (B) with respect to such systems,

then the requirement of subsection (c)(1)(D) shall be treated as met with respect to such system or systems, and the deduction under subsection (a) shall be allowed with respect to energy-efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property described in clause (ii)(I) by substituting '$1.00' for '$3.00' and to such property described in clause (ii)(II) by substituting '$2.20' for '$3.00'.

''(B) REGULATIONS.—

''(i) IN GENERAL.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations establishing a target for each system described in subsection (c)(1)(C) which, if such targets were met for all such systems, the property would meet the requirements of subsection (c)(1)(D).

''(ii) SAFE HARBOR FOR COMBINED SYSTEMS.—The Secretary, after consultation with the Secretary of Energy, and not later than 6 months after the date of the enactment of the Energy Efficiency Tax Incentives Act, shall promulgate regulations regarding combined envelope and mechanical system performance that detail appropriate components, efficiency levels, or other relevant information for the systems referred to in subsection (c)(1)(C)(ii) and subsection (c)(1)(C)(iii) together to be deemed to have achieved two-thirds of the requirements of subsection (c)(1)(D).''.

(c) DENIAL OF DOUBLE BENEFIT RULES.—

(1) IN GENERAL.—Section 179D is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) TAX INCENTIVES NOT AVAILABLE.—Energy-efficient measures for which a deduction is allowed under this section shall not be eligible for a deduction under section 179F.''.

(2) LOW-INCOME HOUSING EXCEPTION TO BASIS REDUCTION.—Subsection (e) of section 179D is amended by inserting ''(other than property placed in service in a qualified low-income building (within the meaning of section 42))'' after ''building property''.

(d) ALLOCATION OF DEDUCTION.—Paragraph (4) of section 179D(d) is amended to read as follows:

''(4) ALLOCATION OF DEDUCTION.—

''(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, the Secretary, in consultation with the Secretary of Energy, shall promulgate a regulation to allow the owner of a commercial or multifamily building, including a government, tribal, or non-profit owner, to allocate any deduction allowed under this section, or a portion thereof, to the person primarily responsible for designing the property in lieu of the owner or to a commercial tenant that leases or otherwise occupies space in such building pursuant to a written agreement. Such person shall be treated as the taxpayer for purposes of this section.

''(B) FORM OF ALLOCATION.—An allocation made under this paragraph shall be in writing and in a form that meets the form of allocation requirements in Notice 2008–40 of the Internal Revenue Service.

''(C) PROVISION OF ALLOCATION.—Not later than 30 days after receipt of a written request from a person eligible to receive an allocation under this paragraph, the owner of a building that makes an allocation under this paragraph shall provide the form of allocation (as described in subparagraph (B)) to such person.

''(D) ALLOCATION FROM PUBLIC OWNER OF BUILDING.—In the case of a commercial building or multifamily building that is owned by a Federal, State, or local government or a subdivision thereof, Notice 2006–52 of the Internal Revenue Service, as amplified by Notice 2008–40, shall apply to any allocation.''.

(e) TREATMENT OF BASIS IN CONTEXT OF ALLOCATION.—Subsection (e) of section 179D, as amended by subsection (c)(2), is amended by inserting ''or so allocated'' after ''so allowed''.

(f) EARNINGS AND PROFITS CONFORMITY FOR REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (B) of section 312(k)(3) is amended—

(1) by striking ''.—For purposes of'' and inserting ''.—

''(i) IN GENERAL.—Except as provided in clause (ii), for purposes of'', and

(2) by adding at the end the following new clause:

''(ii) EARNINGS AND PROFITS CONFORMITY FOR REAL ESTATE INVESTMENT TRUSTS.—

''(I) IN GENERAL.—For purposes of computing the earnings and profits of a real estate investment trust (other than a captive real estate investment trust), the entire amount deductible under section 179D shall be allowed as deductions in the taxable years for which such amounts are claimed under such section.

''(II) CAPTIVE REAL ESTATE INVESTMENT TRUST.—The term 'captive real estate investment trust' means a real estate investment trust the shares or beneficial interests of which are not regularly traded on an established securities market and more than 50 percent of the voting power or value of the beneficial interests or shares of which are owned or controlled, directly or indirectly, or constructively, by a single entity that is treated as an association taxable as a corporation under this title and is not exempt from taxation pursuant to the provisions of section 501(a).

''(III) RULES OF APPLICATION.—For purposes of this clause, the constructive ownership rules of section 318(a), as modified by section 856(d)(5), shall apply in determining the ownership of stock, assets, or net profits of any person, and the following entities are not considered an association taxable as a corporation:

''(aa) Any real estate investment trust other than a captive real estate investment trust.

''(bb) Any qualified real estate investment trust subsidiary under section 856, other than a qualified REIT subsidiary of a captive real estate investment trust.

''(cc) Any Listed Australian Property Trust (meaning an Australian unit trust registered as a 'Managed Investment Scheme' under the Australian Corporations Act in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market), or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, 75 percent or more of the voting power or value of the beneficial interests or shares of such trust.

''(dd) Any corporation, trust, association, or partnership organized outside the laws of the United States and which satisfies the criteria described in subclause (IV).

''(IV) CRITERIA.—The criteria described in this subclause are as follows:

''(aa) At least 75 percent of the entity's total asset value at the close of its taxable year is represented by real estate assets (as defined in section 856(c)(5)(B)), cash and cash equivalents, and United States Government securities.

''(bb) The entity is not subject to tax on amounts distributed to its beneficial owners, or is exempt from entity-level taxation.

''(cc) The entity distributes at least 85 percent of its taxable income (as computed in the jurisdiction in which it is organized) to the holders of its shares or certificates of beneficial interest on an annual basis.

''(dd) Not more than 10 percent of the voting power or value in such entity is held directly or indirectly or constructively by a single entity or individual, or the shares or beneficial interests of such entity are regularly traded on an established securities market.

''(ee) The entity is organized in a country which has a tax treaty with the United States.''.

(g) RULES FOR LIGHTING SYSTEMS.—Subsection (f) of section 179D is amended to read as follows:

''(f) RULES FOR LIGHTING SYSTEMS.—

''(1) IN GENERAL.—With respect to property that is part of a lighting system, the deduction allowed under subsection (a) shall be equal to—

''(A) for a lighting system that includes installation of a lighting control described in paragraph (2)(A), the applicable amount determined under paragraph (3)(A),

''(B) for a lighting system that includes installation of a lighting control described in paragraph (2)(B), the applicable amount determined under paragraph (3)(B), or

''(C) for a lighting system that does not include installation of any lighting controls described in subparagraph (A) or (B) of paragraph (2), the applicable amount determined under paragraph (3)(C).

''(2) ENERGY SAVING CONTROLS.—

''(A) LIGHTING CONTROLS IN CERTAIN SPACES.—For purposes of paragraph (1)(A), the lighting controls described in this subparagraph are the following:

''(i) Occupancy sensors (as described in paragraph (4)(I)) in spaces not greater than 800 square feet.

''(ii) Bi-level controls (as described in paragraph (4)(A)).

''(iii) Continuous or step dimming controls (as described in subparagraphs (B) and (K) of paragraph (4)).

''(iv) Daylight dimming where sufficient daylight is available (as described in paragraph (4)(C)).

''(v) A multi-scene controller (as described in paragraph (4)(H)).

''(vi) Time scheduling controls (as described in paragraph (4)(L)), provided that such controls are not required by Standard 90.1-2010.

''(vii) Such other lighting controls as the Secretary, in consultation with the Secretary of Energy, determines appropriate.

''(B) OTHER CONTROL TYPES.—For purposes of paragraph (1)(B), the lighting controls described in this subparagraph are the following:

''(i) Occupancy sensors (as described in paragraph (4)(I)) in spaces greater than 800 square feet.

''(ii) Demand responsive controls (as described in paragraph (4)(D)).

''(iii) Lumen maintenance controls (as described in paragraph (4)(F)) where solid state lighting is used.

''(iv) Such other lighting controls as the Secretary, in consultation with the Secretary of Energy, determines appropriate.

''(3) APPLICABLE AMOUNT.—

''(A) LIGHTING CONTROLS IN CERTAIN SPACES.—For purposes of paragraph (1)(A), the applicable amount shall be determined in accordance with the following table:

''If the percentage of reduction in lighting power density is not less than:	The amount of the deduction per square foot is:
15 percent	$0.30
20 percent	$0.44
25 percent	$0.58
30 percent	$0.72
35 percent	$0.86
40 percent	$1.00.

''(B) LIGHTING CONTROLS IN LARGER SPACES AND WHERE SOLID LIGHTING IS USED.—For purposes of paragraph (1)(B), the applicable amount shall be determined in accordance with the following table:

''If the percentage of reduction in lighting power density is not less than:	The amount of the deduction per square foot is:
20 percent	$0.30
25 percent	$0.44
30 percent	$0.58
35 percent	$0.72
40 percent	$0.86
45 percent	$1.00.

''(C) NO QUALIFIED LIGHTING CONTROLS.—For purposes of paragraph (1)(C), the applicable amount shall be determined in accordance with the following table:

''If the percentage of reduction in lighting power density is not less than:	The amount of the deduction per square foot is:
25 percent	$0.30
30 percent	$0.44
35 percent	$0.58
40 percent	$0.72
45 percent	$0.86
50 percent	$1.00.

''(4) DEFINITIONS.—For purposes of this subsection:

''(A) BI-LEVEL CONTROL.—

''(i) IN GENERAL.—Subject to clause (ii), the term 'bi-level control' means a lighting control strategy that provides for 2 different levels of lighting.

''(ii) FULL-OFF SETTING.—For purposes of clause (i), a bi-level control shall also provide for a full-off setting.

''(B) CONTINUOUS DIMMING.—The term 'continuous dimming' means a lighting control strategy that adjusts the light output of a lighting system between minimum and maximum light output in a manner that is not perceptible.

''(C) DAYLIGHT DIMMING; SUFFICIENT DAYLIGHT.—

''(i) DAYLIGHT DIMMING.—The term 'daylight dimming' means any device that—

''(I) adjusts electric lighting power in response to the amount of daylight that is present in an area, and

''(II) provides for separate control of the lamps for general lighting in the daylight area by not less than 1 multi-level photocontrol, including continuous dimming devices, that satisfies the following requirements:

''(aa) The light sensor for the multi-level photocontrol is remote from where calibration adjustments are made.

''(bb) The calibration adjustments are readily accessible.

''(cc) The multi-level photocontrol reduces electric lighting power in response to the amount of daylight with—

''(AA) not less than 1 control step that is between 50 percent and 70 percent of design lighting power, and

''(BB) not less than 1 control step that is not less than 35 percent of design lighting power.

''(ii) SUFFICIENT DAYLIGHT.—

''(I) IN GENERAL.—The term 'sufficient daylight' means—

''(aa) in the case of toplighted areas, when the total daylight area under skylights plus the total daylight area under rooftop monitors in an enclosed space is greater than 900 square feet (as defined in Standard 90.1-2010), and

''(bb) in the case of sidelighted areas, when the combined primary sidelight area in an enclosed space is not less than 250 square feet (as defined in Standard 90.1-2010).

''(II) EXCEPTIONS.—Sufficient daylight shall be deemed to not be available if—

''(aa) in the case of areas described in subclause (I)(aa)—

''(AA) for daylighted areas under skylights, it is documented that existing adjacent structures or natural objects block direct beam sunlight for more than 1500 daytime hours (after 8 a.m. and before 4 p.m., local time) per year,

''(BB) for daylighted areas, the skylight effective aperture is less than 0.006, or

''(CC) for buildings in climate zone 8, as defined under Standard 90.1-2010, the daylight areas total less than 1500 square feet in an enclosed space, and

''(bb) in the case of primary sidelighted areas described in subclause (I)(bb)—

''(AA) the top of the existing adjacent structures are at least twice as high above the windows as the distance from the window, or

''(BB) the sidelighting effective aperture is less than 0.1.

''(iii) DAYLIGHT, SIDELIGHTING, AND OTHER RELATED TERMS.—The terms 'daylight area', 'daylight area under skylights', 'daylight area under rooftop monitors', 'daylighted area', 'enclosed space', 'primary sidelighted areas', 'sidelighting effective aperture', and 'skylight effective aperture' have the same meaning given such terms under Standard 90.1-2010.

''(D) DEMAND RESPONSIVE CONTROL.—

''(i) IN GENERAL.—The term 'demand responsive control' means a control device that receives and automatically responds to a demand response signal and—

''(I) in the case of space-conditioning systems, conducts a centralized demand shed for non-critical zones during a demand response period and that has the capability to, on a signal from a centralized contract or software point within an Energy Management Control System—

''(aa) remotely increase the operating cooling temperature set points in such zones by not less than 4 degrees,

''(bb) remotely decrease the operating heating temperature set points in such zones by not less than 4 degrees,

''(cc) remotely reset temperatures in such zones to originating operating levels, and

''(dd) provide an adjustable rate of change for any temperature adjustment and reset, and

''(II) in the case of lighting power, has the capability to reduce lighting power by not less than 30 percent during a demand response period.

''(ii) DEMAND RESPONSE PERIOD.—The term 'demand response period' means a period in which short-term adjustments in electricity usage are made by end-use customers from normal electricity consumption patterns, including adjustments in response to—

''(I) the price of electricity, and

''(II) participation in programs or services that are designed to modify electricity usage in response to wholesale market prices for electricity or when reliability of the electrical system is in jeopardy.

''(iii) DEMAND RESPONSE SIGNAL.—The term 'demand response signal' means a signal sent to an end-use customer by a local utility, independent system operator, or designated curtailment service provider or aggregator that—

''(I) indicates an adjustment in the price of electricity, or

''(II) is a request to modify electricity consumption.

''(E) LAMP.—The term 'lamp' means an artificial light source that produces optical radiation (including ultraviolet and infrared radiation).

''(F) LUMEN MAINTENANCE CONTROL.—The term 'lumen maintenance control' means a lighting control strategy that maintains constant light output by adjusting lamp power to compensate for age and cleanliness of luminaires.

''(G) LUMINAIRE.—The term 'luminaire' means a complete lighting unit for the production, control, and distribution of light that consists of—

''(i) not less than 1 lamp, and

''(ii) any of the following items:

''(I) Optical control devices designed to distribute light.

''(II) Sockets or mountings for the positioning, protection, and operation of the lamps.

''(III) Mechanical components for support or attachment.

''(IV) Electrical and electronic components for operation and control of the lamps.

''(H) MULTI-SCENE CONTROL.—The term 'multi-scene control' means a lighting control device or system that allows for—

''(i) not less than 2 predetermined lighting settings,

''(ii) a setting that turns off all luminaires in an area, and

''(iii) a recall of the settings described in clauses (i) and (ii) for any luminaires or groups of luminaires to adjust to multiple activities within the area.

''(I) OCCUPANCY SENSOR.—The term 'occupancy sensor' means a control device that—

''(i) detects the presence or absence of individuals within an area and regulates lighting, equipment, or appliances according to a required sequence of operation,

''(ii) shuts off lighting when an area is unoccupied,

''(iii) except in areas designated as emergency egress and using less than 0.2 watts per square foot of floor area, provides for manual shut-off of all luminaires regardless of the status of the sensor and allows for—

''(I) independent control in each area enclosed by ceiling-height partitions,

''(II) controls that are readily accessible, and

''(III) operation by a manual switch that is located in the same area as the lighting that is subject to the control device.

''(J) STANDARD 90.1-2010.—The term 'Standard 90.1-2010' means Standard 90.1-2010 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America.

''(K) STEP DIMMING.—The term 'step dimming' means a lighting control strategy that adjusts the light output of a lighting system by 1 or more predetermined amounts of greater than 1 percent of full output in a manner that may be perceptible.

''(L) TIME SCHEDULING CONTROL.—The term 'time scheduling control' means a control strategy that automatically controls lighting, equipment, or systems based on a particular time of day or other daily event (including sunrise and sunset).''.

(h) UPDATED STANDARDS.—

(1) INITIAL UPDATE.—

(A) IN GENERAL.—Section 179D(c) is amended by striking ''90.1-2001'' each place it appears and inserting ''90.1-2004''.

(B) CONFORMING AMENDMENT.—Paragraph (2) of section 179D(c) is amended by striking ''(as in effect on April 2, 2003)''.

(2) SECOND UPDATE.—

(A) IN GENERAL.—Section 179D is amended by striking ''90.1-2004'' each place it appears in subsections (c) and (f) and inserting ''90.1-2007''.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to property placed in service after December 31, 2014.

(i) TREATMENT OF LIGHTING SYSTEMS.—Section 179D(c)(1) is amended by striking ''interior'' each place it appears.

(j) REPORTING PROGRAM.—Section 179D, as amended by subsection (c)(1), is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) REPORTING PROGRAM.—For purposes of the report required under section 179F(l), the Secretary, in consultation with the Secretary of Energy, shall—

''(1) develop a program to collect a statistically valid sample of energy consumption data from taxpayers that received full deductions under this section, regardless of whether such taxpayers allocated all or a portion of such deduction, and

''(2) include such data in the report, with such redactions as deemed necessary to protect the personally identifiable information of such taxpayers.''.

(k) SPECIAL RULE FOR PARTNERSHIPS AND S CORPORATIONS.—Section 179D, as amended by subsection (j), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) SPECIAL RULE FOR PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, this section shall be applied at the partner or shareholder level, subject to such reporting requirements as are determined appropriate by the Secretary.''.

(l) DEDUCTION FOR RETROFITS OF EXISTING COMMERCIAL AND MULTIFAMILY BUILDINGS.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 179E the following new section:

''SEC. 179F. DEDUCTION FOR RETROFITS OF EXISTING COMMERCIAL AND MULTIFAMILY BUILDINGS.

''(a) ALLOWANCE OF DEDUCTION.—

''(1) IN GENERAL.—With respect to each certified retrofit plan, there shall be allowed as a deduction an amount equal to the lesser of—

''(A) the sum of—

''(i) the design deduction, and

''(ii) the realized deduction, or

''(B) the total cost to develop and implement such certified retrofit plan.

''(2) EXCEPTION.—For purposes of the amount described in paragraph (1)(B), if such amount is taken as a design deduction, no realized deduction shall be allowed.

''(b) DEDUCTION AMOUNTS.—For purposes of this section—

''(1) DESIGN DEDUCTION.—A design deduction shall be—

''(A) based on projected source energy savings as calculated in accordance with subsection (c)(3)(B),

''(B) correlated to the percent of source energy savings set forth in the general scale in paragraph (3)(A) that a certified retrofit plan is projected to achieve when energy-efficient measures are placed in service, and

''(C) equal to 60 percent of the amount allowed under the general scale.

''(2) REALIZED DEDUCTION.—

''(A) IN GENERAL.—A realized deduction shall be—

''(i) based on realized source energy savings as calculated in accordance with subsection (c)(3)(C),

''(ii) correlated to the percent of source energy savings set forth in the general scale in paragraph (3)(A) as realized by a certified retrofit plan, and

''(iii) equal to 40 percent of the amount allowed under the general scale.

''(B) ADJUSTMENT OF SOURCE ENERGY SAVINGS.—The percent of source energy savings for purposes of any realized deduction may vary from such savings projected when energy-efficient measures were placed in service for purposes of a design deduction under paragraph (1).

''(C) NO RECAPTURE OF DESIGN DEDUCTION.—Notwithstanding the regulations prescribed under subsection (f), no recapture of a design deduction shall be required where the owner of the commercial or multifamily building—

''(i) claims or allocates a design deduction when energy-efficient measures are placed into service pursuant to the terms and conditions of a certified retrofit plan, and

''(ii) is not eligible for or does not subsequently claim or allocate a realized deduction.

''(3) GENERAL SCALE.—

''(A) IN GENERAL.—The scale for deductions allowed under this section shall be—

''(i) $1.00 per square foot of retrofit floor area for 20 to 24 percent source energy savings,

''(ii) $1.50 per square foot of retrofit floor area for 25 to 29 percent source energy savings,

''(iii) $2.00 per square foot of retrofit floor area for 30 to 34 percent source energy savings,

''(iv) $2.50 per square foot of retrofit floor area for 35 to 39 percent source energy savings,

''(v) $3.00 per square foot of retrofit floor area for 40 to 44 percent source energy savings,

''(vi) $3.50 per square foot of retrofit floor area for 45 to 49 percent source energy savings, and

''(vii) $4.00 per square foot of retrofit floor area for 50 percent or more source energy savings.

''(B) HISTORIC BUILDINGS.—

''(i) IN GENERAL.—With respect to energy-efficient measures placed in service as part of a certified retrofit plan in a commercial building or multifamily building on or eligible for the National Register of Historic Places, the respective dollar amounts set forth in the general scale under subparagraph (A) shall—

''(I) each be increased by 20 percent, for the purposes of calculating any applicable design deduction and realized deduction, and

''(II) not exceed the total cost to develop and implement such certified retrofit plan.

''(ii) EXCEPTION.—If the amount described in clause (i)(II) is taken as a design deduction, then no realized deduction shall be allowed.

''(c) CALCULATION OF ENERGY SAVINGS.—

''(1) IN GENERAL.—For purposes of the design deduction and the realized deduction, source energy savings shall be calculated with reference to a baseline of the annual source energy consumption of the commercial or multifamily building before energy-efficient measures were placed in service.

''(2) BASELINE BENCHMARK.—The baseline under paragraph (1) shall be determined using a building energy performance benchmarking tool designated by the Administrator of the Environmental Protection Agency, and based upon 1 year of source energy consumption data prior to the date upon which the energy-efficient measures are placed in service.

''(3) DESIGN AND REALIZED SOURCE ENERGY SAVINGS.—

''(A) IN GENERAL.—In certifying a retrofit plan as a certified retrofit plan, a licensed engineer or architect shall calculate source energy savings by utilizing the baseline benchmark defined in paragraph (2) and determining percent improvements from such baseline.

''(B) DESIGN DEDUCTION.—For purposes of claiming a design deduction, the regulations issued under subsection (f)(1) shall prescribe the standards and process for a licensed engineer or architect to calculate and certify source energy savings projected from the design of a certified retrofit plan as of the date energy-efficient measures are placed in service.

''(C) REALIZED DEDUCTION.—For purposes of claiming a realized deduction, a licensed engineer or architect shall calculate and certify source energy savings realized by a certified retrofit plan 2 years after a design deduction is allowed by utilizing energy consumption data after energy-efficient measures are placed in service, and adjusting for climate, building occupancy hours, density, or other factors deemed appropriate in the benchmarking tool designated under paragraph (2).

''(d) CERTIFIED RETROFIT PLAN AND OTHER DEFINITIONS.—For purposes of this section—

''(1) CERTIFIED RETROFIT PLAN.—The term 'certified retrofit plan' means a plan that—

''(A) is designed to reduce the annual source energy costs of a commercial building, or a multifamily building, through the installation of energy-efficient measures,

''(B) is certified under penalty of perjury by a licensed engineer or architect, who is not a direct employee of the owner of the commercial building or multifamily building that is the subject of the plan, and is licensed in the State in which such building is located,

''(C) describes the square footage of retrofit floor area covered by such a plan,

''(D) specifies that it is designed to achieve a final source energy usage intensity after energy-efficient measures are placed in service in a commercial building or a multifamily building that does not exceed on a square foot basis the average level of energy usage intensity of other similar buildings, as described in paragraph (2),

''(E) requires that after the energy-efficient measures are placed in service, the commercial building or multifamily building meets the applicable State and local building code requirements for the area in which such building is located,

''(F) satisfies the regulations prescribed under subsection (f), and

''(G) is submitted to the Secretary of Energy after energy-efficient measures are placed in service, for the purpose of informing the report to Congress required by subsection (l).

''(2) AVERAGE LEVEL OF ENERGY USAGE INTENSITY.—

''(A) IN GENERAL.—The maximum average level of energy usage intensity under paragraph (1)(D) shall not exceed 300,000 British thermal units per square foot.

''(B) REGULATIONS.—

''(i) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall develop distinct standards for categories and subcategories of buildings with respect to maximum average level of energy usage intensity based on the best available information used by the ENERGY STAR program.

''(ii) REVIEW.—The standards developed pursuant to clause (i) shall be reviewed and updated by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, not later than every 3 years.

''(3) COMMERCIAL BUILDING.—

''(A) IN GENERAL.—The term 'commercial building' means a building located in the United States—

''(i) that is in existence and occupied on the date of the enactment of this section,

''(ii) for which a certificate of occupancy has been issued at least 10 years before energy efficiency measures are placed in service, and

''(iii) with a primary use or purpose other than as residential housing.

''(B) SHOPPING CENTERS.—In the case of a retail shopping center, the term 'commercial building' shall include an area within such building that is—

''(i) 50,000 square feet or larger that is covered by a separate utility grade meter to record energy consumption in such area, and

''(ii) under the day-to-day management and operation of—

''(I) the owner of such building as common space areas, or

''(II) a retail tenant, lessee, or other occupant.

''(4) ENERGY-EFFICIENT MEASURES.—The term 'energy-efficient measures' means a measure, or combination of measures, placed in service through a certified retrofit plan—

''(A) on or in a commercial building or multifamily building,

''(B) as part of—

''(i) the lighting systems,

''(ii) the heating, cooling, ventilation, refrigeration, or hot water systems,

''(iii) building transportation systems, such as elevators and escalators,

''(iv) the building envelope, which may include an energy-efficient cool roof,

''(v) a continuous commissioning contract under the supervision of a licensed engineer or architect, or

''(vi) building operations or monitoring systems, including utility-grade meters and submeters, and

''(C) including equipment, materials, and systems within subparagraph (B) with respect to which depreciation (or amortization in lieu of depreciation) is allowed.

''(5) ENERGY SAVINGS.—The term 'energy savings' means source energy usage intensity reduced on a per square foot basis through design and implementation of a certified retrofit plan.

''(6) MULTIFAMILY BUILDING.—The term 'multifamily building'—

''(A) means—

''(i) a structure of 5 or more dwelling units located in the United States—

''(I) that is in existence and occupied on the date of the enactment of this section,

''(II) for which a certificate of occupancy has been issued at least 10 years before energy efficiency measures are placed in service, and

''(III) with a primary use as residential housing, and

''(B) includes such buildings owned and operated as a condominium, cooperative, or other common interest community.

''(7) SOURCE ENERGY.—The term 'source energy' means the total amount of raw fuel that is required to operate a commercial building or multifamily building, and accounts for losses that are incurred in the generation, storage, transport, and delivery of fuel to such a building.

''(e) TIMING OF CLAIMING DEDUCTIONS.—Deductions allowed under this section may be claimed as follows:

''(1) DESIGN DEDUCTION.—In the case of a design deduction, in the taxable year that energy efficiency measures are placed in service.

''(2) REALIZED DEDUCTION.—In the case of a realized deduction, in the second taxable year following the taxable year described in paragraph (1).

''(f) REGULATIONS.—

''(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, and after notice and opportunity for public comment, the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall prescribe regulations—

''(A) for the manner and method for a licensed engineer or architect to certify retrofit plans, model projected energy savings, and calculate realized energy savings, and

''(B) notwithstanding subsection (b)(2)(C), to provide, as appropriate, for a recapture of the deductions allowed under this section if a retrofit plan is not fully implemented, or a retrofit plan and energy savings are not certified or verified in accordance with regulations prescribed under this subsection.

''(2) RELIANCE ON ESTABLISHED PROTOCOLS, ETC.—To the maximum extent practicable and available, such regulations shall rely upon established protocols and documents used in the ENERGY STAR program, and industry best practices and existing guidelines, such as the Building Energy Modeling Guidelines of the Commercial Energy Services Network (COMNET).

''(3) ALLOWANCE OF DEDUCTIONS PENDING ISSUANCE OF REGULATIONS.—Pending issuance of the regulations under paragraph (1), the owner of a commercial building or a multifamily building shall be allowed to claim or allocate a deduction allowed under this section.

''(g) NOTICE TO OWNER.—Each certification of a retrofit plan and calculation of energy savings required under this section shall include an explanation to the owner of a commercial building or a multifamily building regarding the energy-efficient measures placed in service and their projected and realized annual energy costs.

''(h) ALLOCATION OF DEDUCTION.—

''(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall promulgate a regulation to allow the owner of a commercial building or a multifamily building, including a government, tribal, or non-profit owner, to allocate any deduction allowed under this section, or a portion thereof, to the person primarily responsible for funding, financing, designing, leasing, operating, or placing in service energy-efficient measures. Such person shall be treated as the taxpayer for purposes of this section and shall include a building tenant, financier, architect, professional engineer, licensed contractor, energy services company, or other building professional.

''(2) FORM OF ALLOCATION.—An allocation made under this paragraph shall be in writing and in a form that meets the form of allocation requirements in Notice 2008–40 of the Internal Revenue Service.

''(3) PROVISION OF ALLOCATION.—Not later than 30 days after receipt of a written request from a person eligible to receive an allocation under this paragraph, the owner of a building that makes an allocation under this paragraph shall provide the form of allocation (as described in paragraph (2)) to such person.

''(4) ALLOCATION FROM PUBLIC OWNER OF BUILDING.—In the case of a commercial building or a multifamily building that is owned by a Federal, State, or local government or a subdivision thereof, Notice 2006–52 of the Internal Revenue Service, as amplified by Notice 2008–40, shall apply to any allocation.

''(i) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy-efficient measures placed in service under a certified retrofit plan other than in a qualified low-income building (within the meaning of section 42), the basis of such measures shall be reduced by the amount of the deduction so allowed or so allocated.

''(j) SPECIAL RULE FOR PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, this section shall be applied at the partner or shareholder level, subject to such reporting requirements as are determined appropriate by the Secretary.

''(k) TAX INCENTIVES NOT AVAILABLE.—

''(1) ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.—Energy-efficient measures for which a deduction is allowed under this section shall not be eligible for a deduction under section 179D.

''(2) NEW ENERGY EFFICIENT HOME CREDIT.—No deduction shall be allowed under this section with respect to any building or dwelling unit with respect to which a credit under section 45L was allowed.

''(l) REPORT TO CONGRESS.—

''(1) IN GENERAL.—Biennially, beginning with the first year after the enactment of this section, the Secretary, in conjunction with the Secretary of Energy, shall submit a report to Congress that—

''(A) explains the energy saved, the energy-efficient measures implemented, the realization of energy savings projected, and records the amounts and types of deductions allowed under this section,

''(B) explains the energy saved, the energy efficient measures implemented, and records the amount of deductions allowed under section 179D, based on the data collected pursuant to subsection (i) of such section,

''(C) determines the number of jobs created as a result of the deduction allowed under this section,

''(D) determines how the use of any deduction allowed under this section may be improved, based on the information provided to the Secretary of Energy,

''(E) provides aggregated data with respect to the information described in subparagraphs (A) through (D), and

''(F) provides statutory recommendations to Congress that would reduce energy consumption in new and existing commercial buildings located in the United States, including recommendations on providing energy-efficient tax incentives for subsections of buildings that operate with specific utility-grade metering.

''(2) PROTECTION OF TAXPAYER INFORMATION.—The Secretary and the Secretary of Energy shall share information on deductions allowed under this section and related reports submitted, as requested by each agency to fulfill its obligations under this section, with such redactions as deemed necessary to protect the personally identifiable financial information of a taxpayer.

''(3) INCORPORATION INTO DEPARTMENT OF ENERGY PROGRAMS.—The Secretary of Energy shall, to the maximum extent practicable, incorporate conclusions of the report under this subsection into current Department of Energy building performance and energy efficiency data collection and other reporting programs.

''(m) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2015.''.

(2) EFFECT ON DEPRECIATION ON EARNINGS AND PROFITS.—Subparagraph (B) of section 312(k)(3), as amended by this title, is amended—

(A) by striking ''or 179E'' both places it appears in clause (i) and inserting ''179E, or 179F'',

(B) by striking ''OR 179E'' in the heading and inserting ''179E, OR 179F'', and

(C) by inserting ''or 179F'' after ''section 179D'' in clause (ii)(I).

(3) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179E the following new item:

''Sec. 179F. Deduction for retrofits of existing commercial and multifamily buildings.''.

(m) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

SA 3186. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE—OTHER PROVISIONS

SEC. __01. DEPRECIATION RECOVERY PERIOD FOR CERTAIN ROOF SYSTEMS.

(a) 20-YEAR RECOVERY PERIOD.—

(1) IN GENERAL.—Subparagraph (F) of section 168(e)(3) is amended to read as follows:

''(F) 20-YEAR PROPERTY.—The term '20-year property' means—

''(i) initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant, and

''(ii) any qualified energy-efficient cool roof replacement property.''.

(2) QUALIFIED ENERGY-EFFICIENT COOL ROOF REPLACEMENT PROPERTY.—Section 168(e) is amended by adding at the end the following new paragraph:

''(9) QUALIFIED ENERGY-EFFICIENT COOL ROOF REPLACEMENT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified energy-efficient cool roof replacement property' means any roof system—

''(i) which is placed in service above conditioned or semi-heated space on an eligible commercial building,

''(ii) which has a slope equal to or less than 2:12,

''(iii) which replaces an existing roof system, and

''(iv) which includes—

''(I) insulation which meets or exceeds the minimum prescriptive requirements in tables A–1 to A–9 in the Normative Appendix A of ASHRAE Standard 189.1–2011, and

''(II) in the case of an eligible commercial building located in a climate zone other than climate zone 6, 7, or 8 (as specified in ASHRAE Standard 189.1–2011), a primary roof covering which has a cool roof surface.

''(B) COOL ROOF SURFACE.—The term 'cool roof surface' means a roof the exterior surface of which—

''(i) has a 3-year-aged solar reflectance of at least 0.55 and a 3-year-aged thermal emittance of at least 0.75, as determined in accordance with the Cool Roof Rating Council CRRC–1 Product Rating Program, or

''(ii) has a 3-year-aged solar reflectance index (SRI) of at least 64, as determined in accordance with ASTM Standard E1980, determined—

''(I) using a medium-wind-speed convection coefficient of 12 W/m2·K, and

''(II) using the values for 3-year-aged solar reflectance and 3-year-aged thermal emittance determined in accordance with the Cool Roof Rating Council CRRC–1 Product Rating Program.

''(C) ROOF SYSTEM.—The term 'roof system' means a system of roof components, including roof insulation and a membrane or primary roof covering, but not including the roof deck, designed to weather-proof and improve the thermal resistance of a building.

''(D) ELIGIBLE COMMERCIAL BUILDING.—The term 'eligible commercial building' means any building—

''(i) which is within the scope of ASHRAE Standard 90.1–2010,

''(ii) which is located in the United States,

''(iii) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

''(iv) which was placed in service prior to December 31, 2009.

''(E) ASHRAE.—The term 'ASHRAE' means the American Society of Heating, Refrigerating and Air-Conditioning Engineers.''.

(b) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Paragraph (3) of section 168(b) is amended by adding at the end the following new subparagraph:

''(J) Any qualified energy-efficient cool roof replacement property.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by striking the last item and inserting the following new items:

''(F)(i) 25
(F)(ii) ..... 27.5''.

(d) DEPRECIATION RULES FOR CERTAIN QUALIFIED ENERGY-EFFICIENT COOL ROOF REPLACEMENT PROPERTY FOR PURPOSES OF COMPUTING THE EARNINGS AND PROFITS OF A REAL ESTATE INVESTMENT TRUST.—

(1) IN GENERAL.—Paragraph (3) of section 312(k) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF QUALIFIED ENERGY-EFFICIENT COOL ROOF REPLACEMENT PROPERTY.—In the case of any qualified energy-efficient cool roof replacement property (within the meaning of section 168(e)(9)), the adjustment for depreciation to earnings and profits of a real estate investment trust for any taxable year shall be determined under the alternative depreciation method (within the meaning of section 168(g)(2)), except that the recovery period shall be 20 years.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 312(k)(3) is amended by striking ''subparagraph (B),'' and inserting ''subparagraphs (B) and (C),''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SA 3187. Mr. CARDIN (for himself, Mr. SCHATZ, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Beginning on page 47, strike line 10 through page 50, line 9.

Beginning on page 53, strike line 13 through page 55, line 17.

At the appropriate place, insert the following:

TITLE ____—ENERGY EFFICIENCY TAX INCENTIVES ACT

SEC. __01. SHORT TITLE.

This title may be cited as the ''Energy Efficiency Tax Incentives Act''.

Subtitle A—Commercial Building Modernization

SEC. __11. EXTENSION AND MODIFICATION OF DEDUCTION FOR ENERGY-EFFICIENT COMMERCIAL BUILDINGS.

(a) EXTENSION.—

(1) THROUGH 2016.—Section 179D(h) is amended by striking ''December 31, 2013'' and inserting ''December 31, 2016''.

(2) INCLUSION OF MULTIFAMILY BUILDINGS.—

(A) IN GENERAL.—Subparagraph (B) of section 179D(c)(1) is amended by striking ''building'' and inserting ''commercial building or multifamily building''.

(B) DEFINITIONS.—Subsection (c) of section 179D is amended by adding at the end the following new paragraphs:

''(3) COMMERCIAL BUILDING.—The term 'commercial building' means a building with a primary use or purpose other than as residential housing.

''(4) MULTIFAMILY BUILDING.—The term 'multifamily building' means a structure of 5 or more dwelling units with a primary use as residential housing, and includes such buildings owned and operated as a condominium, cooperative, or other common interest community.''.

(b) INCREASE IN MAXIMUM AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) is amended by striking ''$1.80'' and inserting ''$3.00''.

(2) PARTIAL ALLOWANCE.—Paragraph (1) of section 179D(d) is amended to read as follows:

''(1) PARTIAL ALLOWANCE.—

''(A) IN GENERAL.—Except as provided in subsection (f), if—

''(i) the requirement of subsection (c)(1)(D) is not met, but

''(ii) there is a certification in accordance with paragraph (6) that—

''(I) any system referred to in subsection (c)(1)(C) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system, or

''(II) the systems referred to in subsection (c)(1)(C)(ii) and subsection (c)(1)(C)(iii) together satisfy the energy-savings targets established by the Secretary under subparagraph (B) with respect to such systems,

then the requirement of subsection (c)(1)(D) shall be treated as met with respect to such system or systems, and the deduction under subsection (a) shall be allowed with respect to energy-efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property described in clause (ii)(I) by substituting '$1.00' for '$3.00' and to such property described in clause (ii)(II) by substituting '$2.20' for '$3.00'.

''(B) REGULATIONS.—

''(i) IN GENERAL.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations establishing a target for each system described in subsection (c)(1)(C) which, if such targets were met for all such systems, the property would meet the requirements of subsection (c)(1)(D).

''(ii) SAFE HARBOR FOR COMBINED SYSTEMS.—The Secretary, after consultation with the Secretary of Energy, and not later than 6 months after the date of the enactment of the Energy Efficiency Tax Incentives Act, shall promulgate regulations regarding combined envelope and mechanical system performance that detail appropriate components, efficiency levels, or other relevant information for the systems referred to in subsection (c)(1)(C)(ii) and subsection (c)(1)(C)(iii) together to be deemed to have achieved two-thirds of the requirements of subsection (c)(1)(D).''.

(c) DENIAL OF DOUBLE BENEFIT RULES.—

(1) IN GENERAL.—Section 179D is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) TAX INCENTIVES NOT AVAILABLE.—Energy-efficient measures for which a deduction is allowed under this section shall not be eligible for a deduction under section 179F.''.

(2) LOW-INCOME HOUSING EXCEPTION TO BASIS REDUCTION.—Subsection (e) of section 179D is amended by inserting ''(other than property placed in service in a qualified low-income building (within the meaning of section 42))'' after ''building property''.

(d) ALLOCATION OF DEDUCTION.—Paragraph (4) of section 179D(d) is amended to read as follows:

''(4) ALLOCATION OF DEDUCTION.—

''(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, the Secretary, in consultation with the Secretary of Energy, shall promulgate a regulation to allow the owner of a commercial or multifamily building, including a government, tribal, or non-profit owner, to allocate any deduction allowed under this section, or a portion thereof, to the person primarily responsible for designing the property in lieu of the owner or to a commercial tenant that leases or otherwise occupies space in such building pursuant to a written agreement. Such person shall be treated as the taxpayer for purposes of this section.

''(B) FORM OF ALLOCATION.—An allocation made under this paragraph shall be in writing and in a form that meets the form of allocation requirements in Notice 2008–40 of the Internal Revenue Service.

''(C) PROVISION OF ALLOCATION.—Not later than 30 days after receipt of a written request from a person eligible to receive an allocation under this paragraph, the owner of a building that makes an allocation under this paragraph shall provide the form of allocation (as described in subparagraph (B)) to such person.

''(D) ALLOCATION FROM PUBLIC OWNER OF BUILDING.—In the case of a commercial building or multifamily building that is owned by a Federal, State, or local government or a subdivision thereof, Notice 2006–52 of the Internal Revenue Service, as amplified by Notice 2008–40, shall apply to any allocation.''.

(e) TREATMENT OF BASIS IN CONTEXT OF ALLOCATION.—Subsection (e) of section 179D, as amended by subsection (c)(2), is amended by inserting ''or so allocated'' after ''so allowed''.

(f) EARNINGS AND PROFITS CONFORMITY FOR REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (B) of section 312(k)(3) is amended—

(1) by striking ''.—For purposes of'' and inserting ''.—

''(i) IN GENERAL.—Except as provided in clause (ii), for purposes of'', and

(2) by adding at the end the following new clause:

''(ii) EARNINGS AND PROFITS CONFORMITY FOR REAL ESTATE INVESTMENT TRUSTS.—

''(I) IN GENERAL.—For purposes of computing the earnings and profits of a real estate investment trust (other than a captive real estate investment trust), the entire amount deductible under section 179D shall be allowed as deductions in the taxable years for which such amounts are claimed under such section.

''(II) CAPTIVE REAL ESTATE INVESTMENT TRUST.—The term 'captive real estate investment trust' means a real estate investment trust the shares or beneficial interests of which are not regularly traded on an established securities market and more than 50 percent of the voting power or value of the beneficial interests or shares of which are owned or controlled, directly or indirectly, or constructively, by a single entity that is treated as an association taxable as a corporation under this title and is not exempt from taxation pursuant to the provisions of section 501(a).

''(III) RULES OF APPLICATION.—For purposes of this clause, the constructive ownership rules of section 318(a), as modified by section 856(d)(5), shall apply in determining the ownership of stock, assets, or net profits of any person, and the following entities are not considered an association taxable as a corporation:

''(aa) Any real estate investment trust other than a captive real estate investment trust.

''(bb) Any qualified real estate investment trust subsidiary under section 856, other than a qualified REIT subsidiary of a captive real estate investment trust.

''(cc) Any Listed Australian Property Trust (meaning an Australian unit trust registered as a 'Managed Investment Scheme' under the Australian Corporations Act in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market), or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, 75 percent or more of the voting power or value of the beneficial interests or shares of such trust.

''(dd) Any corporation, trust, association, or partnership organized outside the laws of the United States and which satisfies the criteria described in subclause (IV).

''(IV) CRITERIA.—The criteria described in this subclause are as follows:

''(aa) At least 75 percent of the entity's total asset value at the close of its taxable year is represented by real estate assets (as defined in section 856(c)(5)(B)), cash and cash equivalents, and United States Government securities.

''(bb) The entity is not subject to tax on amounts distributed to its beneficial owners, or is exempt from entity-level taxation.

''(cc) The entity distributes at least 85 percent of its taxable income (as computed in the jurisdiction in which it is organized) to the holders of its shares or certificates of beneficial interest on an annual basis.

''(dd) Not more than 10 percent of the voting power or value in such entity is held directly or indirectly or constructively by a single entity or individual, or the shares or beneficial interests of such entity are regularly traded on an established securities market.

''(ee) The entity is organized in a country which has a tax treaty with the United States.''.

(g) RULES FOR LIGHTING SYSTEMS.—Subsection (f) of section 179D is amended to read as follows:

''(f) RULES FOR LIGHTING SYSTEMS.—

''(1) IN GENERAL.—With respect to property that is part of a lighting system, the deduction allowed under subsection (a) shall be equal to—

''(A) for a lighting system that includes installation of a lighting control described in paragraph (2)(A), the applicable amount determined under paragraph (3)(A),

''(B) for a lighting system that includes installation of a lighting control described in paragraph (2)(B), the applicable amount determined under paragraph (3)(B), or

''(C) for a lighting system that does not include installation of any lighting controls described in subparagraph (A) or (B) of paragraph (2), the applicable amount determined under paragraph (3)(C).

''(2) ENERGY SAVING CONTROLS.—

''(A) LIGHTING CONTROLS IN CERTAIN SPACES.—For purposes of paragraph (1)(A), the lighting controls described in this subparagraph are the following:

''(i) Occupancy sensors (as described in paragraph (4)(I)) in spaces not greater than 800 square feet.

''(ii) Bi-level controls (as described in paragraph (4)(A)).

''(iii) Continuous or step dimming controls (as described in subparagraphs (B) and (K) of paragraph (4)).

''(iv) Daylight dimming where sufficient daylight is available (as described in paragraph (4)(C)).

''(v) A multi-scene controller (as described in paragraph (4)(H)).

''(vi) Time scheduling controls (as described in paragraph (4)(L)), provided that such controls are not required by Standard 90.1-2010.

''(vii) Such other lighting controls as the Secretary, in consultation with the Secretary of Energy, determines appropriate.

''(B) OTHER CONTROL TYPES.—For purposes of paragraph (1)(B), the lighting controls described in this subparagraph are the following:

''(i) Occupancy sensors (as described in paragraph (4)(I)) in spaces greater than 800 square feet.

''(ii) Demand responsive controls (as described in paragraph (4)(D)).

''(iii) Lumen maintenance controls (as described in paragraph (4)(F)) where solid state lighting is used.

''(iv) Such other lighting controls as the Secretary, in consultation with the Secretary of Energy, determines appropriate.

''(3) APPLICABLE AMOUNT.—

''(A) LIGHTING CONTROLS IN CERTAIN SPACES.—For purposes of paragraph (1)(A), the applicable amount shall be determined in accordance with the following table:

''If the percentage of reduction in lighting power density is not less than:	**The amount of the deduction per square foot is:**
15 percent	$0.30
20 percent	$0.44
25 percent	$0.58
30 percent	$0.72
35 percent	$0.86
40 percent	$1.00.

''(B) LIGHTING CONTROLS IN LARGER SPACES AND WHERE SOLID LIGHTING IS USED.—For purposes of paragraph (1)(B), the applicable amount shall be determined in accordance with the following table:

''If the percentage of reduction in lighting power density is not less than:	**The amount of the deduction per square foot is:**
20 percent	$0.30
25 percent	$0.44
30 percent	$0.58
35 percent	$0.72
40 percent	$0.86
45 percent	$1.00.

''(C) NO QUALIFIED LIGHTING CONTROLS.—For purposes of paragraph (1)(C), the applicable amount shall be determined in accordance with the following table:

''If the percentage of reduction in lighting power density is not less than:	**The amount of the deduction per square foot is:**
25 percent	$0.30
30 percent	$0.44
35 percent	$0.58
40 percent	$0.72
45 percent	$0.86
50 percent	$1.00.

''(4) DEFINITIONS.—For purposes of this subsection:

''(A) BI-LEVEL CONTROL.—

''(i) IN GENERAL.—Subject to clause (ii), the term 'bi-level control' means a lighting control strategy that provides for 2 different levels of lighting.

''(ii) FULL-OFF SETTING.—For purposes of clause (i), a bi-level control shall also provide for a full-off setting.

''(B) CONTINUOUS DIMMING.—The term 'continuous dimming' means a lighting control strategy that adjusts the light output of a lighting system between minimum and maximum light output in a manner that is not perceptible.

''(C) DAYLIGHT DIMMING; SUFFICIENT DAYLIGHT.—

''(i) DAYLIGHT DIMMING.—The term 'daylight dimming' means any device that—

''(I) adjusts electric lighting power in response to the amount of daylight that is present in an area, and

''(II) provides for separate control of the lamps for general lighting in the daylight area by not less than 1 multi-level photocontrol, including continuous dimming devices, that satisfies the following requirements:

''(aa) The light sensor for the multi-level photocontrol is remote from where calibration adjustments are made.

''(bb) The calibration adjustments are readily accessible.

''(cc) The multi-level photocontrol reduces electric lighting power in response to the amount of daylight with—

''(AA) not less than 1 control step that is between 50 percent and 70 percent of design lighting power, and

''(BB) not less than 1 control step that is not less than 35 percent of design lighting power.

''(ii) SUFFICIENT DAYLIGHT.—

''(I) IN GENERAL.—The term 'sufficient daylight' means—

''(aa) in the case of toplighted areas, when the total daylight area under skylights plus the total daylight area under rooftop monitors in an enclosed space is greater than 900 square feet (as defined in Standard 90.1-2010), and

''(bb) in the case of sidelighted areas, when the combined primary sidelight area in an enclosed space is not less than 250 square feet (as defined in Standard 90.1-2010).

''(II) EXCEPTIONS.—Sufficient daylight shall be deemed to not be available if—

''(aa) in the case of areas described in subclause (I)(aa)—

''(AA) for daylighted areas under skylights, it is documented that existing adjacent structures or natural objects block direct beam sunlight for more than 1500 daytime hours (after 8 a.m. and before 4 p.m., local time) per year,

''(BB) for daylighted areas, the skylight effective aperture is less than 0.006, or

''(CC) for buildings in climate zone 8, as defined under Standard 90.1-2010, the daylight areas total less than 1500 square feet in an enclosed space, and

''(bb) in the case of primary sidelighted areas described in subclause (I)(bb)—

''(AA) the top of the existing adjacent structures are at least twice as high above the windows as the distance from the window, or

''(BB) the sidelighting effective aperture is less than 0.1.

''(iii) DAYLIGHT, SIDELIGHTING, AND OTHER RELATED TERMS.—The terms 'daylight area', 'daylight area under skylights', 'daylight area under rooftop monitors', 'daylighted area', 'enclosed space', 'primary sidelighted areas', 'sidelighting effective aperture', and 'skylight effective aperture' have the same meaning given such terms under Standard 90.1-2010.

''(D) DEMAND RESPONSIVE CONTROL.—

''(i) IN GENERAL.—The term 'demand responsive control' means a control device that receives and automatically responds to a demand response signal and—

''(I) in the case of space-conditioning systems, conducts a centralized demand shed for non-critical zones during a demand response period and that has the capability to, on a signal from a centralized contract or software point within an Energy Management Control System—

''(aa) remotely increase the operating cooling temperature set points in such zones by not less than 4 degrees,

''(bb) remotely decrease the operating heating temperature set points in such zones by not less than 4 degrees,

''(cc) remotely reset temperatures in such zones to originating operating levels, and

''(dd) provide an adjustable rate of change for any temperature adjustment and reset, and

''(II) in the case of lighting power, has the capability to reduce lighting power by not less than 30 percent during a demand response period.

''(ii) DEMAND RESPONSE PERIOD.—The term 'demand response period' means a period in which short-term adjustments in electricity usage are made by end-use customers from normal electricity consumption patterns, including adjustments in response to—

''(I) the price of electricity, and

''(II) participation in programs or services that are designed to modify electricity usage in response to wholesale market prices for electricity or when reliability of the electrical system is in jeopardy.

''(iii) DEMAND RESPONSE SIGNAL.—The term 'demand response signal' means a signal sent to an end-use customer by a local utility, independent system operator, or designated curtailment service provider or aggregator that—

''(I) indicates an adjustment in the price of electricity, or

''(II) is a request to modify electricity consumption.

''(E) LAMP.—The term 'lamp' means an artificial light source that produces optical radiation (including ultraviolet and infrared radiation).

''(F) LUMEN MAINTENANCE CONTROL.—The term 'lumen maintenance control' means a lighting control strategy that maintains constant light output by adjusting lamp power to compensate for age and cleanliness of luminaires.

''(G) LUMINAIRE.—The term 'luminaire' means a complete lighting unit for the production, control, and distribution of light that consists of—

''(i) not less than 1 lamp, and

''(ii) any of the following items:

''(I) Optical control devices designed to distribute light.

''(II) Sockets or mountings for the positioning, protection, and operation of the lamps.

''(III) Mechanical components for support or attachment.

''(IV) Electrical and electronic components for operation and control of the lamps.

''(H) MULTI-SCENE CONTROL.—The term 'multi-scene control' means a lighting control device or system that allows for—

''(i) not less than 2 predetermined lighting settings,

''(ii) a setting that turns off all luminaires in an area, and

''(iii) a recall of the settings described in clauses (i) and (ii) for any luminaires or groups of luminaires to adjust to multiple activities within the area.

''(I) OCCUPANCY SENSOR.—The term 'occupancy sensor' means a control device that—

''(i) detects the presence or absence of individuals within an area and regulates lighting, equipment, or appliances according to a required sequence of operation,

''(ii) shuts off lighting when an area is unoccupied,

''(iii) except in areas designated as emergency egress and using less than 0.2 watts per square foot of floor area, provides for manual shut-off of all luminaires regardless of the status of the sensor and allows for—

''(I) independent control in each area enclosed by ceiling-height partitions,

''(II) controls that are readily accessible, and

''(III) operation by a manual switch that is located in the same area as the lighting that is subject to the control device.

''(J) STANDARD 90.1-2010.—The term 'Standard 90.1-2010' means Standard 90.1-2010 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America.

''(K) STEP DIMMING.—The term 'step dimming' means a lighting control strategy that adjusts the light output of a lighting system by 1 or more predetermined amounts of greater than 1 percent of full output in a manner that may be perceptible.

''(L) TIME SCHEDULING CONTROL.—The term 'time scheduling control' means a control strategy that automatically controls lighting, equipment, or systems based on a particular time of day or other daily event (including sunrise and sunset).''.

(h) UPDATED STANDARDS.—

(1) INITIAL UPDATE.—

(A) IN GENERAL.—Section 179D(c) is amended by striking ''90.1-2001'' each place it appears and inserting ''90.1-2004''.

(B) CONFORMING AMENDMENT.—Paragraph (2) of section 179D(c) is amended by striking ''(as in effect on April 2, 2003)''.

(2) SECOND UPDATE.—

(A) IN GENERAL.—Section 179D is amended by striking ''90.1-2004'' each place it appears in subsections (c) and (f) and inserting ''90.1-2007''.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to property placed in service after December 31, 2014.

(i) TREATMENT OF LIGHTING SYSTEMS.—Section 179D(c)(1) is amended by striking ''interior'' each place it appears.

(j) REPORTING PROGRAM.—Section 179D, as amended by subsection (c)(1), is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) REPORTING PROGRAM.—For purposes of the report required under section 179F(l), the Secretary, in consultation with the Secretary of Energy, shall—

''(1) develop a program to collect a statistically valid sample of energy consumption data from taxpayers that received full deductions under this section, regardless of whether such taxpayers allocated all or a portion of such deduction, and

''(2) include such data in the report, with such redactions as deemed necessary to protect the personally identifiable information of such taxpayers.''.

(k) SPECIAL RULE FOR PARTNERSHIPS AND S CORPORATIONS.—Section 179D, as amended by subsection (j), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) SPECIAL RULE FOR PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, this section shall be applied at the partner or shareholder level, subject to such reporting requirements as are determined appropriate by the Secretary.''.

(l) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

SEC. _12. DEDUCTION FOR RETROFITS OF EXISTING COMMERCIAL AND MULTIFAMILY BUILDINGS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179E the following new section:

''SEC. 179F. DEDUCTION FOR RETROFITS OF EXISTING COMMERCIAL AND MULTIFAMILY BUILDINGS.

''(a) ALLOWANCE OF DEDUCTION.—

''(1) IN GENERAL.—With respect to each certified retrofit plan, there shall be allowed as a deduction an amount equal to the lesser of—

''(A) the sum of—

''(i) the design deduction, and

''(ii) the realized deduction, or

''(B) the total cost to develop and implement such certified retrofit plan.

''(2) EXCEPTION.—For purposes of the amount described in paragraph (1)(B), if such amount is taken as a design deduction, no realized deduction shall be allowed.

''(b) DEDUCTION AMOUNTS.—For purposes of this section—

''(1) DESIGN DEDUCTION.—A design deduction shall be—

''(A) based on projected source energy savings as calculated in accordance with subsection (c)(3)(B),

''(B) correlated to the percent of source energy savings set forth in the general scale in paragraph (3)(A) that a certified retrofit plan is projected to achieve when energy-efficient measures are placed in service, and

''(C) equal to 60 percent of the amount allowed under the general scale.

''(2) REALIZED DEDUCTION.—

''(A) IN GENERAL.—A realized deduction shall be—

''(i) based on realized source energy savings as calculated in accordance with subsection (c)(3)(C),

''(ii) correlated to the percent of source energy savings set forth in the general scale in paragraph (3)(A) as realized by a certified retrofit plan, and

''(iii) equal to 40 percent of the amount allowed under the general scale.

''(B) ADJUSTMENT OF SOURCE ENERGY SAVINGS.—The percent of source energy savings for purposes of any realized deduction may vary from such savings projected when energy-efficient measures were placed in service for purposes of a design deduction under paragraph (1).

''(C) NO RECAPTURE OF DESIGN DEDUCTION.—Notwithstanding the regulations prescribed under subsection (f), no recapture of a design deduction shall be required where the owner of the commercial or multifamily building—

''(i) claims or allocates a design deduction when energy-efficient measures are placed into service pursuant to the terms and conditions of a certified retrofit plan, and

''(ii) is not eligible for or does not subsequently claim or allocate a realized deduction.

''(3) GENERAL SCALE.—

''(A) IN GENERAL.—The scale for deductions allowed under this section shall be—

''(i) $1.00 per square foot of retrofit floor area for 20 to 24 percent source energy savings,

''(ii) $1.50 per square foot of retrofit floor area for 25 to 29 percent source energy savings,

''(iii) $2.00 per square foot of retrofit floor area for 30 to 34 percent source energy savings,

''(iv) $2.50 per square foot of retrofit floor area for 35 to 39 percent source energy savings,

''(v) $3.00 per square foot of retrofit floor area for 40 to 44 percent source energy savings,

''(vi) $3.50 per square foot of retrofit floor area for 45 to 49 percent source energy savings, and

''(vii) $4.00 per square foot of retrofit floor area for 50 percent or more source energy savings.

''(B) HISTORIC BUILDINGS.—

''(i) IN GENERAL.—With respect to energy-efficient measures placed in service as part of a certified retrofit plan in a commercial building or multifamily building on or eligible for the National Register of Historic Places, the respective dollar amounts set forth in the general scale under subparagraph (A) shall—

''(I) each be increased by 20 percent, for the purposes of calculating any applicable design deduction and realized deduction, and

''(II) not exceed the total cost to develop and implement such certified retrofit plan.

''(ii) EXCEPTION.—If the amount described in clause (i)(II) is taken as a design deduction, then no realized deduction shall be allowed.

''(c) CALCULATION OF ENERGY SAVINGS.—

''(1) IN GENERAL.—For purposes of the design deduction and the realized deduction, source energy savings shall be calculated with reference to a baseline of the annual source energy consumption of the commercial or multifamily building before energy-efficient measures were placed in service.

''(2) BASELINE BENCHMARK.—The baseline under paragraph (1) shall be determined using a building energy performance benchmarking tool designated by the Administrator of the Environmental Protection Agency, and based upon 1 year of source energy consumption data prior to the date upon which the energy-efficient measures are placed in service.

''(3) DESIGN AND REALIZED SOURCE ENERGY SAVINGS.—

''(A) IN GENERAL.—In certifying a retrofit plan as a certified retrofit plan, a licensed engineer or architect shall calculate source energy savings by utilizing the baseline benchmark defined in paragraph (2) and determining percent improvements from such baseline.

''(B) DESIGN DEDUCTION.—For purposes of claiming a design deduction, the regulations issued under subsection (f)(1) shall prescribe the standards and process for a licensed engineer or architect to calculate and certify source energy savings projected from the design of a certified retrofit plan as of the date energy-efficient measures are placed in service.

''(C) REALIZED DEDUCTION.—For purposes of claiming a realized deduction, a licensed engineer or architect shall calculate and certify source energy savings realized by a certified retrofit plan 2 years after a design deduction is allowed by utilizing energy consumption data after energy-efficient measures are placed in service, and adjusting for climate, building occupancy hours, density, or other factors deemed appropriate in the benchmarking tool designated under paragraph (2).

''(d) CERTIFIED RETROFIT PLAN AND OTHER DEFINITIONS.—For purposes of this section—

''(1) CERTIFIED RETROFIT PLAN.—The term 'certified retrofit plan' means a plan that—

''(A) is designed to reduce the annual source energy costs of a commercial building, or a multifamily building, through the installation of energy-efficient measures,

''(B) is certified under penalty of perjury by a licensed engineer or architect, who is not a direct employee of the owner of the commercial building or multifamily building that is the subject of the plan, and is licensed in the State in which such building is located,

''(C) describes the square footage of retrofit floor area covered by such a plan,

''(D) specifies that it is designed to achieve a final source energy usage intensity after energy-efficient measures are placed in service in a commercial building or a multifamily building that does not exceed on a square foot basis the average level of energy usage intensity of other similar buildings, as described in paragraph (2),

''(E) requires that after the energy-efficient measures are placed in service, the commercial building or multifamily building meets the applicable State and local building code requirements for the area in which such building is located,

''(F) satisfies the regulations prescribed under subsection (f), and

''(G) is submitted to the Secretary of Energy after energy-efficient measures are

placed in service, for the purpose of informing the report to Congress required by subsection (l).

''(2) AVERAGE LEVEL OF ENERGY USAGE INTENSITY.—

''(A) IN GENERAL.—The maximum average level of energy usage intensity under paragraph (1)(D) shall not exceed 300,000 British thermal units per square foot.

''(B) REGULATIONS.—

''(i) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall develop distinct standards for categories and subcategories of buildings with respect to maximum average level of energy usage intensity based on the best available information used by the ENERGY STAR program.

''(ii) REVIEW.—The standards developed pursuant to clause (i) shall be reviewed and updated by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, not later than every 3 years.

''(3) COMMERCIAL BUILDING.—

''(A) IN GENERAL.—The term 'commercial building' means a building located in the United States—

''(i) that is in existence and occupied on the date of the enactment of this section,

''(ii) for which a certificate of occupancy has been issued at least 10 years before energy efficiency measures are placed in service, and

''(iii) with a primary use or purpose other than as residential housing.

''(B) SHOPPING CENTERS.—In the case of a retail shopping center, the term 'commercial building' shall include an area within such building that is—

''(i) 50,000 square feet or larger that is covered by a separate utility grade meter to record energy consumption in such area, and

''(ii) under the day-to-day management and operation of—

''(I) the owner of such building as common space areas, or

''(II) a retail tenant, lessee, or other occupant.

''(4) ENERGY-EFFICIENT MEASURES.—The term 'energy-efficient measures' means a measure, or combination of measures, placed in service through a certified retrofit plan—

''(A) on or in a commercial building or multifamily building,

''(B) as part of—

''(i) the lighting systems,

''(ii) the heating, cooling, ventilation, refrigeration, or hot water systems,

''(iii) building transportation systems, such as elevators and escalators,

''(iv) the building envelope, which may include an energy-efficient cool roof,

''(v) a continuous commissioning contract under the supervision of a licensed engineer or architect, or

''(vi) building operations or monitoring systems, including utility-grade meters and submeters, and

''(C) including equipment, materials, and systems within subparagraph (B) with respect to which depreciation (or amortization in lieu of depreciation) is allowed.

''(5) ENERGY SAVINGS.—The term 'energy savings' means source energy usage intensity reduced on a per square foot basis through design and implementation of a certified retrofit plan.

''(6) MULTIFAMILY BUILDING.—The term 'multifamily building'—

''(A) means—

''(i) a structure of 5 or more dwelling units located in the United States—

''(I) that is in existence and occupied on the date of the enactment of this section,

''(II) for which a certificate of occupancy has been issued at least 10 years before energy efficiency measures are placed in service, and

''(III) with a primary use as residential housing, and

''(B) includes such buildings owned and operated as a condominium, cooperative, or other common interest community.

''(7) SOURCE ENERGY.—The term 'source energy' means the total amount of raw fuel that is required to operate a commercial building or multifamily building, and accounts for losses that are incurred in the generation, storage, transport, and delivery of fuel to such a building.

''(e) TIMING OF CLAIMING DEDUCTIONS.—Deductions allowed under this section may be claimed as follows:

''(1) DESIGN DEDUCTION.—In the case of a design deduction, in the taxable year that energy efficiency measures are placed in service.

''(2) REALIZED DEDUCTION.—In the case of a realized deduction, in the second taxable year following the taxable year described in paragraph (1).

''(f) REGULATIONS.—

''(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, and after notice and opportunity for public comment, the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall prescribe regulations—

''(A) for the manner and method for a licensed engineer or architect to certify retrofit plans, model projected energy savings, and calculate realized energy savings, and

''(B) notwithstanding subsection (b)(2)(C), to provide, as appropriate, for a recapture of the deductions allowed under this section if a retrofit plan is not fully implemented, or a retrofit plan and energy savings are not certified or verified in accordance with regulations prescribed under this subsection.

''(2) RELIANCE ON ESTABLISHED PROTOCOLS, ETC.—To the maximum extent practicable and available, such regulations shall rely upon established protocols and documents used in the ENERGY STAR program, and industry best practices and existing guidelines, such as the Building Energy Modeling Guidelines of the Commercial Energy Services Network (COMNET).

''(3) ALLOWANCE OF DEDUCTIONS PENDING ISSUANCE OF REGULATIONS.—Pending issuance of the regulations under paragraph (1), the owner of a commercial building or a multifamily building shall be allowed to claim or allocate a deduction allowed under this section.

''(g) NOTICE TO OWNER.—Each certification of a retrofit plan and calculation of energy savings required under this section shall include an explanation to the owner of a commercial building or a multifamily building regarding the energy-efficient measures placed in service and their projected and realized annual energy costs.

''(h) ALLOCATION OF DEDUCTION.—

''(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall promulgate a regulation to allow the owner of a commercial building or a multifamily building, including a government, tribal, or non-profit owner, to allocate any deduction allowed under this section, or a portion thereof, to the person primarily responsible for funding, financing, designing, leasing, operating, or placing in service energy-efficient measures. Such person shall be treated as the taxpayer for purposes of this section and shall include a building tenant, financier, architect, professional engineer, licensed contractor, energy services company, or other building professional.

''(2) FORM OF ALLOCATION.—An allocation made under this paragraph shall be in writing and in a form that meets the form of allocation requirements in Notice 2008–40 of the Internal Revenue Service.

''(3) PROVISION OF ALLOCATION.—Not later than 30 days after receipt of a written request from a person eligible to receive an allocation under this paragraph, the owner of a building that makes an allocation under this paragraph shall provide the form of allocation (as described in paragraph (2)) to such person.

''(4) ALLOCATION FROM PUBLIC OWNER OF BUILDING.—In the case of a commercial building or a multifamily building that is owned by a Federal, State, or local government or a subdivision thereof, Notice 2006–52 of the Internal Revenue Service, as amplified by Notice 2008–40, shall apply to any allocation.

''(i) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy-efficient measures placed in service under a certified retrofit plan other than in a qualified low-income building (within the meaning of section 42), the basis of such measures shall be reduced by the amount of the deduction so allowed or so allocated.

''(j) SPECIAL RULE FOR PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, this section shall be applied at the partner or shareholder level, subject to such reporting requirements as are determined appropriate by the Secretary.

''(k) TAX INCENTIVES NOT AVAILABLE.—

''(1) ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.—Energy-efficient measures for which a deduction is allowed under this section shall not be eligible for a deduction under section 179D.

''(2) NEW ENERGY EFFICIENT HOME CREDIT.—No deduction shall be allowed under this section with respect to any building or dwelling unit with respect to which a credit under section 45L was allowed.

''(l) REPORT TO CONGRESS.—

''(1) IN GENERAL.—Biennially, beginning with the first year after the enactment of this section, the Secretary, in conjunction with the Secretary of Energy, shall submit a report to Congress that—

''(A) explains the energy saved, the energy-efficient measures implemented, the realization of energy savings projected, and records the amounts and types of deductions allowed under this section,

''(B) explains the energy saved, the energy efficient measures implemented, and records the amount of deductions allowed under section 179D, based on the data collected pursuant to subsection (i) of such section,

''(C) determines the number of jobs created as a result of the deduction allowed under this section,

''(D) determines how the use of any deduction allowed under this section may be improved, based on the information provided to the Secretary of Energy,

''(E) provides aggregated data with respect to the information described in subparagraphs (A) through (D), and

''(F) provides statutory recommendations to Congress that would reduce energy consumption in new and existing commercial buildings located in the United States, including recommendations on providing energy-efficient tax incentives for subsections of buildings that operate with specific utility-grade metering.

''(2) PROTECTION OF TAXPAYER INFORMATION.—The Secretary and the Secretary of Energy shall share information on deductions allowed under this section and related reports submitted, as requested by each agency to fulfill its obligations under this

section, with such redactions as deemed necessary to protect the personally identifiable financial information of a taxpayer.

''(3) INCORPORATION INTO DEPARTMENT OF ENERGY PROGRAMS.—The Secretary of Energy shall, to the maximum extent practicable, incorporate conclusions of the report under this subsection into current Department of Energy building performance and energy efficiency data collection and other reporting programs.

''(m) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2016.''.

(b) EFFECT ON DEPRECIATION ON EARNINGS AND PROFITS.—Subparagraph (B) of section 312(k)(3), as amended by this title, is amended—

(1) by striking ''or 179E'' both places it appears in clause (i) and inserting ''179E, or 179F'',

(2) by striking ''OR 179E'' in the heading and inserting ''179E, OR 179F'', and

(3) by inserting ''or 179F'' after ''section 179D'' in clause (ii)(I).

(c) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179E the following new item:

''Sec. 179F. Deduction for retrofits of existing commercial and multifamily buildings.''.

(d) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

Subtitle B—Home Energy Improvements

SEC. _21. PERFORMANCE BASED HOME ENERGY IMPROVEMENTS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 25E. PERFORMANCE BASED ENERGY IMPROVEMENTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year for a qualified whole home energy efficiency retrofit an amount determined under subsection (b).

''(b) AMOUNT DETERMINED.—

''(1) IN GENERAL.—Subject to paragraph (4), the amount determined under this subsection is equal to—

''(A) the base amount under paragraph (2), increased by

''(B) the amount determined under paragraph (3).

''(2) BASE AMOUNT.—For purposes of paragraph (1)(A), the base amount is $2,000, but only if the energy use for the residence is reduced by at least 20 percent below the baseline energy use for such residence as calculated according to paragraph (5).

''(3) INCREASE AMOUNT.—For purposes of paragraph (1)(B), the amount determined under this paragraph is $500 for each additional 5 percentage point reduction in energy use.

''(4) LIMITATION.—In no event shall the amount determined under this subsection exceed the lesser of—

''(A) $5,000 with respect to any residence, or

''(B) 30 percent of the qualified home energy efficiency expenditures paid or incurred by the taxpayer under subsection (c) with respect to such residence.

''(5) DETERMINATION OF ENERGY USE REDUCTION.—For purposes of this subsection—

''(A) IN GENERAL.—The reduction in energy use for any residence shall be determined by modeling the annual predicted percentage reduction in total energy costs for heating, cooling, hot water, and permanent lighting. It shall be modeled using computer modeling software approved under subsection (d)(2) and a baseline energy use calculated according to subsection (d)(1)(C).

''(B) ENERGY COSTS.—For purposes of subparagraph (A), the energy cost per unit of fuel for each fuel type shall be determined by dividing the total actual energy bill for the residence for that fuel type for the most recent available 12-month period by the total energy units of that fuel type used over the same period.

''(c) QUALIFIED HOME ENERGY EFFICIENCY EXPENDITURES.—For purposes of this section, the term 'qualified home energy efficiency expenditures'—

''(1) means any amount paid or incurred by the taxpayer during the taxable year for a qualified whole home energy efficiency retrofit, including the cost of diagnostic procedures, labor, and modeling,

''(2) includes only measures that have an average estimated life of 5 years or more as determined by the Secretary, after consultation with the Secretary of Energy, and

''(3) does not include any amount which is paid or incurred in connection with any expansion of the building envelope of the residence.

''(d) QUALIFIED WHOLE HOME ENERGY EFFICIENCY RETROFIT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified whole home energy efficiency retrofit' means the implementation of measures placed in service during the taxable year intended to reduce the energy use of the principal residence of the taxpayer which is located in the United States. A qualified whole home energy efficiency retrofit shall—

''(A) subject to paragraph (4), be designed, implemented, and installed by a contractor which is—

''(i) accredited by the Building Performance Institute (hereafter in this section referred to as 'BPI') or a preexisting BPI accreditation-based State certification program with enhancements to achieve State energy policy,

''(ii) a Residential Energy Services Network (hereafter in this section referred to as 'RESNET') accredited Energy Smart Home Performance Team, or

''(iii) accredited by an equivalent certification program approved by the Secretary, after consultation with the Secretary of Energy, for this purpose,

''(B) install a set of measures modeled to achieve a reduction in energy use of at least 20 percent below the baseline energy use established in subparagraph (C), using computer modeling software approved under paragraph (2),

''(C) establish the baseline energy use by calibrating the model using sections 3 and 4 and Annex D of BPI Standard BPI–2400–S–2011: Standardized Qualification of Whole House Energy Savings Estimates, or an equivalent standard approved by the Secretary, after consultation with Secretary of Energy, for this purpose,

''(D) document the measures implemented in the residence through photographs taken before and after the retrofit, including photographs of its visible energy systems and envelope as relevant, and

''(E) implement a test-out procedure, following guidelines of the applicable certification program specified under clause (i) or (ii) of subparagraph (A), or equivalent guidelines approved by the Secretary, after consultation with the Secretary of Energy, for this purpose, to ensure—

''(i) the safe operation of all systems post retrofit, and

''(ii) that all improvements are included in, and have been installed according to, standards of the applicable certification program specified under clause (i) or (ii) of subparagraph (A), or equivalent standards approved by the Secretary, after consultation with the Secretary of Energy, for this purpose.

For purposes of subparagraph (A)(iii), an organization or State may submit an equivalent certification program for approval by the Secretary, in consultation with the Secretary of Energy. The Secretary shall approve or deny such submission not later than 180 days after receipt, and, if the Secretary fails to respond in that time period, the submitted equivalent certification program shall be considered approved.

''(2) APPROVED MODELING SOFTWARE.—For purposes of paragraph (1)(B), the contractor (or, if applicable, the person described in paragraph (4)) shall use modeling software certified by RESNET as following the software verification test suites in section 4.2.1 of RESNET Publication No. 06–001 or certified by an alternative organization as following an equivalent standard, as approved by the Secretary, after consultation with the Secretary of Energy, for this purpose.

''(3) DOCUMENTATION.—The Secretary, after consultation with the Secretary of Energy, shall prescribe regulations directing what specific documentation is required to be retained or submitted by the taxpayer in order to claim the credit under this section, which shall include, in addition to the photographs under paragraph (1)(D), a form approved by the Secretary that is completed and signed by the qualified whole home energy efficiency retrofit contractor under penalties of perjury. Such form shall include—

''(A) a statement that the contractor (or, if applicable, the person described in paragraph (4)) followed the specified procedures for establishing baseline energy use and estimating reduction in energy use,

''(B) the name of the software used for calculating the baseline energy use and reduction in energy use, the percentage reduction in projected energy savings achieved, and a statement that such software was certified for this program by the Secretary, after consultation with the Secretary of Energy,

''(C) a statement that the contractor (or, if applicable, the person described in paragraph (4)) will retain the details of the calculations and underlying energy bills for 5 years and will make such details available for inspection by the Secretary or the Secretary of Energy, if so requested,

''(D) a list of measures installed and a statement that all measures included in the reduction in energy use estimate are included in, and installed according to, standards of the applicable certification program specified under clause (i) or (ii) of subparagraph (A), or equivalent standards approved by the Secretary, after consultation with the Secretary of Energy,

''(E) a statement that the contractor (or, if applicable, the person described in paragraph (4)) meets the requirements of paragraph (1)(A), and

''(F) documentation of the total cost of the project in order to comply with the limitation under subsection (b)(4)(B).

''(4) CERTIFIED HOME ENERGY RATER.—For purposes of paragraph (1)(A), a contractor shall be deemed to have satisfied the accreditation requirement under such paragraph if the contractor enters into a contract with a person that satisfies such accreditation requirement for purposes of modeling the energy use reduction described in paragraph (1)(B).

''(e) ADDITIONAL RULES.—For purposes of this section—

''(1) NO DOUBLE BENEFIT.—

''(A) IN GENERAL.—With respect to any residence, no credit shall be allowed under this

section for any taxable year in which the taxpayer claims a credit under section 25C.

''(B) RENEWABLE ENERGY SYSTEMS AND APPLIANCES.—In the case of a renewable energy system or appliance that qualifies for another credit under this chapter, the resulting reduction in energy use shall not be taken into account in determining the percentage energy use reductions under subsection (b).

''(C) NO DOUBLE BENEFIT FOR CERTAIN EXPENDITURES.—The term 'qualified home energy efficiency expenditures' shall not include any expenditure for which a deduction or credit is claimed by the taxpayer under this chapter for the taxable year or with respect to which the taxpayer receives any Federal energy efficiency rebate.

''(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

''(3) SPECIAL RULES.—Rules similar to the rules under paragraphs (4), (5), (6), (7), and (8) of section 25D(e) and section 25C(e)(2) shall apply, as determined by the Secretary, after consultation with the Secretary of Energy.

''(4) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section with respect to any expenditure with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(5) ELECTION NOT TO CLAIM CREDIT.—No credit shall be determined under subsection (a) for the taxable year if the taxpayer elects not to have subsection (a) apply to such taxable year.

''(6) MULTIPLE YEAR RETROFITS.—If the taxpayer has claimed a credit under this section in a previous taxable year, the baseline energy use for the calculation of reduced energy use must be established after the previous retrofit has been placed in service.

''(f) TERMINATION.—This section shall not apply with respect to any costs paid or incurred after December 31, 2016.

''(g) SECRETARY REVIEW.—The Secretary, after consultation with the Secretary of Energy, shall establish a review process for the retrofits performed, including an estimate of the usage of the credit and a statistically valid analysis of the average actual energy use reductions, utilizing utility bill data collected on a voluntary basis, and report to Congress not later than June 30, 2014, any findings and recommendations for—

''(1) improvements to the effectiveness of the credit under this section, and

''(2) expansion of the credit under this section to rental units.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended—

(A) by striking ''and'' at the end of paragraph (36),

(B) by striking the period at the end of paragraph (37) and inserting '', and'', and

(C) by adding at the end the following new paragraph:

''(38) to the extent provided in section 25E(e)(4), in the case of amounts with respect to which a credit has been allowed under section 25E.''.

(2) Section 6501(m) is amended by inserting ''25E(e)(5),'' after ''section''.

(3) The table of sections for subpart A of part IV of subchapter A chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Performance based energy improvements.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred for a qualified whole home energy efficiency retrofit placed in service after December 31, 2013.

Subtitle C—Industrial Energy and Water Efficiency

SEC. _31. MODIFICATIONS IN CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) MODIFICATION OF CERTAIN CAPACITY LIMITATIONS.—Section 48(c)(3)(B) is amended—

(1) by striking ''15 megawatts'' in clause (ii) and inserting ''25 megawatts'',

(2) by striking ''20,000 horsepower'' in clause (ii) and inserting ''34,000 horsepower'', and

(3) by striking clause (iii).

(b) INCREASE IN CREDIT PERCENTAGE FOR SYSTEMS WITH GREATER EFFICIENCY.—Subparagraph (A) of section 48(a)(2) is amended—

(1) by striking ''and'' at the end of subclause (III) of clause (i),

(2) by adding at the end of clause (i) the following new subclause:

''(V) combined heat and power system property the energy efficiency percentage of which (as defined in subsection (c)(3)(C)(i)) is equal to or greater than 85 percent,'',

(3) by redesignating clause (ii) as clause (iii),

(4) by striking ''clause (i)'' in clause (iii), as so redesignated, and inserting ''clause (i) or (ii)'', and

(5) by inserting after clause (i) the following new clause:

''(ii) 20 percent in the case of combined heat and power system property the energy percentage of which (as defined in subsection (c)(3)(C)(i)) is equal to or greater than 75 percent and less than 85 percent, and''.

(c) EXTENSION.—Clause (iv) of section 48(c)(3)(A) is amended by striking ''January 1, 2017'' and inserting ''January 1, 2019''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. _32. INVESTMENT TAX CREDIT FOR BIOMASS HEATING PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) is amended by striking ''or'' at the end of clause (vi), by inserting ''or'' at the end of clause (vii), and by inserting after clause (vii) the following new clause:

''(viii) open-loop biomass (within the meaning of section 45(c)(3)) heating property, including boilers or furnaces which operate at output efficiencies of not less than 65 percent (measured by the higher heating value of the fuel) and which provide thermal energy in the form of heat, hot water, or steam for space heating, air conditioning, domestic hot water, or industrial process heat, but only with respect to periods ending before January 1, 2016,''.

(b) 30-PERCENT AND 15-PERCENT CREDITS.—

(1) IN GENERAL.—Subparagraph (A) of section 48(a)(2), as amended by this title, is amended—

(A) by redesignating clause (iii) as clause (iv),

(B) by striking ''and'' at the end of clause (ii),

(C) by striking ''clause (i) or (ii)'' in clause (iv), as so redesignated, and inserting ''clause (i), (ii), or (iii)'', and

(D) by inserting after clause (ii) the following new clause:

''(iii) 15 percent in the case of energy property described in paragraph (3)(A)(viii) to which clause (i)(VI) does not apply, and''.

(2) INCREASED CREDIT FOR GREATER EFFICIENCY.—Clause (i) of section 48(a)(2)(A), as amended by this title, is amended by striking ''and'' at the end of subclause (IV), by striking the comma at the end of subclause (V) and inserting '', and'', and by inserting after subclause (V) the following new subclause:

''(VI) energy property described in paragraph (3)(A)(viii) which operates at an output efficiency of not less than 80 percent (measured by the higher heating value of the fuel),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. _33. INVESTMENT TAX CREDIT FOR WASTE HEAT TO POWER PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3), as amended by this title, is amended by striking ''or'' at the end of clause (vii), by striking the comma at the end of clause (viii) and inserting '', or'', and by inserting after clause (viii) the following new clause:

''(ix) waste heat to power property,''.

(b) 30-PERCENT CREDIT.—Clause (i) of section 48(a)(2)(A), as amended by this title, is amended by striking ''and'' at the end of subclause (V), by striking the comma at the end of subclause (VI) and inserting '', and'', and by inserting after subclause (VI) the following new subclause:

''(VII) waste heat to power property,''.

(c) WASTE HEAT TO POWER PROPERTY.—Subsection (c) of section 48 is amended by adding at the end the following new paragraph:

''(5) WASTE HEAT TO POWER PROPERTY.—

''(A) IN GENERAL.—The term 'waste heat to power property' means property—

''(i) comprising a system which generates electricity through the recovery of a qualified waste heat resource, and

''(ii) which is placed in service before January 1, 2019.

''(B) QUALIFIED WASTE HEAT RESOURCE.—The term 'qualified waste heat resource' means—

''(i) exhaust heat or flared gas from an industrial process,

''(ii) waste gas or industrial tail gas that would otherwise be flared, incinerated, or vented,

''(iii) a pressure drop in any gas for an industrial or commercial process, or

''(iv) such other forms of waste heat resources as the Secretary may determine.

''(C) EXCEPTION.—The term 'qualified waste heat resource' does not include any heat resource from a process whose primary purpose is the generation of electricity utilizing a fossil fuel or the production of oil, natural gas, or other fossil fuels.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. _34. MOTOR ENERGY EFFICIENCY IMPROVEMENT TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 45S. MOTOR ENERGY EFFICIENCY IMPROVEMENT TAX CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the motor energy efficiency improvement tax credit determined under this section for the taxable year is an amount equal to $120 multiplied by the motor horsepower of an appliance, machine, or equipment—

''(1) manufactured in such taxable year by a manufacturer which incorporates an advanced motor and drive system into a newly designed appliance, machine, or equipment or into a redesigned appliance, machine, or equipment which did not previously make use of the advanced motor and drive system, or

''(2) placed back into service in such taxable year by an end user which upgrades an existing appliance, machine, or equipment with an advanced motor and drive system.

For any advanced motor and drive system with a total horsepower of less than 10, such motor energy efficiency improvement tax credit is an amount which bears the same ratio to $120 as such total horsepower bears to 1 horsepower.

''(b) ADVANCED MOTOR AND DRIVE SYSTEM.—For purposes of this section, the term 'advanced motor and drive system' means a motor and any required associated electronic control which—

''(1) offers variable or multiple speed operation, and

''(2) uses permanent magnet technology, electronically commutated motor technology, switched reluctance motor technology, synchronous reluctance, or such other motor and drive systems technologies as determined by the Secretary of Energy.

''(c) AGGREGATE PER TAXPAYER LIMITATION.—

''(1) IN GENERAL.—The amount of the credit determined under this section for any taxpayer for any taxable year shall not exceed the excess (if any) of $2,000,000 over the aggregate credits allowed under this section with respect to such taxpayer for all prior taxable years.

''(2) AGGREGATION RULES.—For purposes of this section, all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 taxpayer.

''(d) SPECIAL RULES.—

''(1) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(2) NO DOUBLE BENEFIT.—No other credit shall be allowable under this chapter for property with respect to which a credit is allowed under this section.

''(3) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1).

''(e) APPLICATION.—This section shall not apply to property manufactured or placed back into service before the date which is 6 months after the date of the enactment of this section or after December 31, 2016.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by sections 208(f) and 221(a)(2)(B) of this Act, is amended by striking ''plus'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', plus'', and by adding at the end the following new paragraph:

''(37) the motor energy efficiency improvement tax credit determined under section 45S.''.

(2) Section 1016(a), as amended by this title, is amended by striking ''and'' at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting '', and'', and by adding at the end the following new paragraph:

''(39) to the extent provided in section 45S(d)(1).''.

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45S. Motor energy efficiency improvement tax credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property manufactured or placed back into service after the date which is 6 months after the date of the enactment of this Act.

SEC. __35. CREDIT FOR REPLACEMENT OF CFC REFRIGERANT CHILLER.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by this title, is amended by adding at the end the following new section:

''SEC. 45T. CFC CHILLER REPLACEMENT CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the CFC chiller replacement credit determined under this section for the taxable year is an amount equal to—

''(1) $150 multiplied by the tonnage rating of a CFC chiller replaced with a new efficient chiller that is placed in service by the taxpayer during the taxable year, plus

''(2) if all chilled water distribution pumps connected to the new efficient chiller include variable frequency drives, $100 multiplied by any tonnage downsizing.

''(b) CFC CHILLER.—For purposes of this section, the term 'CFC chiller' includes property which—

''(1) was installed after 1980 and before 1993,

''(2) utilizes chlorofluorocarbon refrigerant, and

''(3) until replaced by a new efficient chiller, has remained in operation and utilized for cooling a commercial building.

''(c) NEW EFFICIENT CHILLER.—For purposes of this section, the term 'new efficient chiller' includes a water-cooled chiller which is certified to meet efficiency standards effective on January 1, 2015, as defined in table 6.8 in Standard 90.1-2013 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

''(d) TONNAGE DOWNSIZING.—For purposes of this section, the term 'tonnage downsizing' means the amount by which the tonnage rating of the CFC chiller exceeds the tonnage rating of the new efficient chiller.

''(e) ENERGY AUDIT.—As a condition of receiving a tax credit under this section, an energy audit shall be performed on the building prior to installation of the new efficient chiller, identifying cost-effective energy-saving measures, particularly measures that could contribute to chiller downsizing. The audit shall satisfy criteria that shall be issued by the Secretary of Energy.

''(f) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a CFC chiller replaced by a new efficient chiller the use of which is described in paragraph (3) or (4) of section 50(b), the person who sold such new efficient chiller to the entity shall be treated as the taxpayer that placed in service the new efficient chiller that replaced the CFC chiller, but only if such person clearly discloses to such entity in a document the amount of any credit allowable under subsection (a) and the person certifies to the Secretary that the person reduced the price the entity paid for such new efficient chiller by the entire amount of such credit.

''(g) TERMINATION.—This section shall not apply to replacements made after December 31, 2017.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by this title, is amended by striking ''plus'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', plus'', and by adding at the end the following new paragraph:

''(38) the CFC chiller replacement credit determined under section 45T.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this title, is amended by adding at the end the following new item:

''Sec. 45T. CFC chiller replacement credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to replacements made after the date of the enactment of this Act.

SEC. __36. QUALIFYING EFFICIENT INDUSTRIAL PROCESS WATER USE PROJECT CREDIT.

(a) IN GENERAL.—Section 46 is amended by inserting a comma at the end of paragraph (4), by striking ''and'' at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting '', and'', and by adding at the end the following new paragraph:

''(7) the qualifying efficient industrial process water use project credit.''.

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 is amended by inserting after section 48D the following new section:

''SEC. 48E. QUALIFYING EFFICIENT INDUSTRIAL PROCESS WATER USE PROJECT CREDIT.

''(a) IN GENERAL.—

''(1) ALLOWANCE OF CREDIT.—For purposes of section 46, the qualifying efficient industrial process water use project credit for any taxable year is an amount equal to the applicable percentage of the qualified investment for such taxable year with respect to any qualifying efficient industrial process water use project of the taxpayer.

''(2) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

''(A) IN GENERAL.—The applicable percentage is—

''(i) 10 percent in the case of a qualifying efficient industrial process water use project which achieves a 25 percent or greater (but less than 50 percent) reduction in water use for industrial purposes,

''(ii) 20 percent in the case of a qualifying efficient industrial process water use project which achieves a 50 percent or greater (but less than 75 percent) reduction in water use for industrial purposes, and

''(iii) 30 percent in the case of a qualifying efficient industrial process water use project which achieves a 75 percent or greater reduction in water use for industrial purposes.

''(B) WATER USE.—For purposes of subparagraph (A)—

''(i) MEASUREMENT OF REDUCTION IN WATER USE.—

''(I) IN GENERAL.—The taxpayer shall elect one of the methods specified in clause (ii) for measuring the reduction in water use achieved by a qualifying efficient industrial process water use project.

''(II) IRREVOCABLE ELECTION.—An election under subclause (I), once made with respect to a qualifying efficient industrial process water use project, shall apply to the taxable year for which made and all subsequent taxable years, and may not be revoked.

''(III) PROJECTED SAVINGS.—The credit under subsection (a) may be claimed on the basis of a reduction in water use which is projected, by a registered professional engineer who is not a related person (within the meaning of section 144(a)(3)(A)) to the taxpayer or the installer of eligible property, to be achieved by a qualifying efficient industrial process water use project. Such projection, if used as a basis for determining the credit under subsection (a), shall be included with the return of tax.

''(ii) METHODS SPECIFIED.—The methods specified in this clause are—

''(I) a measurement of the percentage reduction in water use per unit of product manufactured by the taxpayer, and

''(II) a measurement of the percentage reduction in water use per pound of product manufactured by the taxpayer.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any

taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying efficient industrial process water use project.

''(2) EXCEPTIONS.—Such term shall not include any portion of the basis related to—

''(A) permitting,

''(B) land acquisition, or

''(C) infrastructure not directly associated with the implementation of the technology or process improvements of the qualifying efficient industrial process water use project.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(4) SPECIAL RULE FOR SUBSIDIZED ENERGY FINANCING.—Rules similar to the rules of section 48(a)(4) (without regard to subparagraph (D) thereof) shall apply for purposes of this section.

''(5) LIMITATION.—The amount which is treated for all taxable years with respect to any qualifying efficient industrial process water use project with respect to any site shall not exceed $10,000,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFYING EFFICIENT INDUSTRIAL PROCESS WATER USE PROJECT.—

''(A) IN GENERAL.—The term 'qualifying efficient industrial process water use project' means, with respect to any site, a project which retrofits or expands an existing facility to implement technology or process improvements which are designed to reduce water use for systems that use any form of water in the production of goods in the manufacturing sector (as defined in North American Industrial Classification System codes 31, 32, and 33), including any system that uses water for heating, cooling, or energy production for the production of goods in the trade or business of manufacturing (other than extraction of fossil fuels). Such term shall not include a project which alters an existing facility to change the type of goods produced by such facility.

''(B) SYSTEMS.—For purposes of subparagraph (A), the term 'system' does not include any system which does not encompass 1 or more complete processes.

''(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property—

''(A) which is part of a qualifying efficient industrial process water use project and which is necessary for the reduction in water use described in paragraph (1),

''(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

''(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

''(3) WATER USE.—

''(A) IN GENERAL.—The term 'water use' means all water taken for use at the site directly from ground and surface water sources together with any water supplied to the site by a regulated water system.

''(B) REGULATED WATER SYSTEM.—The term 'regulated water system' means a system that supplies water that has been treated to potable standards.

''(d) TERMINATION.—This section shall not apply to periods after December 31, 2017, under rules similar to the rules of section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi) and inserting '', and'', and by adding at the end the following new clause:

''(vii) the basis of any property which is part of a qualifying efficient industrial use water project under section 48E.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48D the following new item:

''Sec. 48E. Qualifying efficient industrial process water use project credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3188. Mr. THUNE (for himself, Mr. MCCONNELL, Mr. ROBERTS, Mr. ISAKSON, and Mr. FLAKE) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike section 127 and insert the following:

SEC. 127. PERMANENT EXTENSION OF EXPENSING CERTAIN DEPRECIABLE BUSINESS ASSETS FOR SMALL BUSINESS.

(a) IN GENERAL.—

(1) DOLLAR LIMITATION.—Paragraph (1) of section 179(b) is amended by striking ''shall not exceed—'' and all that follows and inserting ''shall not exceed $500,000.''.

(2) REDUCTION IN LIMITATION.—Paragraph (2) of section 179(b) is amended by striking ''exceeds—'' and all that follows and inserting ''exceeds $2,000,000.''.

(b) COMPUTER SOFTWARE.—Clause (ii) of section 179(d)(1)(A) is amended by striking '', to which section 167 applies, and which is placed in service in a taxable year beginning after 2002 and before 2014'' and inserting ''and to which section 167 applies''.

(c) ELECTION.—Paragraph (2) of section 179(c) is amended—

(1) by striking ''may not be revoked'' and all that follows through ''and before 2014'', and

(2) by striking ''IRREVOCABLE'' in the heading thereof.

(d) AIR CONDITIONING AND HEATING UNITS.—Paragraph (1) of section 179(d) is amended by striking ''and shall not include air conditioning or heating units''.

(e) QUALIFIED REAL PROPERTY.—Subsection (f) of section 179 is amended—

(1) by striking ''beginning in 2010, 2011, 2012, or 2013'' in paragraph (1), and

(2) by striking paragraphs (3) and (4).

(f) INFLATION ADJUSTMENT.—Subsection (b) of section 179 is amended by adding at the end the following new paragraph:

''(6) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any taxable year beginning after 2014, the dollar amounts in paragraphs (1) and (2) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(c)(2)(A) for such calendar year, determined by substituting calendar year 2013 for calendar year 2012 in clause (ii) thereof.

''(B) ROUNDING.—The amount of any increase under subparagraph (A) shall be rounded to the nearest multiple of $10,000.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2013.

SA 3189. Mr. THUNE (for himself, Mr. MCCONNELL, Mr. CORNYN, Mr. ROBERTS, and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike section 111 and insert the following:

SEC. 111. RESEARCH CREDIT SIMPLIFIED AND MADE PERMANENT.

(a) IN GENERAL.—Subsection (a) of section 41 is amended to read as follows:

''(a) IN GENERAL.—For purposes of section 38, the research credit determined under this section for the taxable year shall be an amount equal to the sum of—

''(1) 20 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined,

''(2) 20 percent of so much of the basic research payments for the taxable year as exceeds 50 percent of the average basic research payments for the 3 taxable years preceding the taxable year for which the credit is being determined, plus

''(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium for energy research.''.

(b) REPEAL OF TERMINATION.—Section 41 is amended by striking subsection (h).

(c) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 41 is amended to read as follows:

''(c) DETERMINATION OF AVERAGE RESEARCH EXPENSES FOR PRIOR YEARS.—

''(1) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENDITURES IN ANY OF 3 PRECEDING TAXABLE YEARS.—In any case in which the taxpayer has no qualified research expenses in any one of the 3 taxable years preceding the taxable year for which the credit is being determined, the amount determined under subsection (a)(1) for such taxable year shall be equal to 10 percent of the qualified research expenses for the taxable year.

''(2) CONSISTENT TREATMENT OF EXPENSES.—

''(A) IN GENERAL.—Notwithstanding whether the period for filing a claim for credit or refund has expired for any taxable year taken into account in determining the average qualified research expenses, or average basic research payments, taken into account under subsection (a), the qualified research expenses and basic research payments taken into account in determining such averages shall be determined on a basis consistent with the determination of qualified research expenses and basic research payments, respectively, for the credit year.

''(B) PREVENTION OF DISTORTIONS.—The Secretary may prescribe regulations to prevent distortions in calculating a taxpayer's

qualified research expenses or basic research payments caused by a change in accounting methods used by such taxpayer between the current year and a year taken into account in determining the average qualified research expenses or average basic research payments taken into account under subsection (a).''.

(2) Section 41(e) is amended—

(A) by striking all that precedes paragraph (6) and inserting the following:

''(e) BASIC RESEARCH PAYMENTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'basic research payment' means, with respect to any taxable year, any amount paid in cash during such taxable year by a corporation to any qualified organization for basic research but only if—

''(A) such payment is pursuant to a written agreement between such corporation and such qualified organization, and

''(B) such basic research is to be performed by such qualified organization.

''(2) EXCEPTION TO REQUIREMENT THAT RESEARCH BE PERFORMED BY THE ORGANIZATION.—In the case of a qualified organization described in subparagraph (C) or (D) of paragraph (3), subparagraph (B) of paragraph (1) shall not apply.'',

(B) by redesignating paragraphs (6) and (7) as paragraphs (3) and (4), respectively, and

(C) in paragraph (4) as so redesignated, by striking subparagraphs (B) and (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (B) and (C), respectively.

(3) Section 41(f)(3)is amended—

(A)(i) by striking '', and the gross receipts'' in subparagraph (A)(i) and all that follows through ''determined under clause (iii)'',

(ii) by striking clause (iii) of subparagraph (A) and redesignating clauses (iv), (v), and (vi), thereof, as clauses (iii), (iv), and (v), respectively,

(iii) by striking ''and (iv)'' each place it appears in subparagraph (A)(iv) (as so redesignated) and inserting ''and (iii)'',

(iv) by striking subclause (IV) of subparagraph (A)(iv) (as so redesignated), by striking '', and'' at the end of subparagraph (A)(iv)(III) (as so redesignated) and inserting a period, and by adding ''and'' at the end of subparagraph (A)(iv)(II) (as so redesignated),

(v) by striking ''(A)(vi)'' in subparagraph (B) and inserting ''(A)(v)'', and

(vi) by striking ''(A)(iv)(II)'' in subparagraph (B)(i)(II) and inserting ''(A)(iii)(II)'',

(B) by striking '', and the gross receipts of the predecessor,'' in subparagraph (A)(iv)(II) (as so redesignated),

(C) by striking '', and the gross receipts of,'' in subparagraph (B),

(D) by striking '', or gross receipts of,'' in subparagraph (B)(i)(I), and

(E) by striking subparagraph (C).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2013.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to amounts paid or incurred after December 31, 2013.

SA 3190. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike sections 137 and 138 and insert the following:

SEC. 137. PERMANENT RULE REGARDING BASIS ADJUSTMENT TO STOCK OF S CORPORATIONS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—Section 1367(a)(2) is amended by striking the last sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2013.

SEC. 138. REDUCED RECOGNITION PERIOD FOR BUILT-IN GAINS OF S CORPORATIONS MADE PERMANENT.

(a) IN GENERAL.—Paragraph (7) of section 1374(d) is amended to read as follows:

''(7) RECOGNITION PERIOD.—

''(A) IN GENERAL.—The term recognition period means the 5-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation. For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e), the preceding sentence shall be applied without regard to the phrase 5-year.

''(B) INSTALLMENT SALES.—If an S corporation sells an asset and reports the income from the sale using the installment method under section 453, the treatment of all payments received shall be governed by the provisions of this paragraph applicable to the taxable year in which such sale was made.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2013.

SA 3191. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike section 106 and insert the following:

SEC. 106. PERMANENT EXTENSION OF DEDUCTION OF STATE AND LOCAL GENERAL SALES TAXES.

(a) IN GENERAL.—Section 164(b)(5) is amended by striking subparagraph (I).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2013.

SA 3192. Mr. THUNE (for himself and Ms. AYOTTE) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—OTHER PROVISIONS

SEC. __01. OLYMPIC AND PARALYMPIC MEDALS AND USOC PRIZE MONEY EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Section 74 is amended by adding at the end the following new subsection:

''(d) EXCEPTION FOR OLYMPIC AND PARALYMPIC MEDALS AND PRIZES.—Gross income shall not include the value of any medal awarded in, or any prize money received from the United States Olympic Committee on account of, competition in the Olympic Games or Paralympic Games.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to prizes and awards received after December 31, 2013.

SA 3193. Mr. THUNE submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—INTERNET TAX FREEDOM

SEC. __01. SHORT TITLE.

This title may be cited as the ''Internet Tax Freedom Forever Act''.

SEC. __02. FINDINGS.

Congress makes the following findings:

(1) The Internet has continued to drive economic growth, productivity and innovation since the Internet Tax Freedom Act was first enacted in 1998.

(2) The Internet promotes a nationwide economic environment that facilitates innovation, promotes efficiency, and empowers people to broadly share their ideas.

(3) According to the National Broadband Plan, cost remains the biggest barrier to consumer broadband adoption. Keeping Internet access affordable promotes consumer access to this critical gateway to jobs, education, healthcare, and entrepreneurial opportunities, regardless of race, income, or neighborhood.

(4) Small business owners rely heavily on affordable Internet access, providing them with access to new markets, additional consumers, and an opportunity to compete in the global economy.

(5) Economists have recognized that excessive taxation of innovative communications technologies reduces economic welfare more than taxes on other sectors of the economy.

(6) The provision of affordable access to the Internet is fundamental to the American economy and access to it must be protected from multiple and discriminatory taxes at the State and local level.

(7) As a massive global network that spans political boundaries, the Internet is inherently a matter of interstate and foreign commerce within the jurisdiction of the United States Congress under article I, section 8, clause 3 of the Constitution of the United States.

SEC. __03. PERMANENT MORATORIUM ON INTERNET ACCESS TAXES AND MULTIPLE AND DISCRIMINATORY TAXES ON ELECTRONIC COMMERCE.

(a) IN GENERAL.—Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking '' during the period beginning November 1, 2003, and ending November 1, 2014''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxes imposed after the date of the enactment of this Act.

SA 3194. Mr. THUNE (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with

health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—OTHER PROVISIONS

SEC. __01. OLYMPIC AND PARALYMPIC MEDALS AND USOC PRIZE MONEY EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Section 74 is amended by adding at the end the following new subsection:

''(d) EXCEPTION FOR OLYMPIC AND PARALYMPIC MEDALS AND PRIZES.—Gross income shall not include the value of any medal awarded in, or any prize money received from the United States Olympic Committee on account of, competition in the Olympic Games or Paralympic Games.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to prizes and awards received after December 31, 2013.

SA 3195. Ms. COLLINS (for herself and Mr. NELSON) submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—RETIREMENT SECURITY ACT OF 2014

SEC. __01. SHORT TITLE.

This title may be cited as the ''Retirement Security Act of 2014''.

SEC. __02. ELIMINATION OF DISINCENTIVE TO POOLING FOR MULTIPLE EMPLOYER PLANS.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe final regulations under which a plan described in section 413(c) of the Internal Revenue Code of 1986 may be treated as satisfying the qualification requirements of section 401(a) of such Code despite the violation of such requirements with respect to one or more participating employers. Such rules may require that the portion of the plan attributable to such participating employers be spun off to plans maintained by such employers.

SEC. __03. MODIFICATION OF ERISA RULES RELATING TO MULTIPLE EMPLOYER DEFINED CONTRIBUTION PLANS.

(a) IN GENERAL.—

(1) REQUIREMENT OF COMMON INTEREST.—Section 3(2) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

''(C)(i) A qualified multiple employer plan shall not fail to be treated as an employee pension benefit plan or pension plan solely because the employers sponsoring the plan share no common interest.

''(ii) For purposes of this subparagraph, the term 'qualified multiple employer plan' means a plan described in section 413(c) of the Internal Revenue Code of 1986 which—

''(I) is an individual account plan with respect to which the requirements of clauses (iii), (iv), and (v) are met, and

''(II) includes in its annual report required to be filed under section 104(a) the name and identifying information of each participating employer.

''(iii) The requirements of this clause are met if, under the plan, each participating employer retains fiduciary responsibility for—

''(I) the selection and monitoring of the named fiduciary, and

''(II) the investment and management of the portion of the plan's assets attributable to employees of the employer to the extent not otherwise delegated to another fiduciary.

''(iv) The requirements of this clause are met if, under the plan, a participating employer is not subject to unreasonable restrictions, fees, or penalties by reason of ceasing participation in, or otherwise transferring assets from, the plan.

''(v) The requirements of this clause are met if each participating employer in the plan is an eligible employer as defined in section 408(p)(2)(C)(i) of the Internal Revenue Code of 1986, applied—

''(I) by substituting '500' for '100' in subclause (I) thereof,

''(II) by substituting '5' for '2' each place it appears in subclause (II) thereof, and

''(III) without regard to the last sentence of subclause (II) thereof.''.

(2) SIMPLIFIED REPORTING FOR SMALL MULTIPLE EMPLOYER PLANS.—Section 104(a) of such Act (29 U.S.C. 1024(a)) is amended by adding at the end the following:

''(7)(A) In the case of any eligible small multiple employer plan, the Secretary may by regulation—

''(i) prescribe simplified summary plan descriptions, annual reports, and pension benefit statements for purposes of section 102, 103, or 105, respectively, and

''(ii) waive the requirement under section 103(a)(3) to engage an independent qualified public accountant in cases where the Secretary determines it appropriate.

''(B) For purposes of this paragraph, the term 'eligible small multiple employer plan' means, with respect to any plan year—

''(i) a qualified multiple employer plan, as defined in section 3(2)(C)(ii), or

''(ii) any other plan described in section 413(c) of the Internal Revenue Code of 1986 that satisfies the requirements of clause (v) of section 3(2)(C).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2014.

SEC. __04. SECURE DEFERRAL ARRANGEMENTS.

(a) IN GENERAL.—Subsection (k) of section 401 is amended by adding at the end the following new paragraph:

''(14) ALTERNATIVE METHOD FOR SECURE DEFERRAL ARRANGEMENTS TO MEET NONDISCRIMINATION REQUIREMENTS.—

''(A) IN GENERAL.—A secure deferral arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii).

''(B) SECURE DEFERRAL ARRANGEMENT.—For purposes of this paragraph, the term 'secure deferral arrangement' means any cash or deferred arrangement which meets the requirements of subparagraphs (C), (D), and (E) of paragraph (13), except as modified by this paragraph.

''(C) QUALIFIED PERCENTAGE.—For purposes of this paragraph, with respect to any employee, the term 'qualified percentage' means, in lieu of the meaning given such term in paragraph (13)(C)(iii), any percentage determined under the arrangement if such percentage is applied uniformly and is—

''(i) at least 6 percent, but not greater than 10 percent, during the period ending on the last day of the first plan year which begins after the date on which the first elective contribution described in paragraph (13)(C)(i) is made with respect to such employee,

''(ii) at least 8 percent during the first plan year following the plan year described in clause (i), and

''(iii) at least 10 percent during any subsequent plan year.

''(D) MATCHING CONTRIBUTIONS.—

''(i) IN GENERAL.—For purposes of this paragraph, an arrangement shall be treated as having met the requirements of paragraph (13)(D)(i) if and only if the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to the sum of—

''(I) 100 percent of the elective contributions of the employee to the extent that such contributions do not exceed 1 percent of compensation,

''(II) 50 percent of so much of such contributions as exceed 1 percent but do not exceed 6 percent of compensation, plus

''(III) 25 percent of so much of such contributions as exceed 6 percent but do not exceed 10 percent of compensation.

''(ii) APPLICATION OF RULES FOR MATCHING CONTRIBUTIONS.—The rules of clause (ii) of paragraph (12)(B) and clauses (iii) and (iv) of paragraph (13)(D) shall apply for purposes of clause (i) but the rule of clause (iii) of paragraph (12)(B) shall not apply for such purposes. The rate of matching contribution for each incremental deferral must be at least as high as the rate specified in clause (i), and may be higher, so long as such rate does not increase as an employee's rate of elective contributions increases.''.

(b) MATCHING CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS.—Subsection (m) of section 401 is amended by redesignating paragraph (13) as paragraph (14) and by inserting after paragraph (12) the following new paragraph:

''(13) ALTERNATIVE METHOD FOR SECURE DEFERRAL ARRANGEMENTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions and employee contributions if the plan—

''(A) is a secure deferral arrangement (as defined in subsection (k)(14)),

''(B) meets the requirements of clauses (ii) and (iii) of paragraph (11)(B), and

''(C) provides that matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 10 percent of the employee's compensation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2014.

SEC. __05. CREDIT FOR EMPLOYERS WITH RESPECT TO MODIFIED SAFE HARBOR REQUIREMENTS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 45S. CREDIT FOR SMALL EMPLOYERS WITH RESPECT TO MODIFIED SAFE HARBOR REQUIREMENTS FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a small employer, the safe harbor adoption credit determined under this section for any taxable year is the amount equal to the total of the employer's matching contributions under section 401(k)(14)(D) during the taxable year on behalf of employees who are not highly compensated employees, subject to the limitations of subsection (b).

''(b) LIMITATIONS.—

''(1) LIMITATION WITH RESPECT TO COMPENSATION.—The credit determined under subsection (a) with respect to contributions made on behalf of an employee who is not a highly compensated employee shall not exceed 2 percent of the compensation of such employee for the taxable year.

''(2) LIMITATION WITH RESPECT TO YEARS OF PARTICIPATION.—Credit shall be determined under subsection (a) with respect to contributions made on behalf of an employee who is not a highly compensated employee only during the first 5 years such employee participates in the qualified automatic contribution arrangement.

''(c) DEFINITIONS.—

''(1) IN GENERAL.—Any term used in this section which is also used in section 401(k)(14) shall have the same meaning as when used in such section.

''(2) SMALL EMPLOYER.—The term 'small employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)).

''(d) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowable under this title for any contribution with respect to which a credit is allowed under this section.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38, as amended by sections 208(f) and 221(a)(2)(B) of this Act, is amended—

(1) by striking ''plus'' at the end of paragraph (35),

(2) by striking the period at the end of paragraph (36) and inserting '', plus'', and

(3) by adding at the end the following new paragraph:

''(37) the safe harbor adoption credit determined under section 45S.''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 45R the following new item:

''Sec. 45S. Credit for small employers with respect to modified safe harbor requirements for automatic contribution arrangements.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years that include any portion of a plan year beginning after December 31, 2014.

SEC. __06. MODIFICATION OF REGULATIONS.

The Secretary of the Treasury shall promulgate regulations or other guidance that—

(1) simplify and clarify the rules regarding the timing of participant notices required under section 401(k)(13)(E) of the Internal Revenue Code of 1986, with specific application to—

(A) plans that allow employees to be eligible for participation immediately upon beginning employment, and

(B) employers with multiple payroll and administrative systems, and

(2) simplify and clarify the automatic escalation rules under sections 401(k)(13)(C)(iii) and 401(k)(14)(C) of the Internal Revenue Code of 1986 in the context of employers with multiple payroll and administrative systems.

Such regulations or guidance shall address the particular case of employees within the same plan who are subject to different notice timing and different percentage requirements, and provide assistance for plan sponsors in managing such cases.

SEC. __07. OPPORTUNITY TO CLAIM THE SAVER'S CREDIT ON FORM 1040EZ.

The Secretary of the Treasury shall modify the forms for the return of tax of individuals in order to allow individuals claiming the credit under section 25B of the Internal Revenue Code of 1986 to file (and claim such credit on) Form 1040EZ.

SA 3196. Ms. COLLINS (for herself, Mr. SCOTT, Mr. ISAKSON, Ms. MURKOWSKI, Ms. AYOTTE, Mr. GRAHAM, Mr. BLUNT, Mr. CRAPO, Mr. BOOZMAN, and Mr. DONNELLY) submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. __01. DEFINITION OF FULL-TIME EMPLOYEE.

(a) IN GENERAL.—Section 4980H(c) is amended—

(1) in paragraph (2)(E), by striking ''by 120'' and inserting ''by 120 (174 in the case of months before calendar year 2017)''; and

(2) in paragraph (4)(A) by striking ''30 hours'' and inserting ''30 hours (40 hours in the case of months before calendar year 2017)''.

SA 3197. Ms. COLLINS (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. __01. BENEFITS PROVIDED TO VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL RESPONDERS.

(a) INCREASE IN DOLLAR LIMITATION ON QUALIFIED PAYMENTS.—Subparagraph (B) of section 139B(c)(2) is amended by striking ''$30'' and inserting ''$50''.

(b) EXTENSION.—Subsection (d) of section 139B is amended by striking ''beginning after December 31, 2010.'' and inserting ''beginning—

''(1) after December 31, 2010, and before January 1, 2014, or

''(2) after December 31, 2016.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2013.

SA 3198. Ms. COLLINS (for herself, Mr. SCHUMER, Mr. CARDIN, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. __01. ELECTIVE TREATMENT OF LENGTH OF SERVICE AWARD PROGRAMS AS ELIGIBLE DEFERRED COMPENSATION PLANS.

(a) IN GENERAL.—Section 457(e) is amended by adding at the end the following new paragraph:

''(19) SPECIAL RULES APPLICABLE TO LENGTH OF SERVICE AWARD PLANS.—

''(A) IN GENERAL.—The term 'eligible deferred compensation plan' shall include, at the election of its sponsor, any length of service award plan. Any such election shall be irrevocable. In the case of a length of service award plan whose sponsor has elected to have such plan treated as an eligible deferred compensation plan, such plan shall be administered in a manner consistent with the requirements of this section and such sponsor shall be treated as an eligible employer described in paragraph (1)(A).

''(B) LENGTH OF SERVICE AWARD PLAN.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'length of service award plan' means any plan paying solely length of service awards to bona fide volunteers (or their beneficiaries) on account of qualified services performed by such volunteers.

''(ii) BONA FIDE VOLUNTEER.—An individual shall be treated as a bona fide volunteer if the only compensation received by such individual for performing qualified services is in the form of—

''(I) reimbursement for (or a reasonable allowance for) reasonable expenses incurred in the performance of such services, or

''(II) reasonable benefits (including length of service awards), and fees for such services, customarily paid by eligible employers in connection with the performance of such services by volunteers.

''(iii) QUALIFIED SERVICES.—The term 'qualified services' means firefighting and prevention services, emergency medical services, ambulance services, and emergency rescue services.

''(C) MAXIMUM DEFERRAL AMOUNT.—In the case of a length of service award plan whose sponsor has elected to have such plan treated as an eligible deferred compensation plan, subsection (b)(2) shall be applied by striking 'the lesser of—' and all that follows and inserting 'the applicable dollar amount,'.

''(D) DISTRIBUTION REQUIREMENTS.—In the case of a length of service award plan whose sponsor has elected to have such plan treated as an eligible deferred compensation plan, subsection (d)(1)(A)(ii) shall be applied by deeming a severance from employment to have occurred at the later of—

''(i) the payment date under the terms of the plan, or

''(ii) the date on which the plan participant ceases to perform qualified services.

''(E) LIMITATION ON ACCRUALS.—

''(i) IN GENERAL.—In the case of a length of service award plan that is a defined benefit plan (as defined in section 414(j)) whose sponsor has not elected to have such plan treated as an eligible deferred compensation plan, such plan shall be treated as not providing for the deferral of compensation if the aggregate amount of length of service awards accruing with respect to any year of service for any bona fide volunteer does not exceed $5,500. In the case of a length of service award plan described in the preceding sentence that is a defined benefit plan (as defined in section 414(j)), the limitation on the annual deferral shall apply to the actuarial present value of the aggregate amount of length of service awards accruing with respect to any year of service. Such actuarial present value shall be calculated using reasonable actuarial assumptions and methods assuming payment shall be made under the most valuable form of payment of the length of service award under the program with payment commencing at the later of the earliest age at which unreduced benefits are payable under the program or the participant's current age.

''(ii) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 2014, the Secretary shall adjust the $5,500 amount under clause (i) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2013, and any increase under this paragraph that is not a multiple of $500 shall be rounded to the next lowest multiple of $500.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 457(e)(11) is amended to read as follows:

''(11) CERTAIN PLANS EXCLUDED.—Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan shall be treated as not providing for the deferral of compensation.''.

(2) Section 3121(a)(5)(I) is amended by striking ''section 457(e)(11)(A)(ii)'' and inserting ''section 457(e)(19)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2013.

(d) EXEMPTION OF LENGTH OF SERVICE AWARD PROGRAMS FROM THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—The Secretary of Labor shall issue guidance clarifying that a length of service award program described in section 457(e)(19) of the Internal Revenue Code of 1986 is not an employee pension benefit plan under section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)).

SA 3199. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—OTHER PROVISIONS

SEC. _01. NOTIFICATION OF CONGRESS REGARDING VIOLATIONS OF TAXPAYERS' CONSTITUTIONAL RIGHTS.

(a) IN GENERAL.—Section 7802(f)(3) is amended by adding at the end the following new subparagraph:

''(C) CONSTITUTIONAL RIGHTS OF TAXPAYERS.—For purposes of the annual report required under subparagraph (A), the Oversight Board shall include the following information:

''(i) Any claim filed during the preceding year by a taxpayer alleging, with respect to such taxpayer, a violation of any right under the Constitution of the United States by an employee of the Internal Revenue Service.

''(ii) For purposes of each claim described in clause (i)—

''(I) whether a final administrative or judicial determination on such claim has been reached, and

''(II) subject to section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998, whether the employment of any employee of the Internal Revenue Service determined to be liable for such violation has been terminated or, for any personnel action other than termination of such employee, the reasons provided by the Commissioner of Internal Revenue for such determination.

''(iii) The effectiveness of any procedures and measures established by the Internal Revenue Service to prevent discrimination by any employee of the Internal Revenue Service against any taxpayer on the basis of the political affiliation, beliefs, or activities of such taxpayer.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SA 3200. Ms. COLLINS (for herself and Mr. CASEY) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Beginning on page 32, strike line 12 and all that follows through page 35, line 10, and insert the following:

SEC. 127. PERMANENT EXTENSION OF EXPENSING LIMITATION.

(a) DOLLAR LIMITATION.—Section 179(b)(1) is amended by striking ''shall not exceed'' and all that follows and inserting ''shall not exceed $250,000.''.

(b) REDUCTION IN LIMITATION.—Section 179(b)(2) of such Code is amended by striking ''exceeds'' and all that follows and inserting ''exceeds $800,000.''.

(c) INFLATION ADJUSTMENT.—Subsection (b) of section 179 of such Code is amended by adding at the end the following new paragraph:

''(6) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2014, the $250,000 in paragraph (1) and the $800,000 amount in paragraph (2) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2013' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—

''(i) DOLLAR LIMITATION.—If the amount in paragraph (1) as increased under subparagraph (A) is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

''(ii) PHASEOUT AMOUNT.—If the amount in paragraph (2) as increased under subparagraph (A) is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(d) COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) of such Code is amended by striking ''and before 2014''.

(e) ELECTION.—Section 179(c)(2) of such Code is amended by striking ''and before 2014''.

(f) SPECIAL RULES FOR TREATMENT OF QUALIFIED REAL PROPERTY.—

(1) IN GENERAL.—Section 179(f)(1) of such Code is amended by striking ''beginning in 2010, 2011, 2012, or 2013'' and inserting ''beginning after 2009''.

(2) CONFORMING AMENDMENT.—Section 179(f) of such Code is amended by striking paragraph (4).

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2013.

At the appropriate place, insert the following:

TITLE ___—OTHER PROVISIONS

SEC. _01. PERMANENT DOUBLING OF DEDUCTIONS FOR START-UP EXPENSES, ORGANIZATIONAL EXPENSES, AND SYNDICATION FEES.

(a) START-UP EXPENSES.—

(1) IN GENERAL.—Clause (ii) of section 195(b)(1)(A) is amended—

(A) by striking ''$5,000'' and inserting ''$10,000'', and

(B) by striking ''$50,000'' and inserting ''$60,000''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking paragraph (3).

(b) ORGANIZATIONAL EXPENSES.—Subparagraph (B) of section 248(a)(1) is amended—

(1) by striking ''$5,000'' and inserting ''$10,000'', and

(2) by striking ''$50,000'' and inserting ''$60,000''.

(c) ORGANIZATION AND SYNDICATION FEES.—Clause (ii) of section 709(b)(1)(A) is amended—

(1) by striking ''$5,000'' and inserting ''$10,000'', and

(2) by striking ''$50,000'' and inserting ''$60,000''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years ending on or after the date of the enactment of this Act.

SEC. _02. CLARIFICATION OF CASH ACCOUNTING RULES FOR SMALL BUSINESS.

(a) CASH ACCOUNTING PERMITTED.—

(1) IN GENERAL.—Section 446 is amended by adding at the end the following new subsection:

''(g) CERTAIN SMALL BUSINESS TAXPAYERS PERMITTED TO USE CASH ACCOUNTING METHOD WITHOUT LIMITATION.—

''(1) IN GENERAL.—An eligible taxpayer shall not be required to use an accrual method of accounting for any taxable year.

''(2) ELIGIBLE TAXPAYER.—For purposes of this subsection, a taxpayer is an eligible taxpayer with respect to any taxable year if—

''(A) for all prior taxable years beginning after December 31, 2013, the taxpayer (or any predecessor) met the gross receipts test of section 448(c), and

''(B) the taxpayer is not subject to section 447 or 448.''.

(2) EXPANSION OF GROSS RECEIPTS TEST.—

(A) IN GENERAL.—Paragraph (3) of section 448(b) is amended by striking ''$5,000,000'' in the text and in the heading and inserting ''$10,000,000''.

(B) CONFORMING AMENDMENTS.—Section 448(c) is amended—

(i) by striking ''$5,000,000'' each place it appears in the text and in the heading of paragraph (1) and inserting ''$10,000,000'', and

(ii) by adding at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2014, the dollar amount contained in subsection (b)(3) and paragraph (1) of this subsection shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2013' for 'calendar year 1992' in subparagraph (B) thereof. If any amount as adjusted under this subparagraph is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.''.

(b) CLARIFICATION OF INVENTORY RULES FOR SMALL BUSINESS.—

(1) IN GENERAL.—Section 471 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED TO USE INVENTORIES.—

''(1) IN GENERAL.—A qualified taxpayer shall not be required to use inventories under this section for a taxable year.

''(2) TREATMENT OF TAXPAYERS NOT USING INVENTORIES.—If a qualified taxpayer does not use inventories with respect to any property for any taxable year beginning after December 31, 2013, such property shall be treated as a material or supply which is not incidental.

''(3) QUALIFIED TAXPAYER.—For purposes of this subsection, the term 'qualified taxpayer' means—

''(A) any eligible taxpayer (as defined in section 446(g)(2)), and

''(B) any taxpayer described in section 448(b)(3).''.

(2) INCREASED ELIGIBILITY FOR SIMPLIFIED DOLLAR-VALUE LIFO METHOD.—Section 474(c) is amended by striking ''$5,000,000'' and inserting ''the dollar amount in effect under section 448(c)(1)''.

(c) EFFECTIVE DATE AND SPECIAL RULES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2013.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer changing the taxpayer's method of accounting for any taxable year under the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer;

(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such taxable year.

SA 3201. Mr. BENNET (for himself, Mr. MERKLEY, and Mr. MARKEY) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 53, between lines 3 and 4, insert the following:

SEC. 158. EXTENSION OF ENERGY CREDIT FOR CERTAIN PROPERTY UNDER CONSTRUCTION.

(a) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each amended by striking ''periods ending'' and inserting ''property the construction of which begins''.

(b) QUALIFIED FUEL CELL PROPERTY.—Section 48(c)(1)(D) is amended by striking ''for any period after December 31, 2016'' and inserting ''the construction of which does not begin before January 1, 2017''.

(c) QUALIFIED MICROTURBINE PROPERTY.—Section 48(c)(2)(D) is amended by striking ''for any period after December 31, 2016'' and inserting ''the construction of which does not begin before January 1, 2017''.

(d) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48(c)(3)(A)(iv) is amended by striking ''which is placed in service'' and inserting ''construction of which begins''.

(e) QUALIFIED SMALL WIND ENERGY PROPERTY.—Section 48(c)(4)(C) is amended by striking ''for any period after December 31, 2016'' and inserting ''the construction of which does not begin before January 1, 2017''.

(f) THERMAL ENERGY PROPERTY.—Section 48(a)(3)(A)(vii)is amended by striking ''periods ending'' and inserting ''property the construction of which begins''.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SA 3202. Mr. REED (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—UNEMPLOYMENT COMPENSATION EXTENSION

SEC. __01. SHORT TITLE.

This title may be cites as the ''Emergency Unemployment Compensation Extension Act of 2014''.

SEC. __02. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) EXTENSION.—Section 4007(a)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by striking ''January 1, 2014'' and inserting ''January 1, 2015''.

(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (I), by striking ''and'' at the end;

(2) in subparagraph (J), by inserting ''and'' at the end; and

(3) by inserting after subparagraph (J) the following:

''(K) the amendment made by section __02(a) of the Emergency Unemployment Compensation Extension Act of 2014;''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Taxpayer Relief Act of 2012 (Public Law 112–240).

SEC. __03. TEMPORARY EXTENSION OF EXTENDED BENEFIT PROVISIONS.

(a) IN GENERAL.—Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note), is amended—

(1) by striking ''December 31, 2013'' each place it appears and inserting ''December 31, 2014''; and

(2) in subsection (c), by striking ''June 30, 2014'' and inserting ''June 30, 2015''.

(b) EXTENSION OF MATCHING FOR STATES WITH NO WAITING WEEK.—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking ''June 30, 2014'' and inserting ''June 30, 2015''.

(c) EXTENSION OF MODIFICATION OF INDICATORS UNDER THE EXTENDED BENEFIT PROGRAM.—Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended—

(1) in subsection (d), by striking ''December 31, 2013'' and inserting ''December 31, 2014''; and

(2) in subsection (f)(2), by striking ''December 31, 2013'' and inserting ''December 31, 2014''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Taxpayer Relief Act of 2012 (Public Law 112–240).

SEC. __04. EXTENSION OF FUNDING FOR REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.

(a) EXTENSION.—

(1) IN GENERAL.—Section 4004(c)(2)(A) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by striking ''through fiscal year 2014'' and inserting ''through fiscal year 2015''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of the American Taxpayer Relief Act of 2012 (Public Law 112–240).

(b) TIMING FOR SERVICES AND ACTIVITIES.—

(1) IN GENERAL.—Section 4001(i)(1)(A) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following new sentence:

''At a minimum, such reemployment services and reemployment and eligibility assessment activities shall be provided to an individual within a time period (determined appropriate by the Secretary) after the date the individual begins to receive amounts under section 4002(b) (first tier benefits) and, if applicable, again within a time period (determined appropriate by the Secretary) after the date the individual begins to receive amounts under section 4002(d) (third tier benefits).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply on and after the date of the enactment of this Act.

(c) PURPOSES OF SERVICES AND ACTIVITIES.—The purposes of the reemployment services and reemployment and eligibility assessment activities under section 4001(i) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) are—

(1) to better link the unemployed with the overall workforce system by bringing individuals receiving unemployment insurance benefits in for personalized assessments and referrals to reemployment services; and

(2) to provide individuals receiving unemployment insurance benefits with early access to specific strategies that can help get them back into the workforce faster, including through—

(A) the development of a reemployment plan;

(B) the provision of access to relevant labor market information;

(C) the provision of access to information about industry-recognized credentials that are regionally relevant or nationally portable;

(D) the provision of referrals to reemployment services and training; and

(E) an assessment of the individual's ongoing eligibility for unemployment insurance benefits.

SEC. __05. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) EXTENSION.—Section 2(c)(2)(D)(iii) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(c)(2)(D)(iii)) is amended—

(1) by striking ''June 30, 2013'' and inserting ''June 30, 2014''; and

(2) by striking ''December 31, 2013'' and inserting ''December 31, 2014''.

(b) CLARIFICATION ON AUTHORITY TO USE FUNDS.—Funds appropriated under either the first or second sentence of clause (iv) of section 2(c)(2)(D) of the Railroad Unemployment Insurance Act shall be available to cover the cost of additional extended unemployment benefits provided under such section 2(c)(2)(D) by reason of the amendments made by subsection (a) as well as to cover

the cost of such benefits provided under such section 2(c)(2)(D), as in effect on the day before the date of enactment of this Act.

(c) FUNDING FOR ADMINISTRATION.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board $250,000 for administrative expenses associated with the payment of additional extended unemployment benefits provided under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act by reason of the amendments made by subsection (a), to remain available until expended.

SEC. __06. FLEXIBILITY FOR UNEMPLOYMENT PROGRAM AGREEMENTS.

(a) FLEXIBILITY.—

(1) IN GENERAL.—Subsection (g) of section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) shall not apply with respect to a State that has enacted a law before December 1, 2013, that, upon taking effect, would violate such subsection.

(2) EFFECTIVE DATE.—Paragraph (1) is effective with respect to weeks of unemployment beginning on or after December 29, 2013.

(b) PERMITTING A SUBSEQUENT AGREEMENT.—Nothing in title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) shall preclude a State whose agreement under such title was terminated from entering into a subsequent agreement under such title on or after the date of the enactment of this Act if the State, taking into account the application of subsection (a), would otherwise meet the requirements for an agreement under such title.

SEC. 7. IMPLEMENTATION.

The Secretary of Labor shall prescribe such rules and regulations as the Secretary determines are necessary to carry out the provisions of, and the amendments made by, this title.

SA 3203. Mr. CARDIN (for himself, Mr. BROWN, Mr. ROCKEFELLER, Ms. MIKULSKI, Ms. HEITKAMP, Ms. WARREN, Mr. LEVIN, Mrs. MURRAY, Mr. WHITEHOUSE, Mr. DURBIN, Mr. LEAHY, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Beginning on page 64, strike line 5 and all that follows through page 75, line 10.

SA 3204. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE—EXTENSION OF OTHER PROVISIONS

SEC. __01. EXTENSION OF CREDIT FOR THE PRODUCTION OF LOW SULFUR DIESEL FUEL.

(a) IN GENERAL.—Paragraph (4) of section 45H(c) is amended by striking ''earlier of the date which is 1 year after the date'' and inserting ''later of the date''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2009, in taxable years ending after such date.

SA 3205. Mr. TOOMEY submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—OTHER PROVISIONS

SEC. __01. EXEMPTION FOR CERTAIN BUREAU OF PRISONS CORRECTIONAL OFFICERS FROM TAX ON EARLY DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (t) of section 72 is amended by adding at the end the following new paragraph:

''(11) DISTRIBUTIONS TO QUALIFIED FEDERAL CORRECTIONAL OFFICERS FROM THE THRIFT SAVINGS FUND.—

''(A) IN GENERAL.—In the case of a distribution to a qualified Federal correctional officer from the Thrift Savings Fund established under section 8437 of title 5, United States Code, paragraph (2)(A)(v) of this subsection shall be applied by substituting 'age 50 (or, if earlier, the age at which the employee has completed 25 years of creditable service)' for 'age 55'.

''(B) QUALIFIED FEDERAL CORRECTIONAL OFFICER.—For purposes of this paragraph, the term 'qualified Federal correctional officer' means an individual—

''(i) who is employed by the Bureau of Prisons as a correctional officer, and

''(ii) who has completed 20 years of creditable service.

''(C) CREDITABLE SERVICE.—For purposes of this paragraph, the term 'creditable service' means creditable service under section 8331 or 8411 of title 5, United States Code.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after the date of the enactment of this Act.

SA 3206. Mr. COATS submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

TITLE—OTHER PROVISIONS

SEC. __01. RESTORATION OF TAX RELIEF FOR FAMILIES WITH CATASTROPHIC MEDICAL EXPENSES.

(a) IN GENERAL.—Subsection (a) of section 213 is amended by striking ''10 percent'' and inserting ''7.5 percent''.

(b) CONFORMING AMENDMENTS.—

(1) Section 213 is amended by striking subsection(f).

(2) Section 56(b)(1)(B) is amended by striking ''without regard to subsection (f) of such section'' and inserting ''by substituting '10 percent' for '7.5 percent' ''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2013.

SA 3207. Mr. COATS submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

TITLE—OTHER PROVISIONS

SEC. __01. NOTICE REQUIRED BEFORE REVOCATION OF TAX EXEMPT STATUE FOR FAILURE TO FILE RETURN.

(a) IN GENERAL.—Section 6033(j) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) REQUIREMENT OF NOTICE.—

''(A) IN GENERAL.—Not later than 300 days after the date an organization described in paragraph (1) fails to file the annual return or notice referenced in paragraph (1) for 2 consecutive years, the Secretary shall notify the organization—

''(i) that the Internal Revenue Service has no record of such a return or notice from such organization for 2 consecutive years, and

''(ii) about the penalty that will occur under this subsection if the organization fails to file such a return or notice by the date of the next filing deadline.

The notification under the preceding sentence shall include information about how to comply with the filing requirements under subsection (a)(1) and (i).''.

(b) REINSTATEMENT WITHOUT APPLICATION.—Paragraph (3) of section 6033(j), as redesignated under subsection (a), is amended—

(1) by striking ''Any organization'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), any organization'', and

(2) by adding at the end the following new subparagraph:

''(B) RETROACTIVE REINSTATEMENT WITHOUT APPLICATION IF ACTUAL NOTICE NOT PROVIDED.—If an organization described in paragraph (1)—

''(i) demonstrates to the satisfaction of the Secretary that the organization did not receive the notice required under paragraph (2), and

''(ii) files an annual return or notice referenced in paragraph (1) for the current year,

then the Secretary may reinstate the organization's exempt status effective from the date of the revocation under paragraph (1) without the need for an application.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices

and returns required to be filed after December 31, 2014.

SA 3208. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—OTHER PROVISIONS

SEC. _____. ELIMINATION OF TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended to read as follows:

''(H) NONAPPLICATION OF TAXABLE INCOME LIMIT WITH RESPECT TO MARGINAL PRODUCTION.—The second sentence of subsection (a) of section 613 shall not apply to so much of the allowance for depletion as is determined under subparagraph (A) for any taxable year beginning after December 31, 2013, and before January 1, 2016.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2013.

(c) RESCISSION OF FUNDS.—The available unobligated balance of any amounts that are appropriated for fiscal year 2013 are rescinded, to the extent such amounts do not exceed the reduction in revenues to the Treasury by reason of the amendment made by subsection (a).

SA 3209. Mr. CASEY (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE—INLAND WATERWAYS TRUST FUND FINANCING RATE

SEC. __01. REVISION TO THE INLAND WATERWAYS TRUST FUND FINANCING RATE.

(a) IN GENERAL.—Subparagraph (A) of section 4042(b)(2), as amended by section 221, is amended to read as follows:

''(A) The Inland Waterways Trust Fund financing rate is 29 cents per gallon.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to uses during calendar quarters beginning more than 60 days after the date of the enactment of this Act.

SA 3210. Mr. CASEY (for himself and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

Strike section 122 and insert the following:

SEC. 122. PERMANENT EXTENSION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.

(a) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—Clause (iv) of section 168(e)(3)(E) is amended by striking ''placed in service before January 1, 2014''.

(b) QUALIFIED RESTAURANT PROPERTY.—Clause (v) of section 168(e)(3)(E) is amended by striking ''placed in service before January 1, 2014''.

(c) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—Clause (ix) of section 168(e)(3)(E) is amended by striking '', and before January 1, 2014''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2013.

SA 3211. Mr. UDALL of Colorado (for himself, Mr. BLUNT, Mrs. SHAHEEN, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—BREWERS EXCISE TAX AND ECONOMIC RELIEF

SEC. __01. REPEAL OF 1990 TAX INCREASE ON BEER.

(a) REPEAL OF 1990 TAX INCREASE ON BEER.—Paragraph (1) of section 5051(a) is amended by striking ''$18'' and inserting ''$9''.

(b) TAX RELIEF FOR SMALL BREWERIES.—Subparagraph (A) of section 5051(a)(2) is amended to read as follows:

''(A) RATE PER BARREL FOR QUALIFYING BREWERS.—In the case of a brewer who produces not more than 2,000,000 barrels of beer during the calendar year, the per barrel rate of the tax imposed by this section on the first 60,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States shall be as follows:

''(i) For the first 15,000 barrels removed, $0.

''(ii) For the next 45,000 barrels removed after the barrel quantity specified in clause (i), $3.50.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SA 3212. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—OTHER PROVISIONS

SEC. __01. CONSUMER RENEWABLE CREDIT.

(a) BUSINESS CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 45S. CONSUMER RENEWABLE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the consumer renewable credit for any taxable year is an amount equal to the product of—

''(1) the renewable portfolio factor of such eligible taxpayer, and

''(2) subject to subsection (e), the number of kilowatt hours of renewable electricity—

''(A) purchased or produced by such taxpayer, and

''(B) sold by such taxpayer to a retail customer during the taxable year.

''(b) RENEWABLE PORTFOLIO FACTOR.—In the case of taxable years beginning before January 1, 2019, the renewable portfolio factor for an eligible taxpayer shall be determined as follows:

''Renewable electricity percentage:	Renewable portfolio factor:
Less than 6 percent	zero cents
At least 6 percent but less than 8 percent	0.1 cents
At least 8 percent but less than 12 percent	0.2 cents
At least 12 percent but less than 16 percent	0.3 cents
At least 16 percent but less than 20 percent	0.4 cents
At least 20 percent but less than 24 percent	0.5 cents
Equal to or greater than 24 percent	0.6 cents.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means an electric utility, as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22)).

''(2) RENEWABLE ELECTRICITY.—The term 'renewable electricity' means electricity generated by any facility using wind or solar energy to generate such electricity.

''(3) RENEWABLE ELECTRICITY PERCENTAGE.—The term 'renewable electricity percentage' means the percentage of an eligible taxpayer's total sales of electricity to retail customers which is derived from renewable electricity (determined without regard to whether such electricity was produced by the taxpayer).

''(4) APPLICATION OF OTHER RULES.—For purposes of this section, rules similar to the rules of paragraphs (1), (3), and (5) of section 45(e) shall apply.

''(5) CREDIT ALLOWED ONLY WITH RESPECT TO ONE ELIGIBLE ENTITY.—No credit shall be allowed under subsection (a) with respect to renewable electricity purchased from another eligible entity if a credit has been allowed under this section to such other eligible entity.

''(d) COORDINATION WITH PAYMENTS.—The amount of the credit determined under this section with respect to any electricity shall be reduced to take into account any payment provided with respect to such electricity solely by reason of the application of section 6433.

''(e) RENEWABLE ELECTRICITY ENHANCEMENT.—

''(1) NATIVE AMERICAN WIND AND SOLAR.—In the case of renewable electricity generated by a wind or solar energy facility which is located on an Indian reservation (as defined in section 168(j)(6)), the number of kilowatt

hours of such renewable electricity shall, for purposes of subsection (a)(2), be equal to 200 percent of the kilowatt hours of such renewable electricity actually purchased or produced and sold during the taxable year.

''(2) ELECTRIC COOPERATIVE WIND AND SOLAR.—In the case of renewable electricity generated by a wind or solar energy facility which is wholly owned by a mutual or cooperative electric company (as described in section 501(c)(12) or 1381(a)(2)(C)), the number of kilowatt hours of such renewable electricity shall, for purposes of subsection (a)(2), be equal to 150 percent of the kilowatt hours of such renewable electricity actually purchased or produced and sold during the taxable year.''.

(2) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38, as amended by this Act, is amended by striking ''plus'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', plus'', and by adding at the end the following new paragraph:

''(37) the consumer renewable credit determined under section 45S(a).''.

(3) SPECIFIED CREDIT.—Subparagraph (B) of section 38(c)(4) is amended by redesignating clauses (vii) through (ix) as clauses (viii) through (x), respectively, and by inserting after clause (v) the following new clause:

''(vi) the credit determined under section 45S.''.

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45S. Consumer renewable credit.''.

(b) PAYMENTS IN LIEU OF CREDIT.—

(1) IN GENERAL.—Subchapter B of chapter 65 is amended by adding at the end the following new section:

''SEC. 6433. CONSUMER RENEWABLE CREDIT PAYMENTS.

''(a) IN GENERAL.—If any eligible person sells renewable electricity to a retail customer, the Secretary shall pay (without interest) to any such person who elects to receive a payment an amount equal to the product of—

''(1) the intermittent renewable portfolio factor of such eligible person, and

''(2) the number of kilowatt hours of renewable electricity—

''(A) purchased or produced by such person, and

''(B) sold by such person in the trade or business of such person to a retail customer.

''(b) TIMING OF PAYMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), rules similar to the rules of section 6427(i)(1) shall apply for purposes of this section.

''(2) QUARTERLY PAYMENTS.—

''(A) IN GENERAL.—If, at the close of any quarter of the taxable year of any person (or, in the case of an eligible person that does not have a taxable year, the close of any quarter of the fiscal year), at least $750 is payable in the aggregate under subsection (a), to such person with respect to electricity purchased or produced during—

''(i) such quarter, or

''(ii) any prior quarter (for which no other claim has been filed) during such year,

a claim may be filed under this section with respect to such electricity.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) ELIGIBLE PERSON.—The term 'eligible person' means—

''(A) an electric utility, as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22)), or

''(B) a Federal power marketing agency, as defined in section 3(19) of such Act (16 U.S.C. 796(19)).

''(2) OTHER DEFINITIONS.—Any term used in this section which is also used in section 45S shall have the meaning given such term under section 45S.

''(3) APPLICATION OF OTHER RULES.—For purposes of this section, rules similar to the rules of paragraphs (1) and (3) of section 45(e) shall apply.

''(d) PAYMENT DISALLOWED UNLESS AMOUNT PASSED TO THIRD-PARTY GENERATORS CHARGED FOR INTEGRATION COSTS.—

''(1) IN GENERAL.—In the case of renewable electricity eligible for the payment under subsection (a) that is purchased and not produced by an eligible person, no payment shall be made under this section unless any charge the eligible person has assessed the seller to recover the integration costs associated with such electricity has been reduced (but not below zero) to the extent of the payment received under subsection (a) associated with such electricity.

''(2) DEFINITIONS.—For purposes of paragraph (1), charges intended to recover integration costs do not include amounts paid by the producer of the electricity for interconnection facilities, distribution upgrades, network upgrades, or stand alone network upgrades as those terms have been defined by the Federal Energy Regulatory Commission in its Standard Interconnection Procedures.

''(e) PAYMENT ALLOWED FOR SPECIAL GENERATING AND TRANSMITTING ENTITIES.—

''(1) IN GENERAL.—Notwithstanding subsection (a)(2), a special generating and transmitting entity shall be eligible for payment under subsection (a) based on the number of kilowatt hours of renewable electricity transmitted, regardless of whether such entity purchased or sold such electricity to retail customers.

''(2) DEFINITION.—For purposes of this subsection, the term 'special generating and transmitting entity' means—

''(A) an entity which is—

''(i) primarily engaged in marketing electricity,

''(ii) provides transmissions services for greater than 4,000 megawatts of renewable electricity generating facilities, as determined by reference to the machine or nameplate capacity thereof, and

''(iii) transmits the majority of such renewable electricity to customers located outside of the region that it serves, or

''(B) a generation and transmission cooperative which engages primarily in providing wholesale electric services to its members (generally consisting of distribution cooperatives).''.

(2) CLERICAL AMENDMENT.—The table of sections for subpart B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 6433. Consumer renewable credit payments.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced or purchased and sold after December 31, 2013, and before January 1, 2019.

SEC. __02. DELAY IN APPLICATION OF WORLDWIDE INTEREST.

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) are each amended by striking ''December 31, 2020'' and inserting ''December 31, 2022''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SA 3213. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—STOPPING TAX OFFENDERS AND PROSECUTING IDENTITY THEFT

SEC. __01. USE OF DEPARTMENT OF JUSTICE RESOURCES WITH REGARD TO TAX RETURN IDENTITY THEFT.

(a) IN GENERAL.—The Attorney General should make use of all existing resources of the Department of Justice, including any appropriate task forces, to bring more perpetrators of tax return identity theft to justice.

(b) CONSIDERATIONS TO BE TAKEN INTO ACCOUNT.—In carrying out this section, the Attorney General should take into account the following:

(1) The need to concentrate efforts in those areas of the country where the crime is most frequently reported.

(2) The need to coordinate with State and local authorities for the most efficient use of their laws and resources to prosecute and prevent the crime.

(3) The need to protect vulnerable groups, such as veterans, seniors, and minors (especially foster children) from becoming victims or otherwise used in the offense.

SEC. __02. VICTIMS OF IDENTITY THEFT MAY INCLUDE ORGANIZATIONS.

Chapter 47 of title 18, United States Code, is amended—

(1) in section 1028—

(A) in subsection (a)(7), by inserting ''(including an organization)'' after ''another person''; and

(B) in subsection (d)(7), in the matter preceding subparagraph (A), by inserting ''or other person'' after ''specific individual''; and

(2) in section 1028A(a)(1), by inserting ''(including an organization)'' after ''another person''.

SEC. __03. IDENTITY THEFT FOR PURPOSES OF TAX FRAUD.

Section 1028(b)(3) of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' after the semicolon; and

(3) by adding at the end the following:

''(D) during and in relation to a felony under section 7206 or 7207 of the Internal Revenue Code of 1986;''.

SEC. __04. REPORTING REQUIREMENT.

(a) GENERALLY.—Beginning with the first report made more than 9 months after the date of the enactment of this Act under section 1116 of title 31, United States Code, the Attorney General shall include in such report the information described in subsection (b) of this section as to progress in implementing this Act and the amendments made by this Act.

(b) CONTENTS.—The information referred to in subsection (a) is as follows:

(1) Information readily available to the Department of Justice about trends in the incidence of tax return identity theft.

(2) The effectiveness of statutory tools, including those provided by this Act, in aiding the Department of Justice in the prosecution of tax return identity theft.

(3) Recommendations on additional statutory tools that would aid in removing barriers to effective prosecution of tax return identity theft.

(4) The status on implementing the recommendations of the Department's March 2010 Audit Report 10–21 entitled ''The Department of Justice's Efforts to Combat Identity Theft''.

SA 3214. Ms. KLOBUCHAR (for herself, Mr. HATCH, Mr. FRANKEN, Mr. TOOMEY, Mrs. SHAHEEN, Mrs. HAGAN, Mr. DONNELLY, Mr. COATS, Mr. MCCONNELL, Mr. UDALL of Colorado, Mr. CASEY, and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE—MORATORIUM ON MEDICAL DEVICE TAX

SEC. _____. MORATORIUM ON APPLICATION OF MEDICAL DEVICE TAX AND REFUND OF AMOUNTS PAID.

(a) MORATORIUM ON APPLICATION OF TAX.—

(1) IN GENERAL.—Section 4191 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(c) MORATORIUM.—The tax imposed under subsection (a) shall not apply to sales during the period beginning on January 1, 2014, and ending on December 31, 2015.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to sales after December 31, 2013.

(b) REFUND OF AMOUNTS PAID.—The Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to provide a refund, with interest, to any manufacturer, producer, or importer of taxable medical devices in an amount equal to the taxes imposed by section 4191 of the Internal Revenue Code of 1986 that were paid by such manufacturer, producer, or importer for the sale of any such devices between the period after December 31, 2013, and before the date of the enactment of this Act.

SA 3215. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—INNOVATE AMERICA

SEC. __01. FINDINGS.

Congress finds the following:

(1) Innovation has historically been a catalyzing force in the American economy, driving the production of game-changing technologies, the creation of millions of jobs and the opening of countless new avenues for growth. In an increasingly competitive global economy, our Nation's continued leadership and prosperity will hinge on progress in key innovative areas, most notably exporting, entrepreneurship, research and development, and education in science, technology, engineering, and mathematics (STEM), including computer science.

(2) Technology-based startups play a critical role in driving innovation. Increasing the flow of capital to these firms would bridge the gap that often exists between their initial startup costs and their long-term capital needs, giving the firms the resources necessary to research, develop, and commercialize new products.

(3) Simplifying, expanding, and stabilizing the tax credits that businesses and institutions of higher education rely on to offset the cost of research and would promote greater clarity in the Internal Revenue Code of 1986 and deliver a powerful incentive for private sector innovation.

(4) Increasing the emphasis on STEM education in high schools and institutions of higher education would ensure that more students have the skills and training to not only compete for jobs in a 21st century economy, but also to create the startup companies and revolutionary technologies that will sustain American prosperity for centuries to come.

(5) The United States Bureau of Labor Statistics predicts that in the year 2020, of the 9,200,000 ''STEM'' jobs there will be in the United States, half of them will be in computing. With more than 150,000 job openings expected annually in computing, it is one of the fastest growing occupations in the United States. Increasing the teaching and learning of computer science in schools would strengthen the American workforce by helping our students gain the skills and training necessary to fulfill new computer programming jobs.

(6) An effective regulatory climate should protect consumers and promote transparency without overburdening the businesses that create jobs. Federal agencies with rulemaking authority should be vigilant in assessing the impact of new regulations on innovation and job creation, particularly in anchor industries like manufacturing.

(7) The economic impact of a new product or technology is often dependent on its commercial success. To ensure American products can be bought and sold in markets around the world, the government should identify and remove over burdensome regulations that create barriers for United States exporting companies.

SEC. __02. SIMPLIFICATION OF TAX CREDIT FOR CONTRIBUTIONS TO UNIVERSITIES FOR RESEARCH AND DEVELOPMENT PURPOSES.

(a) IN GENERAL.—Subparagraph (A) of section 41(e)(7) is amended by striking ''not having a specific commercial objective''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. __03. CREDIT FOR CHARITABLE CONTRIBUTIONS OF EQUIPMENT TO SECONDARY SCHOOLS AND TECHNICAL AND COMMUNITY COLLEGES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 45S. CREDIT FOR CHARITABLE CONTRIBUTIONS OF EQUIPMENT TO SECONDARY SCHOOLS AND TECHNICAL AND COMMUNITY COLLEGES.

''(a) IN GENERAL.—For purposes of section 38, the charitable equipment contribution credit determined under this section for any taxable year is an amount equal to 30 percent of the fair market value (determined at the time of the contribution) of any qualified equipment which is contributed by the taxpayer to a secondary school, technical college, or community college.

''(b) QUALIFIED EQUIPMENT.—For purposes of this section, the term 'qualified equipment' means any tangible personal property described in paragraph (1) of section 1221(a), but only if—

''(1) the property is purchased, constructed, or assembled by the taxpayer,

''(2) the property is equipment or apparatus substantially all of the use of which by the donee is for research or experimentation, research training, or education in science or technology,

''(3) the property is suitable for use in the donee's research or experimentation or educational programs,

''(4) the property is not transferred by the donee in exchange for money, other property, or services, and

''(5) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of paragraphs (2), (3), and (4).

''(c) GAIN NOT TAKEN INTO ACCOUNT.—The amount of any contribution of qualified equipment otherwise taken into account under subsection (a) shall be reduced, but not below zero, by the sum of—

''(1) ½ of the amount of any gain which would not have been long-term capital gain (determined without regard to section 1221(b)(3)) if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution), and

''(2) the amount, if any, by which the amount of such contribution (determined by taking into account paragraph (1) but without regard to this paragraph) exceeds twice the taxpayer's basis in the qualified equipment.

''(d) DEFINITIONS.—For purposes of this section—

''(1) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given such term by section 9101 of the Elementary and Secondary Education Act of 1965.

''(2) TECHNICAL COLLEGE.—The term 'technical college' means a postsecondary vocational institution (as defined in section 102(c) of the Higher Education Act of 1965).

''(3) COMMUNITY COLLEGE.—The term 'community college' means a junior or community college (as defined in section 312 of the Higher Education Act of 1965).

''(e) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under section 170 for any contribution for which a credit is allowed under this section.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended—

(1) by striking ''plus'' at the end of paragraph (36),

(2) by striking the period at the end of paragraph (37) and inserting '', plus'', and

(3) by adding at the end the following new paragraph:

''(38) the charitable equipment contribution credit determined under section 45S(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45S. Credit for charitable contributions of equipment to secondary schools and technical and community colleges.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date that is 30 days after the date of the enactment of this Act.

SEC. __04. TAX CREDIT FOR COLLABORATIVE RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Paragraph (3) of section 41(a) is amended by striking ''to an energy

research consortium for energy research'' and inserting ''to a qualified collaborative research partner for qualified research''.

(b) DEFINITION.—Paragraph (6) of section 41(f) is amended to read as follows:

''(6) QUALIFIED COLLABORATIVE RESEARCH PARTNER.—

''(A) IN GENERAL.—The term 'qualified collaborative research partner' means—

''(i) a collaborative research consortium,

''(ii) an institution of higher education (as defined in section 3304(f)), or

''(iii) an organization which is a Federal laboratory (as defined in section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2005).

''(B) COLLABORATIVE RESEARCH CONSORTIUM.—The term 'collaborative research consortium' means any organization—

''(i) which is—

''(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct scientific research, or

''(II) organized and operated primarily to conduct scientific research in the public interest (within the meaning of section 501(c)(3)),

''(ii) which is not a private foundation,

''(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for qualified research, and

''(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for qualified research.

''(C) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (B)(iii) and as a single person for purposes of subparagraph (B)(iv).

''(D) FOREIGN RESEARCH.—For purposes of subsection (a)(3), amounts paid or incurred for any research conducted outside the United States, the Commonwealth of Puerto Rico, or any possession of the United States shall not be taken into account.

''(E) DENIAL OF DOUBLE BENEFIT.—Any amount taken into account under subsection (a)(3) shall not be taken into account under paragraph (1) or (2) of subsection (a).''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 41(b)(3) is amended to read as follows:

''(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES.—

''(i) IN GENERAL.—In the case of amounts paid by the taxpayer to an eligible small business for qualified research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

''(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

''(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

''(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

''(iii) SMALL BUSINESS.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

''(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.''.

(2) Subparagraphs (A)(ii) and (B)(ii) of section 41(f)(1) are each amended by striking ''energy research consortiums'' and inserting ''qualified collaborative research partners''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3216. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—OTHER PROVISIONS

SEC. _____. LIMITATION ON WITHDRAWAL LIABILITY OF CERTAIN SMALL EMPLOYERS PARTICIPATING IN A MULTIEMPLOYER PLAN.

(a) IN GENERAL.—Subsection (a) of section 4225 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1405(a)) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) In the case of an electing eligible small employer, the portion of unfunded vested benefits (as determined after the application of all sections of this part having a lower number designation than this section) allocable to such employer shall be the greater of—

''(A) the amount determined under paragraph (1) (determined as if the table under paragraph (3) applied only to the liquidation or distribution value of the employer); or

''(B) a portion (determined under paragraph (3)) of the unfunded vested benefits (as so determined, but using the method under section 4211 which results in the lowest amount) attributable to employees of the employer.

The amount determined under the preceding sentence shall not exceed the amount determined by applying section 4219(c)(1)(B) without regard to any interest due on withdrawal liability amounts which are deemed to be past due at the time total payments are computed for the period of 20 years described in such section.''.

(b) ELECTING ELIGIBLE SMALL EMPLOYER.—Subsection (a) of section 4225 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1405(a)) is amended by adding at the end the following new paragraph:

''(4) For purposes of paragraphs (2) and (3)—

''(A) The term 'electing eligible small employer' means an employer—

''(i) the stock of which is not publicly traded for more than ½ of the 3-calendar-year period ending with the calendar year that includes the date of the enactment of this paragraph;

''(ii) that has an average of fewer than 100 participants in a multiemployer plan at each business location over such 3-year period;

''(iii) an average of 60 percent or fewer of the employees of which at all business locations are participants in a multiemployer plan over such 3-year period; and

''(iv) that elects by notification to the plan sponsor, during the 5-consecutive-plan-year period beginning with the first plan year beginning after the date of the enactment of this paragraph, to have paragraph (2) apply to such employer.

An employer shall be treated as an electing eligible small employer only if such employer pays the amount determined under paragraph (2) in a lump sum payment before the end of such 5-year period.

''(B) The unfunded vested benefits of the electing eligible small employer shall be determined as of the first day of the first plan year beginning after the date of the enactment of this paragraph, and shall be determined without regard to any supplemental payments or payments made by reason of rehabilitation status of the plan.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 4225(a)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1405(a)(1)(A)) is amended by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(2) Paragraph (3) of section 4225(a) of such Act (29 U.S.C. 1405(a)(3)), as redesignated by subsection (a), is amended—

(A) by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)'', and

(B) by striking ''of the employer'' in the heading of the first column of the table and inserting ''of the employer (or, in the case of an electing eligible small employer, the unfunded vested benefits of the employer)''.

SEC. _____. EXCISE TAX ON MULTIEMPLOYER PLANS THAT FAIL TO COMPLY WITH SMALL EMPLOYER WITHDRAWAL LIABILITY LIMITATION.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

''SEC. 4980J. EXCISE TAX ON MULTIEMPLOYER PLANS THAT FAIL TO COMPLY WITH SMALL EMPLOYER WITHDRAWAL LIABILITY LIMITATION.

''(a) IMPOSITION OF TAX.—If—

''(1) a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies includes an electing eligible small employer (as defined in section 4225(a)(4) of such Act), and

''(2) the plan is not amended, as of the last day of the first plan year beginning after the later of—

''(A) the date of the enactment of paragraph (4) of section 4225(a) of such Act; or

''(B) receipt by the plan of notice from one or more employers participating in the plan that such employer is making the election under section 4225(a)(4)(A)(iv);

to comply with the limitation under section 4225(a)(2) of such Act,

there is hereby imposed a tax in the amount determined under subsection (b).

''(b) AMOUNT DETERMINED.—The amount determined under this subsection is, with respect to each calendar year (or portion thereof) in the period beginning on the date described in subsection (a)(2) and ending on the effective date of an amendment to the plan that complies with the limitation under section 4225(a)(2) of the Employee Retirement Income Security Act of 1974, the product of—

''(1) $10,000, and

''(2) the number of participants in the plan who are employees of the electing eligible small employer for plan years beginning in such calendar year.

''(c) LIABILITY FOR, AND TIME OF PAYMENT OF, TAX.—For purposes of this section—

''(1) LIABILITY.—The tax imposed by subsection (a) shall be paid by the plan sponsor (within the meaning of section 432(i)((9)).

''(2) TIME OF PAYMENT.—The Secretary may provide for the tax imposed by subsection (a)

to be paid on an annual or lump sum basis, or at such other time as the Secretary deems appropriate.

''(d) WAIVER OF TAX.—In the case of a failure to amend a plan to comply with the limitation under section 4225(a)(2) of the Employee Retirement Income Security Act of 1974 which the Secretary determines (in coordination with the Secretary of Labor) is due to reasonable cause and not to willful neglect, the Secretary may waive all or a portion of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable in relation to the amount of the withdrawal liability of the electing eligible small employer involved.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

''Sec. 4980J. Excise tax on multiemployer plans that fail to comply with small employer withdrawal liability limitation.''.

SA 3217. Mr. BOOKER (for himself and Mr. SCOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—LEVERAGING AND ENERGIZING AMERICA'S APPRENTICESHIP PROGRAMS

SEC. __01. SHORT TITLE.

This title may be cited as the ''Leveraging and Energizing America's Apprenticeship Programs Act'' or the ''LEAP Act''.

SEC. __02. CREDIT FOR EMPLOYEES PARTICIPATING IN QUALIFIED APPRENTICESHIP PROGRAMS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 45S. EMPLOYEES PARTICIPATING IN QUALIFIED APPRENTICESHIP PROGRAMS.

''(a) IN GENERAL.—For purposes of section 38, the apprenticeship credit determined under this section for the taxable year is an amount equal to the sum of the applicable credit amounts (as determined under subsection (b)) for each of apprentice of the employer that exceeds the applicable apprenticeship level (as determined under subsection (e)) during such taxable year.

''(b) APPLICABLE CREDIT AMOUNT.—For purposes of subsection (a), the applicable credit amount for each apprentice for each taxable year is equal to—

''(1) in the case of an apprentice who has not attained 25 years of age at the close of the taxable year, $1,500, or

''(2) in the case of an apprentice who has attained 25 years of age at the close of the taxable year, $1,000.

''(c) LIMITATION ON NUMBER OF YEARS WHICH CREDIT MAY BE TAKEN INTO ACCOUNT.—The apprenticeship credit shall not be allowed for more than 2 taxable years with respect to any apprentice.

''(d) APPRENTICE.—For purposes of this section, the term 'apprentice' means any employee who is employed by the employer—

''(1) in an officially recognized apprenticeable occupation, as determined by the Office of Apprenticeship of the Employment and Training Administration of the Department of Labor, and

''(2) pursuant to an apprentice agreement registered with—

''(A) the Office of Apprenticeship of the Employment and Training Administration of the Department of Labor, or

''(B) a recognized State apprenticeship agency, as determined by the Office of Apprenticeship of the Employment and Training Administration of the Department of Labor.

''(e) APPLICABLE APPRENTICESHIP LEVEL.—

''(1) IN GENERAL.—For purposes this section, the applicable apprenticeship level shall be equal to—

''(A) in the case of any apprentice described in subsection (b)(1), the amount equal to 80 percent of the average number of such apprentices of the employer for the 3 taxable years preceding the taxable year for which the credit is being determined, rounded to the next lower whole number; and

''(B) in the case of any apprentices described in subsection (b)(2), the amount equal to 80 percent of the average number of such apprentices of the employer for the 3 taxable years preceding the taxable year for which the credit is being determined, rounded to the next lower whole number.

''(2) FIRST YEAR OF NEW APPRENTICESHIP PROGRAMS.—In the case of an employer which did not have any apprentices during any taxable year in the 3 taxable years preceding the taxable year for which the credit is being determined, the applicable apprenticeship level shall be equal to zero.

''(f) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under sections 45A, 51(a), and 1396(a) with respect to any employee shall be reduced by the credit allowed by this section with respect to such employee.

''(g) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (i)(1) and (k) of section 51 shall apply for purposes of this section.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38, as amended by this Act, is amended by striking ''plus'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', plus'', and by adding at the end the following new paragraph:

''(38) the apprenticeship credit determined under section 45S(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Subsection (a) of section 280C is amended by inserting ''45S(a),'' after ''45P(a),''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45S. Employees participating in qualified apprenticeship programs.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals commencing apprenticeship programs after the date of the enactment of this Act.

SEC. 3. LIMITATION ON GOVERNMENT PRINTING COSTS.

Not later than 90 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall coordinate with the heads of Federal departments and independent agencies to—

(1) determine which Government publications could be available on Government websites and no longer printed and to devise a strategy to reduce overall Government printing costs over the 10-year period beginning with fiscal year 2015, except that the Director shall ensure that essential printed documents prepared for social security recipients, medicare beneficiaries, and other populations in areas with limited Internet access or use continue to remain available;

(2) establish government wide Federal guidelines on employee printing; and

(3) issue guidelines requiring every department, agency, commission, or office to list at a prominent place near the beginning of each publication distributed to the public and issued or paid for by the Federal Government—

(A) the name of the issuing agency, department, commission, or office;

(B) the total number of copies of the document printed;

(C) the collective cost of producing and printing all of the copies of the document; and

(D) the name of the entity publishing the document.

SA 3218. Ms. STABENOW submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

On page 6, strike line 15 and insert the following:

inserting ''January 1, 2016, or which is discharged pursuant to an arrangement entered into and evidenced in writing before such date''.

SA 3219. Ms. AYOTTE (for herself and Mrs. SHAHEEN) submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—OTHER PROVISIONS

SEC. 01. POINT OF ORDER.

(a) IN GENERAL.—It shall not be in order in the Senate to oonsider any hill, joint resolution, motion, amendment, or conference report that authorizes States to re-min.() online reinote sales tax collection.

(b) SUPERMAJORITY WAIVER AND APPEAL.—

(1) WAIVER.—This section may be waived or suspended in the Senate only by an affirmative vote of 2A1 of the .Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of ⅔ of the Members of the Senate, duly chosen and sworn, shall he required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 3220. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. __01. SPECIAL CHANGE IN STATUS RULE FOR EMPLOYEES WHO BECOME ELIGIBLE FOR TRICARE.

(a) IN GENERAL.—Subsection (g) of section 125 is amended by adding at the end the following new paragraph:

''(5) CHANGE IN STATUS RELATING TO TRICARE ELIGIBILITY.—For purposes of this section, if a cafeteria plan permits an employee to revoke an election during a period of coverage and to make a new election based on a change in status event, an event that causes the employee to become eligible for coverage under the TRICARE program shall be treated as a change in status event.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to events occurring after the date of the enactment of this Act.

SA 3221. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. ___01. POINT OF ORDER AGAINST LEGISLATION THAT WOULD AUTHORIZE STATES TO REQUIRE REMOTE SALES TAX COLLECTION WITHOUT CERTAIN LIMITATIONS.

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that authorizes States to require remote sales tax collection unless such legislation includes language similar to the model limitation in subsection (b).

(b) MODEL LIMITATION.—The model limitation under this subsection is as follows:

(1) IN GENERAL.—The authority of any State to require remote sales tax collection shall not apply with respect to any remote seller that is not a qualifying remote seller.

(2) QUALIFYING REMOTE SELLER.—For purposes of this subsection—

(A) IN GENERAL.—The term ''qualifying remote seller'' means—

(i) any remote seller that meets the ownership requirements of subparagraph (B); or

(ii) any remote seller the majority of domestic employees of which are primarily employed at a location in a participating State.

(B) OWNERSHIP REQUIREMENTS.—A remote seller meets the ownership requirements of this subparagraph if—

(i) in the case of a remote seller that is a publicly traded corporation, more than 50 percent of the covered employees (as defined in section 162(m)(3)) of the Internal Revenue Code of 1986) of such corporation reside in participating States;

(ii) in the case of a remote seller that is a corporation (other than a publicly traded corporation), more than 50 percent of the stock (by vote or value) of such corporation is held by individuals residing in participating States;

(iii) in the case of a remote seller that is a partnership, more than 50 percent of the profits interests or capital interests in such partnership is held by individuals residing in participating States; and

(iv) in the case of any other remote seller, more than 50 percent of the beneficial interests in the entity is held by individuals residing in participating States.

(C) ATTRIBUTION RULES.—For purposes of subparagraph (B), the rules of section 318(a) of the Internal Revenue Code of 1986 shall apply.

(D) AGGREGATION RULES.—For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 or subsection (m) or (o) of section 414 of such Code shall be treated as one person.

(3) PARTICIPATING STATE.—The term ''participating State'' means—

(A) a Member State under the Streamlined Sales and Use Tax Agreement which has exercised authority under subsection (a); or

(B) a State that—

(i) is not a Member State under the Streamlined Sales and Use Tax Agreement;

(ii) enacts legislation to exercise the authority to require remote sales tax collection; and

(iii) implements such other requirements as Congress shall provide.

(4) STREAMLINED SALES AND USE TAX AGREEMENT.—For purposes of this subsection, the term ''Streamlined Sales and Use Tax Agreement'' means the multi-State agreement with that title adopted on November 12, 2002, as in effect on the date of the enactment of this Act and as further amended from time to time.

(c) WAIVER AND APPEAL.—

(1) WAIVER.—Subsection (a) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

SA 3222. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—OTHER PROVISIONS

SEC. __01. EMPLOYEE PAYROLL TAX HOLIDAY FOR NEWLY HIRED VETERANS.

(a) IN GENERAL.—Subsection (d) of section 3111 is amended to read as follows:

''(d) SPECIAL EXEMPTION FOR ELIGIBLE VETERANS HIRED DURING CERTAIN CALENDAR QUARTERS.—

''(1) IN GENERAL.—Subsection (a) shall not apply to 50 percent of the wages paid by the employer with respect to employment during the holiday period of any eligible veteran for services performed—

''(A) in a trade or business of the employer, or

''(B) in the case of an employer exempt from tax under section 501(a), in furtherance of the activities related to the purpose or function constituting the basis of the employer's exemption under such section.

''(2) HOLIDAY PERIOD.—For purposes of this subsection, the term 'holiday period' means the period of 4 consecutive calendar quarters beginning with the first day of the first calendar quarter beginning after the date of the enactment of the EXPIRE Act of 2014.

''(3) ELIGIBLE VETERAN.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible veteran' means a veteran who—

''(i) begins work for the employer during the holiday period,

''(ii) was discharged or released from the Armed Forces of the United States under conditions other than dishonorable, and

''(iii) is not an individual described in section 51(i)(1) (applied by substituting 'employer' for 'taxpayer' each place it appears).

''(B) VETERAN.—The term 'veteran' means any individual who—

''(i) has served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or has been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability (within the meaning of section 101 of title 38, United States Code),

''(ii) has not served on extended active duty (as such term is used in section 51(d)(3)(B)) in the Armed Forces of the United States on any day during the 60-day period ending on the hiring date, and

''(iii) provides to the employer a copy of the individual's DD Form 214, Certificate of Release or Discharge from Active Duty, that includes the nature and type of discharge.

''(4) ELECTION.—An employer may elect not to have this subsection apply. Such election shall be made in such manner as the Secretary may require.

''(5) COORDINATION WITH WORK OPPORTUNITY CREDIT.—For coordination with the work opportunity credit, see section 51(3)(D).''.

(b) COORDINATION WITH WORK OPPORTUNITY CREDIT.—

(1) IN GENERAL.—Paragraph (3) of section 51(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(D) DENIAL OF CREDIT FOR VETERANS SUBJECT TO 50 PERCENT PAYROLL TAX HOLIDAY.—If section 3111(d)(1) (as amended by the EXPIRE Act of 2014) applies to any wages paid by an employer, the term 'qualified veteran' does not include any individual who begins work for the employer during the holiday period (as defined in section 3111(d)(2)) unless the employer makes an election not to have section 3111(d) apply.''.

(2) CONFORMING AMENDMENT.—Subsection (c) of section 51 of such Code is amended by striking paragraph (5).

SA 3223. Ms. AYOTTE submitted an amendment intended to be proposed by her to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BONUSES.

(a) ADVERSE FINDINGS AND EMPLOYEES UNDER INVESTIGATION.—Chapter 45 of title 5, United States Code, is amended by adding at the end the following:

''Subchapter IV—Limitations on Bonus Authority

''§ 4531. Certain forms of misconduct

''(a) DEFINITIONS.—In this section—

''(1) the term 'adverse finding' relating to an employee means a determination that the conduct of the employee—

''(A) violated a policy of the agency for which the employee may be removed or suspended; or

''(B) violated a law for which the employee may be imprisoned of more than 1 year;

''(2) the term 'agency' has the meaning given that term under section 551; and

''(3) the term 'bonus' means any bonus or cash award, including—

''(A) an award under this chapter;

''(B) an award under section 5384; and

''(C) a retention bonus under section 5754.

''(b) ADVERSE FINDINGS.—

''(1) IN GENERAL.—The head of an agency shall not award a bonus to an employee of the agency until 5 years after the end of the fiscal year in which the Inspector General or another senior ethics official of the agency or the Comptroller General of the United States makes an adverse finding relating to the employee.

''(2) PREVIOUSLY AWARDED BONUSES.—If the Inspector General or another senior ethics official of the agency or the Comptroller General of the United States makes an adverse finding relating to an employee, the head of the agency employing the employee, after notice and an opportunity for a hearing, shall issue an order directing the employee to repay the amount of any bonus awarded to the employee during the year during which the adverse finding is made.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER IV—LIMITATIONS ON BONUS AUTHORITY

''4531. Certain forms of misconduct.''.

SA 3224. Ms. AYOTTE submitted an amendment intended to be proposed to amendment SA 3060 proposed by Mr. WYDEN to the bill H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BONUSES.

(a) ADVERSE FINDINGS AND EMPLOYEES UNDER INVESTIGATION.—Chapter 45 of title 5, United States Code, is amended by adding at the end the following:

''Subchapter IV—Limitations on Bonus Authority

''§ 4531. Certain forms of misconduct

''(a) DEFINITIONS.—In this section—

''(1) the term 'adverse finding' relating to an employee means a determination that the conduct of the employee—

''(A) violated a policy of the agency for which the employee may be removed or suspended; or

''(B) violated a law for which the employee may be imprisoned of more than 1 year;

''(2) the term 'agency' has the meaning given that term under section 551; and

''(3) the term 'bonus' means any bonus or cash award, including—

''(A) an award under this chapter;

''(B) an award under section 5384; and

''(C) a retention bonus under section 5754.

''(b) ADVERSE FINDINGS.—

''(1) IN GENERAL.—The head of an agency shall not award a bonus to an employee of the agency until 5 years after the end of the fiscal year in which the Inspector General or another senior ethics official of the agency or the Comptroller General of the United States makes an adverse finding relating to the employee.

''(2) PREVIOUSLY AWARDED BONUSES.—If the Inspector General or another senior ethics official of the agency or the Comptroller General of the United States makes an adverse finding relating to an employee, the head of the agency employing the employee, after notice and an opportunity for a hearing, shall issue an order directing the employee to repay the amount of any bonus awarded to the employee during the year during which the adverse finding is made.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER IV—LIMITATIONS ON BONUS AUTHORITY

''4531. Certain forms of misconduct.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 15, 2014, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 15, 2014, at 2:30 p.m. in room SR–253 of the Russell Senate Office Building to conduct a hearing entitled, ''Surface Transportation Reauthorization: Local Perspectives on Moving America''.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on May 15, 2014, at 9:30 a.m. in room SD–406 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 15, 2014, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, on May 15, 2014, at 2:30 p.m. in room SD–430 of the Dirksen Senate Office Building to conduct a hearing entitled ''Progress and Challenges: The State of Tobacco Use and Regulations in the U.S.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on May 15, 2014, at 10 a.m. in room SD–106, of the Dirksen Senate Office Building to conduct a hearing entitled ''The State of VA Health Care.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on May 15, 2014, at 9:30 a.m., to conduct a hearing entitled ''Online Advertising and Hidden Hazards to Consumer Security and Data Privacy.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 15, 2014, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 15, 2014, at 10 a.m., to hold an African Affairs subcommittee hearing entitled, ''#BringBackOurGirls: Addressing the Threat of Boko Haram.''

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL PEACE OFFICERS MEMORIAL DAY

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 449.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 449) commemorating and honoring the dedication and sacrifice of the Federal, State, and local law enforcement officers who have been killed or injured in the line of duty.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEAHY. Madam President, as chairman of the Senate Judiciary Committee, I am proud to come to the Senate floor today to celebrate the passage of a resolution commemorating and

honoring the dedication and sacrifice of law enforcement officers who have been killed or injured in the line of duty. I urge other Senators to show their support for the men and women who work tirelessly to protect our communities.

This week is National Police Week, a time when thousands of law enforcement officers come to our Nation's Capital, and we pause to honor the sacrifices of our men and women in law enforcement. On Tuesday night the names of 286 officers killed in the line of duty were added to the walls of the National Law Enforcement Officers Memorial, 101 of whom were lost in 2013. The memorial now contains the names of over 20,000 fallen officers.

This resolution pays tribute to those who have fallen, recognizing May 15, 2014, as ''National Peace Officers Memorial Day'' and calling on the people of the United States to observe that day with solemnity, appreciation, and respect. Earlier today, Senator GRASSLEY and I attended the 33rd Annual National Peace Officers' Memorial service here on the West Front of the Capitol. The event was a somber reminder of the sacrifices that law enforcement officers make every day. We have a responsibility to support them in the critical work they do.

I also urge the Senate to come together to honor law enforcement officers by supporting the passage of both S.933, the Bulletproof Vest Partnership Grant Program, and S. 357, the National Blue Alert Act. These bills are unanimously and strongly supported by law enforcement and passing these bills would provide tangible, life-saving assistance to those who serve on the front lines, protecting our communities.

I thank Senators GRASSLEY, SHAHEEN, WICKER, MARKEY, BEGICH, UDALL of New Mexico, HAGAN, COONS, DURBIN, FRANKEN, BOOKER, LANDRIEU, REED, BLUMENTHAL, SCHATZ, HEITKAMP, FEINSTEIN, UDALL of Colorado, WICKER, PRYOR, HIRONO, CARDIN, COCHRAN, WARNER, MIKULSKI, WARREN, SCHUMER, MURRAY, WHITEHOUSE, DONNELLY, HEINRICH, and KLOBUCHAR for their cosponsorship of this resolution and their support for law enforcement. I am very glad to see this resolution pass.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 449) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

KIDS TO PARKS DAY

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 450.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 450) designating May 17, 2014, as ''Kids to Parks Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 450) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

ORDERS THROUGH TUESDAY, MAY 20, 2014

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 11 a.m. on Monday, May 19, 2014, for a pro forma session with no business conducted; that following the pro forma session, the Senate adjourn until 10 a.m. on Tuesday, May 20, 2014; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business until 5:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time from 2:30 p.m. until 5:30 p.m. equally divided or controlled between the two leaders or their designees; further, that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucus meetings; that at 5:30 p.m. the Senate proceed to executive session to consider the Costa nomination, as provided for under the previous order; that upon disposition of the Costa nomination, the cloture vote with respect to Executive Calendar No. 768, the Fischer nomination, occur; finally, that the cloture vote with respect to the Barron nomination occur upon disposition of the Fischer nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Madam President, I believe there will be at least two rollcall votes on Tuesday at 5:30 p.m.

ADJOURNMENT UNTIL MONDAY, MAY 19, 2014, AT 11 A.M.

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 5:40 p.m., adjourned until Monday, May 19, 2014, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate:

CONSUMER PRODUCT SAFETY COMMISSION

ROBERT S. ADLER, OF THE DISTRICT OF COLUMBIA, TO BE A COMMISSIONER OF THE CONSUMER PRODUCT SAFETY COMMISSION FOR A TERM OF SEVEN YEARS FROM OCTOBER 27, 2014. (REAPPOINTMENT)

DEPARTMENT OF TRANSPORTATION

VICTOR M. MENDEZ, OF ARIZONA, TO BE DEPUTY SECRETARY OF TRANSPORTATION, VICE JOHN D. PORCARI, RESIGNED.

PETER M. ROGOFF, OF VIRGINIA, TO BE UNDER SECRETARY OF TRANSPORTATION FOR POLICY, VICE POLLY ELLEN TROTTENBERG, RESIGNED.

DEPARTMENT OF STATE

THEODORE G. OSIUS III, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER–COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM.

JOAN A. POLASCHIK, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be major

ERICH M. GAUGER
ROBERT M. KOHUT
SETH B. MCCORD
MICHAEL P. PALMER
JERMAL M. SCARBROUGH
VINCENT M. TIMPONE
TIMOTHY P. VANDERBILT
TIMOTHY J. ZIELICKE

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be major

ANTHONY F. FONTENOS, F
VU T. NGUYEN

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

TAFT OWEN AUJERO
PETER G. BAILEY
SHELLY LEIGH BAUSCH
BRANDON K. BEIGHTOL
MONICA M. BLAKLEY
CHARLES IRWIN BLANK III
CHRISTOPHER M. BLOMQUIST
SCOTT ALAN BLUM
JOHN EDWARD BOLLARD
WILLIAM V. BOOTHMAN
CRAIG DAVID BORGSTROM
STEVEN P. BRANCHE
ALONZO L. BRISTOL III
IAN B. W. BRYAN
MICHAEL T. BUTLER
BRIAN LEE CALLAHAN
MICHAEL E. CALLAHAN
LOUIS VELENO CAMPBELL IV
CHRISTOPHER C. CASSON
JONATHAN C. COX
EDWARD HAMILTON CREWS
EMILY JEAN DESROSIER
MATTHEW K. DOGGETT
PATRICK W. DONALDSON
JEFFREY B. EDWARDS
RAYMOND FIGUEROA
CAESAR RODRIGUEZ GARDUNO
JAMES D. GLOSS
ANTHONY H. GREEN
JOHN MARTIN GREEN
JOHN M. GRIMES
TOMMY GUNTER, JR.
ROBERT EDWARD HAGEL
RONALD J. HALLEY
HENRY UPHAM HARDER, JR.
GEORGE ROY HAYNES
WILLIAM GEORGE HENDERSON
DONALD F. HENRY
DOUGLAS W. HIRE
TODD D. HIRNEISEN
MARK A. HOPSON
PATRICK J. HOVER
PAUL D. JOHNSON

MICHAEL A. JURRIES
KATHRYN M. KAHLSON
MICHELLE MAYBELL KIRWAN
MARK S. KLEINPETER
CLARICE HANKS KONSHOK
WALTER D. KUCABA
BRIAN K. LEHEW
KRISTEN J. LEIST
MARK Y. LIU
RICHARD ANGELO LIZZARI
ROGELIO MALDONADO, JR.
LYNDON DELOS SANT MARQUEZ
ANDREW W. MARSHALL
DARLA C. MCPHERSON
JOANN ROCKSWOLD MEACHAM
CHRISTOPHER M. MEYER
ARNETTA ELISA MINNEY
DANIEL L. MOORE
MAUREEN GOLDEN MURPHY
SEAN DANIEL NAVIN
THOMAS ANTHONY NIICHEL
BARRY ARNOLD ORBINATI
SUELLEN OVERTON
ROBERT C. PARKER II
LYNNE C. PAYNE
GREGG A. PEREZ
MARK DAVID PIPER
MILAD LALI POORAN
DENISE M. PRONESTI
CHRISTOPHER D. PURVIS
MICHAEL JAMES REGAN, JR.
ROBERT DAVID REYNER
JEFFERY LYNN RICHARD
JAMES A. ROBERTS
ALAN NICHOLAS ROSS
KENNETH RAY ROSSON
GEOFFREY S. SANDERS
MAURO SARMIENTO
BETSY A. SCHOELLER
WILLIAM PAUL SHUERT
DARRIN E. SLATEN
JEFFERY WADE SLAYTON
EDWIN H. SLOCUM
JEFFREY S. SMITH
MICHAEL D. SPROUL
TODD RAY STARBUCK
KIMBRA L. STERR
TIMOTHY DAVID STEVENS
JOSEPH S. STEWART
DANIEL L. TACK, JR.
TAISON K. TANAKA
DENISE L. TAYLOR
NATHAN D. THOMAS
LAURA STACHELCZY THOMPSON
THOMAS CHRISTOPHER TURNER
DAREN WAYNE VANAULEN
MATTHEW SCOTT VANWIEREN
JOHN M. VERWIEL
ANN C. WARE
JEFFREY T. WEBSTER
TROY R. WERTZ
RONALD B. WESLEY
PATRICIA WILSON
KEVIN R. WINDSOR

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

RONALD W. BURKETT II
DAVID J. COATES
EDWARD R. COUTTA
SCOTT E. DELBRIDGE
RICHARD J. EHRLICHMAN
CINDY H. HAYGOOD
BRADFORD F. KNIGHT
DANIEL K. LANE
BRIAN J. MELTON

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JOSHUA L. KEEVER

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

RUSTIN J. DOZEMAN

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

LORI L. CODY

CONFIRMATIONS

Executive nominations confirmed by the Senate May 15, 2014:

DEPARTMENT OF STATE

HELEN MEAGHER LA LIME, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER–COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ANGOLA.

THE JUDICIARY

ROSEMARY MARQUEZ, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

DOUGLAS L. RAYES, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

JAMES ALAN SOTO, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

DEPARTMENT OF JUSTICE

LESLIE RAGON CALDWELL, OF NEW YORK, TO BE AN ASSISTANT ATTORNEY GENERAL.

EXTENSIONS OF REMARKS

TO RECOGNIZE MARY SHAFER

HON. MICHAEL G. FITZPATRICK
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, May 15, 2014

Mr. FITZPATRICK. Mr. Speaker, it has been said that public service must be more than doing a job efficiently and sincerely. It must be done with complete dedication to the people and to the community in which one serves. Mr. Speaker, that is how Mary Shafer's colleagues would describe her. Mary recently retired from Nockamixon Township Volunteer Emergency Services Management. She served Nockamixon as the public information officer and weather coordinator. Over the past several years, the Bucks County portion of my district has been hit hard by devastating storms including Superstorm Sandy, leaving behind fallen trees and downed power lines. Nockamixon and the surrounding area lost electricity and access to running water for days and in some cases weeks. The local middle school was converted into a shelter to host Nockamixon residents. Mary's role as public information officer was critical to health, safety, and welfare of these constituents.

Mary demonstrated day after day that by working together, we have the fortitude to meet the needs facing our community even during the most challenging times. I would like to commend Mary Shafer for her dedication to public service and offer our gratitude on behalf of the constituents of the Pennsylvania's 8th Congressional District.

COMMEMORATING THE 60TH ANNIVERSARY OF THE LANDMARK DECISION IN BROWN V. BOARD OF EDUCATION

HON. SHEILA JACKSON LEE
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Thursday, May 15, 2014

Ms. JACKSON LEE. Mr. Speaker, I rise to commemorate the 60th anniversary of the historic Supreme Court decision in Brown v. Board of Education, which overturned the doctrine of "separate but equal" that had been the law of the land since 1896 when the Supreme Court decided Plessy v. Ferguson.

In Brown v. Board of Education, the Supreme Court declared that separate public schools for black and white Americans were unconstitutional. This unanimous decision sparked the movement toward desegregation of American institutions and paved the way for the civil rights movement.

On the anniversary of this landmark decision, it is appropriate that we pay tribute to our ancestors who endured and lived through those days of crisis and challenge so that we could enjoy the right to vote, the right to equal protection of the law, and to enjoy the blessings of liberties. These efforts should not go unnoticed.

This historic case originated in Topeka, Kansas, and involved a black third-grader named Linda Brown, who had to walk one mile through a railroad switchyard to get to her black elementary school, even though a white elementary school was only seven blocks away.

Linda's father, Oliver Brown, tried to enroll her in the white elementary school, but the principal of the school refused. Brown went to McKinley Burnett, the head of Topeka's branch of the National Association for the Advancement of Colored People (NAACP) and asked for help. The NAACP got other black parents to join in to a complaint and in 1951 the NAACP requested an injunction that would forbid the segregation of Topeka's public schools.

The U.S. District Court for the District of Kansas heard Brown's case and refused to overrule the precedent of Plessy v. Ferguson which allowed separate but equal school systems for blacks and whites.

The case was taken to the Supreme Court on October 1, 1951 and set up one of the landmark cases in the history of the American justice system. It was the arguments of the NAACP in representing Brown that won the day.

On May 17, 1954, Chief Justice Earl Warren read the unanimous decision of the Supreme Court:

> We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other ''tangible'' factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does. . . . We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal.

With those few words more than a century of racial discrimination and separation were dealt a great blow.

It is up to us to preserve the hard won gains of those who led the fight and won the case of Brown v. Board of Education.

A TRIBUTE TO CAROL WINOGRAD, M.D. FOR BEING AWARDED THE 2014 TZEDEK V'SHALOM AWARD, JUNE 8, 2014

HON. ANNA G. ESHOO
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, May 15, 2014

Ms. ESHOO. Mr. Speaker, I rise today to honor an extraordinary woman, Dr. Carol Winograd, who is being honored with the 2014 Tzedek v'Shalom Award on June 8, 2014, at J Street's Annual Gala Dinner. Elected officials, community leaders, local activists and students will join together in an unprecedented show of support for a two-state solution to the Israeli-Palestinian conflict.

J Street, the political home for pro-Israel, pro-peace Americans, is honoring Dr. Carol Winograd for her lifelong dedication to tikkun olam ("repairing the world") and for her steadfast leadership and commitment to J Street's mission.

Carol Hutner Winograd, M.D., is an emerita professor of Medicine and Human Biology at Stanford University. She gives generously of her time and considerable talents in leadership roles to many organizations, including the National Board of Abraham's Vision; the San Francisco Regional Board of the New Israel Fund; and the American Board of Internal Medicine. She is a member of the steering committee of the Women Donors Network's Middle East Peace Circle, and the founder and former chair of the Advisory Board of the Jewish Chaplaincy at Stanford University Medical Center. In 2012, Dr. Winograd co-led J Street's first Women's Congressional Delegation to Israel, and in 2013, she co-founded J Street's Women's Leadership Forum to increase the participation of women leading the organization and to support the greater inclusion of Israeli and Palestinian women in peace negotiations.

Dr. Winograd has been married for more than 43 years to Dr. Terry Winograd. They have two daughters, Avra, who is engaged to Justin Durak, and Shoshana, a Conservative rabbi who is married to Rabbi Philip Ohriner. Shoshana and Philip have two sons, Ari and Eli, who are a great source of pride and joy to their grandparents.

Mr. Speaker, I ask the entire House of Representatives to join me in honoring the 2014 Tzedek v'Shalom awardee, Dr. Carol Winograd, an extraordinary woman who is devoted to her community, her country, to Israel and to peace and justice. How proud and privileged I am to represent her and call her my trusted friend.

CONGRATULATING DR. GORDON A. MERRITT, D.D.S., P.A. ON THE OCCASION OF HIS 85TH BIRTHDAY

HON. ALCEE L. HASTINGS
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES

Thursday, May 15, 2014

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to recognize Dr. Gordon A. Merritt on the occasion of his 85th birthday. I am proud to celebrate Dr. Merritt not only for his longevity, but more rightly for the amazing scope of his contributions to the Fort Lauderdale community and our country as a whole.

Dr. Merritt has dedicated his life to the care of his fellow citizens and has served them in numerous capacities. He earned his Doctorate of Dental Surgery in 1957 from Meharry Medical College in Nashville, Tennessee and immediately entered the Air Force where he practiced for four years before returning home to Florida.

Dr. Merritt and his family moved to Fort Lauderdale in 1963, and he has been a pillar in

the community ever since. He opened his clinic in a predominately African American neighborhood, and was one of the first African American medical professionals to provide services to this underserved community.

In addition to his work in the medical field, Dr. Merritt has been a tireless advocate for his community. He is a past Exalted Ruler of the Pride of Fort Lauderdale Elks Lodge #652, as well as a Life Member of the National Association for the Advancement of Colored People (NAACP), the Urban League, and the Kappa Alpha Psi Fraternity. Dr. Merritt has also been a member of the Mount Hernon A.M.E. Church since 1964, where he has served as a Trustee.

None of these great achievements would have been possible without the love and support of Dr. Merritt's wife Rose Legon, who together raised two wonderful children, Dr. Pamela Merritt and Portia Mehaffey. They are also the proud grandparents of four lovely grandchildren, Courtney, Cierra, Darby, and Addison.

Mr. Speaker, to arrive at the great milestone of 85 years is no small thing. I am truly honored to share in this celebration of Dr. Merritt's many accomplishments and contributions. I wish him many more years of happiness and success.

RECOGNIZING THE WEST FLORIDA HIGH SCHOOL'S LADY JAGUARS AS CLASS 4A STATE SOFTBALL CHAMPIONS

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 15, 2014

Mr. MILLER of Florida. Mr. Speaker, I am proud to congratulate the First Congressional District of Florida's West Florida High School's girls softball team for winning the Class 4A State Championship. This victory marks the Lady Jaguars first ever state championship. West Florida High School ended their championship season with a record of 29–1, with a victory over P.K. Yonge High School on May 8, 2014 in the Class 4A State Championship Game.

Led by head coach Jessica Smith, pitching coach Angie Johnson, and assistant coach Gary Jackson, the Jaguars are a team of young women with tremendous persistence and passion. These attributes were on full display in the championship game when the Jaguars found themselves trailing by four runs and down to their last out in the 7th inning. Despite the long odds, the Jaguars refused to give up. A pivotal moment in the game occurred when the Navy's Blue Angels, home based at Pensacola Naval Air Station, could be seen flying over the field, which was located over 500 miles from Pensacola, in Vero Beach. As Coach Smith described, catching a glimpse of home both encouraged and sparked a special energy in the Jaguars, and they triumphed over P.K. Yonge with a score of 6 to 5.

Winning the state championship is a true testament to the hard work, ambition, and dedication of the West Florida High School girls softball team. Each team member is an invaluable asset to both the Lady Jaguars and the local community. To be honored with the opportunity to bring home a state championship is a wonderful reflection of the team's commitment to Northwest Florida and to each other. I commend Korina Rosario, Kathleen Smiley, Jordaine Watkins, Nachelle Watson, Ali Cutaio, Kristin Gunter, Emily Loring, Kayla Miller, Breana Rogers, Danyelle Black, Maegan Freeman, Jibrasha Moore, Farrah Nicholas, Lauren Carnley, Jasmyn Nguyen, and Ealon Pyle for challenging themselves as a team and setting a shining example of camaraderie and athleticism for their fellow students and youth in Pensacola.

Mr. Speaker, on behalf of the United States Congress, it gives me great pleasure to recognize this outstanding group of young women and their devoted coaches for their extraordinary victory. My wife Vicki joins me in offering our best wishes to West Florida High School and its talented athletes for their continued personal and athletic success.

HONORING DR. AFAF I. MELEIS

HON. TOM MARINO

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 15, 2014

Mr. MARINO. Mr. Speaker, I rise to honor Dr. Afaf I. Meleis, outgoing Dean of the University of Pennsylvania's School of Nursing. Dr. Meleis has served as Dean for 12 years, and will be truly missed by her students and colleagues.

Dr. Meleis assumed her role as Dean of the University of Pennsylvania School of nursing in 2002, and under her leadership, Penn Nursing is now regarded as one of the world's most regarded schools of nursing. Thanks to Dr. Meleis, Penn Nursing is now internationally renowned for their innovative research, teaching and practice and the School has established departments of Behavioral Health Sciences and Family and Community Health.

Dr. Meleis is internationally recognized for her work in nursing theory and her devotion to the health of women and girls. Dr. Meleis has intensified efforts to improve the health of women around the world by creating academic partnerships, and developing relationships with the United Nations and other international organizations dedicated to equity and well-being.

The first time I met her, my daughter Chloe and I had joined her for a CARE learning tour in West Africa, I was so overwhelmed by her compassion and dedication. Her expertise and brilliance are quickly made known to those around her, but it is her endless humanitarian work and advocacy for children which is most admirable. Her work as the Dean of Nursing at the University of Pennsylvania, School of Nursing, has elevated the program to what it is today: one of the leading nursing graduate schools in the world.

Although I have only known Dr. Meleis for a short time, she has made a tremendous impact in Chloe's and my life. I want to congratulate her on her long and successful tenure she has served as Dean. She has gone above her duty to ensure that the University of Pennsylvania, School of Nursing, is regarded as a top tier nursing program, and I wish her the best of luck in all of her future endeavors.

SHANNON MELENDI'S DEATH STILL STINGS, 20 YEARS LATER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 15, 2014

Ms. ROS-LEHTINEN. Mr. Speaker, on previous occasions I have spoken about the loss of Shannon Melendi, a beautiful girl who attended my alma mater, Southwest Miami High School, and whose life was taken tragically as a teenager in 1994. As their Congresswoman and friend, I thank the Melendi Family for keeping us vigilant. I would like to share an eloquently written story about Shannon by Anne (Martinez) Vasquez, Associate Editor at the South Florida Sun-Sentinel, which was published by the newspaper on March 25, 2014:

SHANNON MELENDI'S DEATH STILL STINGS, 20 YEARS LATER

What I would give to relive those days of playing with our collection of cheap drugstore makeup sprawled on the bedroom floor as we plotted our outfits and gossiped about boys. Shannon Melendi and I became fast friends at the cusp of adolescence, when you dream of days still decades away and fantasize about chapters in your life you've yet to write.

Tears still sting my eyes when I think of the final chapter of Shannon's short life: At 19, a sophomore at Emory University, she disappeared on a Saturday afternoon after going on a lunch break from her part-time job as a scorekeeper at a softball field in suburban Atlanta.

The year was 1994, 20 years ago this week. It would be another painful 12 years before the man long suspected of kidnapping Shannon confessed.

Shannon's body was never found. There was no funeral, no official moment to mourn. Instead, the last 20 years have unfolded in surreal fashion, where life goes on for Shannon's closest family and friends even as we've struggled to fill in the blanks, a search for answers that never come.

Only now, as I reflect on the twists and turns of my life, do I realize the imprint that Shannon's story has left on my soul, a silent narrative that has molded my evolution as an adult and, ultimately, as a mother. The underlying lesson lingering in my subconsciousness: If evil can strike on a Saturday afternoon—snatching a smart 19-year-old with quick wit, the president of her high school senior class, an aspiring lawyer, a champion debater, the daughter of present and caring parents—it can happen to anyone, anywhere.

EVIL STRIKES

I woke up on Tuesday morning, March 29, 1994, with my father handing me a small clipping buried inside the Local section of The Miami Herald. I found the concerned look on my father's face puzzling, until I read the brief article, just a few lines long, saying Shannon's parents had flown to Atlanta after learning she had gone missing.

The rest of the week was a blur until I went to see Shannon's younger sister, Monique, who was staying with her aunt and grandparents. She turned 14 years old five days after Shannon disappeared, and I wanted to bring her a present. I sought to revisit happier times, when the Melendi family would invite me to join them on their vacations to the Florida Keys. Endless summer days where I first learned to water ski, jump waves and conquer my fear of treading open water.

In the weeks and months—even years—that followed, Shannon regularly paid me visits in my dreams. In many, I would replay our last chance encounter, which took place just a couple of weeks before Shannon disappeared.

A complete fluke, I had spotted Shannon among a sea of Spring Breakers in Daytona Beach, a rare place for either of us to visit. I walked in her direction until she came into clear focus. Yes, it was Shannon. For a few fleeting minutes, we laughed and reminisced. We caught up on where our college lives were taking us. We made plans to see each other a few weeks later when she would be back in Miami visiting her family. Then we hugged and went our separate ways.

It was the last time I saw Shannon. I didn't know it at the time, but it was my chance to say goodbye. She would be gone before the month came to a close.

FIGHTING THE MONSTER

As the years went by without word of what became of Shannon, my dreams began to reflect the anger I bottled deep inside.

In one recurring dream, it's late in the evening in some unnamed town in the middle of America. I walk into a restaurant for a bite. The room is dark and bustling with customers. I take a seat in a booth and see Shannon sitting across from her captor. Her hands are not tied, but she's not moving, not trying to escape. She's scared or drugged or both, I reason. I approach their table, see a spark of hope in Shannon's eyes and quickly find others who help me hold down the man who had stolen Shannon from her family. We pummel him. Shannon returns home.

My anger also manifested itself in other ways.

I made decisions determined not to cede power to the monster. I fought the fear that evil could lurk behind any corner.

I jumped at the chance to intern at The Boston Globe rather than spend the summer at a local paper. I walked to and from my apartment many late evenings holding a stun gun wrapped in a newspaper. Years later, as a reporter for The Miami Herald, I'd live and work in Sao Paulo, Brazil, for several months, riding the subway and making my way in another language in an unknown city five times the size of New York City.

I moved across the country to Northern California, where I worked and lived for seven years. A visit to Yosemite, on assignment in Mexico or vacationing in Vancouver, I'd imagine crossing paths with Shannon and putting an end to the tragic mystery.

ANGER TURNS INTO FEAR

Then I became a mother and the anger gave way to fear.

My firstborn was just shy of two years old when Colvin ''Butch'' Hinton III, a man with a history of harming young girls, confessed to kidnapping and murdering Shannon. Hinton, an umpire at the softball field where Shannon kept score, said he had set out to commit murder on March 26, 1994. He had targeted another woman but changed his plans when he spotted Shannon.

Hinton said he held Shannon at knifepoint, tied her up in his home, repeatedly raped her—in between catching a movie at a local theater in an effort to create an alibi—and ultimately strangled her in the early morning hours of March 27.

The unspeakable details resurfaced my dormant pain.

As my son's independence blossomed—and with that his ability to walk away from me at a department store or at a park—I found myself fighting a constant unease. I wanted—needed—to know where he was at every moment.

Most parents take their children to the park to relax, sit back and let their kids play. That will never be me.

I'll never forget spending one afternoon at a local water park with several of my son's friends. The other mothers positioned their chairs in the shallow water to chat and sunbathe. They didn't fuss, completely confident that their kids were safe. I stood the entire time, sloshing through the kneehigh water to make sure my son emerged from the labyrinth of slides.

Dealing with my vigilant watch is a reality my children have learned to accept: My 9-year-old son understands why last summer I had him skip a field trip to the water park. My 4-year-old daughter recites to me how I shouldn't speak to strangers. I live in constant battle with myself, wrestling with a deep-seated desire to fuel my children's independence while also fighting a fear that harm may come their way.

Both of my children know, to varying degrees, Shannon's story. They know the world can be cruel, but they also exude a spirit of boundless optimism. They see themselves as the superheroes who can change the world.

I hope they do.

TIMELINE: THE SHANNON MELENDI MURDER

March 26, 1994: Shannon Melendi, a South Florida native and 19-year-old Emory University sophomore, vanishes on a Saturday afternoon from her part-time job as a scorekeeper at a softball field in suburban Atlanta.

March 27, 1994: Shannon's parents, Luis and Yvonne Melendi, get word that Shannon has been missing for more than 24 hours. They make arrangements to fly to Atlanta. In the ensuing weeks, volunteers and friends plaster streets with ''MISSING'' posters bearing Shannon's photo. Print and TV media in South Florida and Atlanta follow the story closely.

April 6, 1994: A caller to an Emory University hot line claims he is holding Shannon captive. As proof, the caller leaves a ring belonging to Shannon, enclosed in a bag, inside the pay phone where the call was made.

April 12, 1994: Police search the home of Colvin ''Butch'' Hinton III, an umpire at the softball field the day Shannon was last seen. Hinton has a criminal record of sexual assaults.

September 1994: A fire damages Hinton's home.

October 20, 1994: The Melendi family and friends of Shannon attend a vigil and press conference at Emory University on what would have been Shannon's 20th birthday. Luis and Yvonne Melendi keep Shannon's story alive in the local and national media for years to come.

March 26, 1995: Southwest 48th Street in Miami-Dade County is renamed Shannon Melendi Drive. The street runs in front of Southwest Miami Senior High School, where Shannon was class president and a prominent student.

June 1995: A federal grand jury indicts Hinton for arson, suggesting Hinton set fire to his home to collect insurance money.

January 1996: Hinton is convicted of arson and sent to federal prison.

December 2003: Hinton is released from federal prison.

August 2004: Authorities arrest Hinton, using a grand jury indictment that accuses Hinton of murdering Shannon Melendi.

September 2005: A jury convicts Hinton of murder. He is sentenced to life in prison.

June 2006: The Georgia Supreme Court upholds Hinton's conviction.

July 17, 2006: Hinton confesses to kidnapping, raping and murdering Shannon, after his appeal was denied.

RECOGNIZING NATIONAL SMALL BUSINESS WEEK

HON. SHEILA JACKSON LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 15, 2014

Ms. JACKSON LEE. Mr. Speaker, this a National Small Business Week and I rise to recognize the contributions of small businesses in my congressional district and across the country.

With more than half of Americans either owning or working for a small business, it is clear these companies are a vital part of our nation's fabric.

Every day, small firms and their employees across every sector and industry are working to grow and become stronger.

When they do, we all benefit from their innovations, their job-creating power, and their ability to make the U.S. more competitive globally.

That why I support the Democratic agenda to help small businesses and entrepreneurs startup, grow, and create jobs.

''This includes supporting tax credits to help small businesses hire new employees; immigration reform, which will provided a solution for those businesses facing a maze of problems when hiring immigrant workers: and expanding financing options for entrepreneurs, especially in low- and moderate-income communities.

We must also oppose cuts to job training programs that help meet American businesses' workforce needs. Lastly, we must include working on a long-term extension of the Highway Trust Fund, which is critical for small construction firms across the nation.

Mr. Speaker, small businesses and entrepreneurs impact our lives ever day and it is fitting that we recognize their contributions to the economy and our country during National Small Business Week.

Whether it is opening a new storefront, training workers, or sponsoring activities in our cities and towns, we have many reasons to thank small businesses.

This week we do so, and recognize these entrepreneurs not only for the contributions that they have already made, but also for their future work to strengthen our local communities.

In recognition of all that small businesses do for our communities, from providing conveniently located goods and services to sponsoring local events and organizations, I urge all Americans to take this opportunity to patronize the diverse businesses in their communities to demonstrate to them our continued appreciation and support.

IN RECOGNITION OF THE 18TH ANNUAL AFFORDABLE HOUSING WEEK IN ALAMEDA COUNTY

HON. ERIC SWALWELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 15, 2014

Mr. SWALWELL of California. Mr. Speaker, I rise today to recognize the 18th Annual Affordable Housing Week in Alameda County. Organized by East Bay Housing Organizations, a group of community leaders and affordable housing advocates, this period lasts

from May 9 to May 18 and includes over 23 events are being held in ten cities across the East Bay, including in my district, to call attention to the need for affordable housing.

The health and economic stability of our communities depend on the availability of quality and affordable homes. Many non-profit and community organizations are continuing to address this need by providing homes and shelter for those in need. I believe strongly in the importance of these organizations, which provide affordable housing to our most vulnerable populations, including seniors, veterans, low-income families, the homeless, and those with disabilities. We must ensure that these organizations have resources and support in order to meet these critical needs.

Last November, I was proud to join with Habitat for Humanity to restore a house in Livermore for a local veteran buying a home for the first time. Habitat for Humanity East Bay/Silicon Valley prioritizes providing affordable housing opportunities for our veterans.

I also want to recognize Eden Housing as an inspiring example of affordable housing. Their new development, Emerald Vista in Dublin, has won a Charles L. Edson Tax Credit Excellence Award, given by the Affordable Housing Tax Credit Coalition. This award recognizes outstanding Low-Income Housing Tax Credit developments and honors the best in affordable rental housing.

Housing for those in need is a community-wide effort, and I am proud to represent a district with so many leaders working to assist individuals in need of supportive and affordable housing. These efforts bring us closer to creating kind of sustainable communities that are essential to the diversity and prosperity of California.

INTRODUCTION OF A BILL TO FACILITATE INFRASTRUCTURE DEVELOPMENT AT AND POTENTIAL USES OF POINT SPENCER IN THE BERING STRAIT REGION OF ALASKA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 15, 2014

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing legislation to facilitate infrastructure development at, and potential uses of, Point Spencer in the Bering Strait Region of Arctic Alaska by and for both the public and private sectors through fostering a public/private partnership among the Federal Government/the U.S. Coast Guard, the State of Alaska, the Bering Straits Native Corporation (BSNC) and industry.

I will be joined in co-sponsoring this bill by my friend, the Chairman of the Coast Guard and Maritime Transportation Subcommittee of the House Transportation and Infrastructure Committee, the Honorable Duncan Hunter.

What the Bill Provides: This legislation seeks to address the legitimate interests of the Federal and State Governments as well as the private sector in providing a means for future uses of Point Spencer by Federal, state, and private sector stakeholders for a variety of tasks and missions, including search and rescue, shipping safety, economic development, oil spill prevention and response, port of refuge, arctic research, maritime law enforcement and related and other uses.

For the Coast Guard: The bill provides a footprint at Point Spencer that the Coast Guard has indicated that it needs to retain to support possible future uses of a portion of Point Spencer, a total of approximately 140 acres. That includes a major footprint on the water and the land on which buildings that the Coast Guard boarded up in 2010 are located, as well as rights to use at no cost the current and any future airstrips for Federal purposes. The bill provides that the Secretary of the agency in which the Coast Guard is operating could, instead of retaining the lands reserved for the Coast Guard, have those lands conveyed to BSNC and then leased at no cost to the Coast Guard by BSNC. Also, a federal Navigational Servitude is reserved for the Coast Guard to exercise upon tidelands and submerged lands.

For the State of Alaska: The bill provides for the conveyance of approximately 180 acres to the State, including the airstrip and a shoreline footprint on the water as well as a right-of-way should it decide to build a road in the future from the airstrip to the mainland across Coast Guard and/or BSNC land. The State would also have a choice of having the lands identified in the bill to be conveyed to the state, conveyed to BSNC instead and then leased back to the state at no cost to the state. The tidelands and submerged lands around Point Spencer would be recognized as having continued ownership by the State of Alaska as they were presumptively conveyed to the State under the Statehood Act.

For Bering Straits Native Corporation: The bill provides for BSNC to receive the remainder of the lands not set aside for the Coast Guard or the State and thereby to be able to serve in facilitating the future uses of Point Spencer. If the Coast Guard and the state prefer to have access to the lands through a lease arrangement rather than having them retained or conveyed as applicable, BSNC would receive the lands identified for Coast Guard or State use and then lease those lands back at no cost to the Coast Guard or the State. BSNC would have access to the airstrip but could be charged usual and customary landing fees to help defray maintenance and administrative costs associated with the operations of the airstrip. Provision is made in the bill to help ensure protections for archaeological and ancestral items of antiquity through the Archaeological Resources Protection Act of 1979, the National Historic Preservation Act, and the Native American Graves Protection and Repatriation Act.

Background: By way of background, Point Spencer is a small 2,600 plus-acre spit of land located in the Bering Strait region and was used for thousands of years by the Inupiat Eskimos and their ancestors and was the site of an ancient Inupiat village. Long before the coming of Europeans and Americans to this region, Point Spencer served as a major trading hub for the intercontinental movement of items among the indigenous groups of what is today, Alaska, and eastern Eurasia. With the ''discovery'' of whales north of Bering Strait in the 1840's by non-Natives, Point Spencer and adjacent Port Clarence, served as a safe harbor for the vessels of the American Whaling industry. In 1850–1852, vessels searching for the lost Franklin expedition over-wintered in Port Clarence. From 1865–1867 the area saw activity related to the Western Union Telegraph project, an uncompleted plan to link North America with Russia across Bering Strait. Point Spencer-Port Clarence continued to serve as a major harbor for the Revenue Cutter Service (forerunner of the USCG) during the 19th and into the 20th centuries. Throughout this period of initial contact, the residents of Bering Strait provided food, safe harbor, and guiding services to the visiting EuroAmerican ventures.

Because of the use of this spit of land by indigenous Peoples, the ancestors of those who now comprise the BSNC, for thousands of years before contact by non-Natives, the land is of great importance archaeologically and culturally to Alaska Natives living in the region.

After passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971, the purpose of which was to help settle aboriginal land claims of Alaska Natives and also help clear the way so that the Trans-Alaska pipeline right-of-way could be secured and the pipeline constructed in the 1970s, BSNC filed a selection to Point Spencer in 1976 as a 14(h)(8) selection under ANCSA. Key among the reasons for this selection by BSNC was the recognition of the historically strategic place of Point Spencer within Bering Strait history, and to help ensure that the artifacts and archaeological resources from their ancestors would be better protected and the land would be available for future purposes.

However, because Point Spencer had been withdrawn in 1962 from appropriation under the mining and mineral leasing and other relevant laws of the U.S. so as to permit the construction of a Coast Guard LORAN (Port Clarence long-range radar site) station in 1966 at Point Spencer, the lands were unavailable for BSNC to select or to use unless and until the U.S. no longer needed the lands for the LORAN site. Two years after BSNC filed its selection at Point Spencer, the State of Alaska in 1978 filed a selection application under the Statehood Act on most of the land there and then top-filed on the entire parcel in 1993.

In 2010, the LORAN site at Point Spencer (named the Port Clarence LORAN station) was closed, hardened and abandoned by the Coast Guard and LORAN was thereafter no longer utilized for navigation purposes. At that time, BSNC began to explore the potential for fulfilling its aspirations for selecting Point Spencer that began 34 (thirty-four) years earlier.

BSNC contracted in 2010 to have a geomorphic study of Point Spencer undertaken to determine the long-term stability of the landform. BSNC also conducted an economic study of the lands and began an analysis of the hazardous materials contamination that the Coast Guard generated during its years of operating the LORAN facility and cataloguing any necessary clean-up that would be required to make some of the abandoned site useable. Working with the shipping and response industry, BSNC has also begun developing a phased infrastructure development plan for the Point Spencer lands. Such infrastructure could play a key role in fulfilling the purposes outlined above as well as in enabling the U.S. to pursue and protect national security, transportation, and potential economic interests in the region as the sea lanes open up and natural resource development is considered in the Arctic.

Potential for Job Creation: The bill seeks to provide for public sector interests and at the

same time ensure that the priceless archaeological and cultural artifacts of the ancestors of the people of the Bering Straits region are protected, many of which artifacts have, unfortunately, been allowed to be taken and sold abroad during the years of use for the LORAN site and post abandonment. This would provide job opportunities for its people in a region where villages can face poverty rates of over 40% and where unemployment in some communities reaches nearly 50%. If wise use is made of this area, the essential needs of each stakeholder can likely be addressed.

Economic opportunity in this region of rural Alaska is an imperative to be achieved. Suicide rates among young rural Alaska Natives are extremely alarming and the Bering Straits region experiences that tragedy time and again. Much of the underlying cause of such tragic incidents comes from young people not having work and vocational training opportunities in an area their ancestors have inhabited for generation after generation. While development at Point Spencer would not be a panacea to all social maladies and challenges of the people of the region, it would be a remarkable and enlightened advancement for the people of the region and at the same time serve the federal and state interests and those of the private sector. And, in my mind, it is indefensible for those of us in leadership positions not to attempt to help address this scourge of suicide through sensible approaches to prudent use of lands such as is provided in this legislation.

National Security Interests Will Be Fully Supported: Whatever national security interests that may be involved ultimately with respect to Point Spencer and its future potential uses can be fully and responsibly dealt with through the approach set forth in this legislation. Since its establishment pursuant to authorization by Congress under ANCSA and incorporated under state law, BSNC has carried out numerous contracts with the federal government that were/are directly tied to the national security interests of the U.S., and this Native Corporation has met the challenge fully and performed well. BSNC has the capacity and capability to support the advancement of U.S. national security, transportation, and economic development interests at Point Spencer. Relevant to this discussion, a recent report to Congress entitled ''Feasibility of Establishing an Arctic Deep-draft Seaport'', dated February 11, 2014, states: ''The Coast Guard is currently engaged in negotiation to turn over most of this large parcel [Point Spencer] of property to the Bering Straits Native Corporation . . . Another goal is to pursue innovative arrangements to support the investments needed in the Arctic region, including 'new thinking on public-private . . . partnerships.' ''

The following is a list of a few of the types of federal and private sector contracts that Alaska Native Corporations, including BSNC, have been involved in over recent decades, including many with the Department of Defense and the various Armed Services of our nation including work on military bases and posts throughout the nation: Aircraft maintenance and support; aircraft refueling; aerospace engineering; Tactical gear manufacturing; survival training; winter warfare training; Intelligence analysis; BRAC management; Software design, implementation, and testing; Ship building, Ship repair, IT for various branches of the military service; Constructing landing strips; Base Operations Support, Aviation Services; Research and Development; Engineering, Medical Staffing, Telecommunications, Cyber security; Security; Environmental remediation, Port and Harbor Operations; Healthcare Services; and Construction of a marine fiber optic subsea cable system to the nation's largest Coast Guard base to a Missile launch facility, to a major Alaska city and by microwave transmissions, to Alaska Native villages bringing high-speed, reliable, all-weather broadband to places that heretofore did not have access to such technology.

It is in part through such contract work that Alaska Natives have made incremental but significant progress in realizing the promise envisioned in the enactment by Congress of ANCSA. That work for Alaska Natives (and for other Native Americans in the country) has begun to help extricate their people from the vicious cycle of chronic and pernicious poverty, unemployment and lack of job opportunities for their youths, particularly in remote rural areas, and thereby help address some of the social ills that are associated with such conditions.

Conclusion: With the introduction of this legislation, and as it moves forward, the interests of all stakeholders interested in seeing that productive use is made of Point Spencer for diverse legitimate uses in the Arctic region can be fully met.

This approach is an equitable and sensible way to address the interests of the public and private sectors in Point Spencer. I believe that passage of the bill is in the best interests of our nation, the State of Alaska, the indigenous people of the Bering Strait region, as well as the private sector.

CORRECTION

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S3047–3147

Measures Introduced: Thirteen bills and six resolutions were introduced, as follows: S. 2341–2353, and S. Res. 446–451. **Pages S3074–75**

Measures Passed:

Declaration of Bourbon Whiskey as a Distinctive Product of the United States: Senate agreed to S. Res. 446, recognizing the 50th anniversary of the Congressional declaration of bourbon whiskey as a distinctive product of the United States. **Pages S3049–50**

Honoring Federal, State, and Local Law Enforcement Officers: Senate agreed to S. Res. 449, commemorating and honoring the dedication and sacrifice of the Federal, State, and local law enforcement officers who have been killed or injured in the line of duty. **Pages S3145–46**

Kids to Parks Day: Senate agreed to S. Res. 450, designating May 17, 2014, as ''Kids to Parks Day''. **Page S3146**

Measures Considered:

Justice and Mental Health Collaboration Act: Senate began consideration of the motion to proceed to consideration of S. 162, to reauthorize and improve the Mentally Ill Offender Treatment and Crime Reduction Act of 2004. **Pages S3047–55**

Hire More Heroes Act: By 53 yeas to 40 nays (Vote No. 157), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on Reid (for Wyden) Amendment No. 3060 to H.R. 3474, to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act. **Pages S3058–64**

Subsequently, Senator Reid entered a motion to reconsider the vote by which cloture was not invoked on the amendment. **Page S3060**

A unanimous-consent agreement was reached providing that the motion to invoke cloture on the bill, be withdrawn. **Page S3064**

PRO FORMA—AGREEMENT: A unanimous-consent agreement was reached providing that Senate adjourn until 11 a.m., on Monday, May 19, 2014, for a pro forma session only with no business conducted, and that following the pro forma session, Senate adjourn until 10 a.m., on Tuesday, May 20, 2014. **Page S3146**

Costa Nomination—Cloture: Senate resumed consideration of the nomination of Gregg Jeffrey Costa, of Texas, to be United States Circuit Judge for the Fifth Circuit. **Pages S3058–60**

During consideration of this nomination today, Senate also took the following action:

By 58 yeas to 36 nays (Vote No. 156), Senate agreed to the motion to close further debate on the nomination. **Page S3058**

A unanimous-consent agreement was reached providing that at 5:30 p.m., on Tuesday, May 20, 2014, Senate resume consideration of the nomination, as provided for under the previous order; and, that upon disposition of the nomination, Senate vote on the motion to invoke cloture on the nomination of Stanley Fischer, of New York, to be a Member of the Board of Governors of the Federal Reserve System. **Page S3146**

Barron Nomination—Cloture: Senate began consideration of the nomination of David Jeremiah Barron, of Massachusetts, to be United States Circuit Judge for the First Circuit. **Page S3064**

A motion was entered to close further debate on the nomination, and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur upon disposition of the nomination of Stanley Fischer, of New York, to be a Member of the Board of Governors of the Federal Reserve System. **Page S3064**

Nominations Confirmed: Senate confirmed the following nominations:

Leslie Ragon Caldwell, of New York, to be an Assistant Attorney General. **Pages S3057, S3147**

Helen Meagher La Lime, of the District of Columbia, to be Ambassador to the Republic of Angola.

Pages S3057, S3147

By 81 yeas to 15 nays (Vote No. EX. 153), Rosemary Marquez, of Arizona, to be United States District Judge for the District of Arizona. **Page S3057**

During consideration of this nomination today, Senate also took the following action:

By 58 yeas to 35 nays (Vote No. 150), Senate agreed to the motion to close further debate on the nomination. **Pages S3055–56**

By 77 yeas to 19 nays (Vote No. EX. 154), Douglas L. Rayes, of Arizona, to be United States District Judge for the District of Arizona. **Pages S3057–58**

During consideration of this nomination today, Senate also took the following action:

By 59 yeas to 35 nays (Vote No. 151), Senate agreed to the motion to close further debate on the nomination. **Page S3056**

By 93 yeas to 1 nay (Vote No. EX. 155), James Alan Soto, of Arizona, to be United States District Judge for the District of Arizona. **Page S3058**

During consideration of this nomination today, Senate also took the following action:

By 61 yeas to 35 nays (Vote No. 152), Senate agreed to the motion to close further debate on the nomination. **Page S3056**

Nominations Received: Senate received the following nominations:

Robert S. Adler, of the District of Columbia, to be a Commissioner of the Consumer Product Safety Commission for a term of seven years from October 27, 2014.

Victor M. Mendez, of Arizona, to be Deputy Secretary of Transportation.

Peter M. Rogoff, of Virginia, to be Under Secretary of Transportation for Policy.

Theodore G. Osius III, of Maryland, to be Ambassador to the Socialist Republic of Vietnam.

Joan A. Polaschik, of Virginia, to be Ambassador to the People's Democratic Republic of Algeria.

Routine lists in the Air Force, Army, and Navy. **Pages S3146–47**

Executive Communications: **Pages S3069–70**

Petitions and Memorials: **Pages S3070–74**

Additional Cosponsors: **Pages S3075–76**

Statements on Introduced Bills/Resolutions: **Pages S3076–80**

Additional Statements: **Pages S3066–69**

Amendments Submitted: **Pages S3080–S3145**

Authorities for Committees to Meet: **Page S3145**

Record Votes: Eight record votes were taken today. (Total—157) **Pages S3055–58, S3060**

Adjournment: Senate convened at 9:30 a.m. and adjourned at 5:40 p.m., until 11 a.m. on Monday, May 19, 2014. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S3146.)

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported S. 1217, to provide secondary mortgage market reform, with an amendment in the nature of a substitute.

SURFACE TRANSPORTATION REAUTHORIZATION

Committee on Commerce, Science, and Transportation: Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security concluded a hearing to examine Surface Transportation Reauthorization, focusing on local perspectives on moving America, after receiving testimony from Mayor David R. Martin, Stamford, Connecticut; Mayor Sly James, Kansas City, Missouri; and John Robert Smith, Transportation for America, Paul S. Fisher, CenterPoint Properties Trust, on behalf of the Coalition for America's Gateways and Trade Corridors, and Raymond J. Poupore, National Infrastructure Alliance, all of Washington, DC.

BUSINESS MEETING

Committee on Environment and Public Works: Committee ordered favorably reported S. 2322, to reauthorize Federal-aid highway and highway safety construction programs, with amendments.

THE THREAT OF BOKO HARAM

Committee on Foreign Relations: Subcommittee on African Affairs concluded a hearing to examine addressing the threat of Boko Haram, after receiving testimony from Robert P. Jackson, Acting Assistant Secretary of State for African Affairs; Earl Gast, Assistant Administrator for Africa, United States Agency for International Development; Alice Friend, Principal Director for African Affairs, Department of Defense; and Lantana Adbullahi, Search for Common Ground, Jos, Nigeria.

NOMINATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the nominations of Andrew H. Schapiro, of Illinois, to be Ambassador to the Czech Republic, and Nina Hachigian, of California, to be Representative of the United States of America to the Association of Southeast Asian Nations, with the

rank and status of Ambassador, both of the Department of State, after the nominees testified and answered questions in their own behalf.

ONLINE ADVERTISING

Committee on Homeland Security and Governmental Affairs: Permanent Subcommittee on Investigations concluded a hearing to examine online advertising and hidden hazards to consumer security and date privacy, after receiving testimony from Maneesha Mithal, Associate Director, Division of Privacy and Identity Protection, Federal Trade Commission; Alex Stamos, Yahoo! Inc., Sunnyvale, California; George Salem, Google Inc., Mountain View, California; Craig D. Spiezle, Online Trust Alliance, Washington, D.C.; and Luigi Mastria, Digital Advertising Alliance, New York, New York.

U.S. TOBACCO USE AND REGULATION

Committee on Health, Education, Labor, and Pensions: Committee concluded a hearing to examine the state of tobacco use and regulation in the United States, focusing on progress and challenges, after receiving testimony from Tim McAfee, Director, Office on Smoking and Health, Centers for Disease Control and Prevention, and Mitchell Zeller, Director, Center for Tobacco Products, Food and Drug Administration, both of the Department of Health and Human Services.

VETERANS' AFFAIRS HEALTH CARE

Committee on Veterans' Affairs: Committee concluded a hearing to examine the state of Veterans Affairs health care, after receiving testimony from Eric K. Shinseki, Secretary, Robert A. Petzel, Under Secretary for Health, Richard J. Griffin, Acting Inspector General, Office of Inspector General, and John D. Daigh, Jr., Assistant Inspector General for Healthcare Inspections, all of the Department of Veterans Affairs; Debra A. Draper, Director, Health Care, Government Accountability Office; Daniel M. Dellinger, The American Legion, Joseph A. Violante, DAV, Tom Tarantino, Iraq and Afghanistan Veterans of America, Carl Blake, Paralyzed Veterans of America, D. Wayne Robinson, Student Veterans of America, Ryan M. Gallucci, Veterans of Foreign Wars of the United States, Richard Weidman, Vietnam Veterans of America, and Phillip Longman, New America Foundation, all of Washington, DC; and Rear Admiral W. Clyde Marsh, USN, Retired, National Association of State Directors of Veterans Affairs, Alexandria, Virginia.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to the call.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 8 public bills, H.R. 4661–4668; and 1 resolution, H. Con. Res. 98 were introduced. **Page H4434**

Additional Cosponsors: **Pages H4434–35**

Reports Filed: Reports were filed today as follows:

H.R. 4660, making appropriations for the Departments of Commerce and Justice, Science, and Related Agencies for the fiscal year ending September 30, 2015, and for other purposes (H. Rept. 113–448);

Conference report on H.R. 3080, to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, and for other purposes (H. Rept. 113–449);

H.R. 3530, to provide justice for the victims of trafficking, with an amendment (H. Rept. 113–450);

H.R. 4225, to amend title 18, United States Code, to provide a penalty for knowingly selling advertising that offers certain commercial sex acts, with an amendment (H. Rept. 113–451); and

H.R. 3361, to reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence, counterterrorism, and criminal purposes, and for other purposes, with an amendment (H. Rept. 113–452, Pt. 1); and

H.R. 3361, to reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence, counterterrorism, and criminal purposes, and for other purposes, with an amendment (H. Rept. 113–452, Pt. 2). **Pages H4433–34**

Speaker: Read a letter from the Speaker wherein he appointed Representative Petri to act as Speaker pro tempore for today. **Page H4065**

Chaplain: The prayer was offered by the guest chaplain, Reverend Edward Fassett, S.J., Jesuit Conference of the United States, Washington, DC. **Page H4065**

Senate Message: Message received from the Senate by the Clerk and subsequently presented to the House today appears on page H4428.

Quorum Calls—Votes: There were no yea-and-nay votes, and there were no Recorded votes. There were no quorum calls.

Adjournment: The House met at 2 p.m. and adjourned at 2:04 p.m.

Committee Meetings

No hearings were held.

Joint Meetings

No joint committee meetings were held.

COMMITTEE MEETINGS FOR FRIDAY, MAY 16, 2014

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

No hearings are scheduled.

Next Meeting of the SENATE

11 a.m., Monday, May 19

Senate Chamber

Program for Monday: Senate will meet in a pro forma session.

Next Meeting of the HOUSE OF REPRESENTATIVES

12 p.m., Monday, May 19

House Chamber

Program for Monday: To be announced.

Extensions of Remarks, as inserted in this issue

HOUSE

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