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2d Session }

SENATE

{ REPORT
{ 110-400

SAN JOAQUIN RIVER RESTORATION SETTLEMENT ACT

JUNE 25, 2008.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 27]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 27) to authorize the implementation of the San Joaquin River Restoration Settlement, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—SAN JOAQUIN RIVER RESTORATION SETTLEMENT ACT

- Sec. 101. Short title.
- Sec. 102. Purpose.
- Sec. 103. Definitions.
- Sec. 104. Implementation of settlement.
- Sec. 105. Acquisition and Disposal of Property; Title to Facilities.
- Sec. 106. Compliance with Applicable Law.
- Sec. 107. Compliance with Central Valley Project Improvement Act.
- Sec. 108. No Private Right of Action.
- Sec. 109. Appropriations; Settlement Fund.
- Sec. 110. Repayment contracts and acceleration of repayment of construction costs.
- Sec. 111. California Central Valley Spring Run Chinook salmon.

TITLE II—STUDY TO DEVELOP WATER PLAN; REPORT

Sec. 201. Study to develop water plan; report.

TITLE III—FRIANT DIVISION IMPROVEMENTS

- Sec. 301. Federal facility improvements.
- Sec. 302. Financial assistance for local projects.
- Sec. 303. Authorization of appropriations.

TITLE I—SAN JOAQUIN RIVER RESTORATION SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the “San Joaquin River Restoration Settlement Act”.

SEC. 102. PURPOSE.

The purpose of this title is to authorize implementation of the Settlement.

SEC. 103. DEFINITIONS.

In this title:

(1) The terms “Friant Division long-term contractors”, “Interim Flows”, “Restoration Flows”, “Recovered Water Account”, “Restoration Goal”, and “Water Management Goal” have the meanings given the terms in the Settlement.

(2) The term “Secretary” means the Secretary of the Interior.

(3) The term “Settlement” means the Stipulation of Settlement dated September 13, 2006, in the litigation entitled Natural Resources Defense Council, et al. v. Kirk Rodgers, et al., United States District Court, Eastern District of California, No. CIV. S-88-1658-LKK/GGH.

SEC. 104. IMPLEMENTATION OF SETTLEMENT.

(a) IN GENERAL.—The Secretary of the Interior is hereby authorized and directed to implement the terms and conditions of the Settlement in cooperation with the State of California, including the following measures as these measures are prescribed in the Settlement:

(1) Design and construct channel and structural improvements as described in paragraph 11 of the Settlement, provided, however, that the Secretary shall not make or fund any such improvements to facilities or property of the State of California without the approval of the State of California and the State’s agreement in 1 or more memoranda of understanding to participate where appropriate.

(2) Modify Friant Dam operations so as to provide Restoration Flows and Interim Flows.

(3) Acquire water, water rights, or options to acquire water as described in paragraph 13 of the Settlement, provided, however, such acquisitions shall only be made from willing sellers and not through eminent domain.

(4) Implement the terms and conditions of paragraph 16 of the Settlement related to recirculation, recapture, reuse, exchange, or transfer of water released for Restoration Flows or Interim Flows, for the purpose of accomplishing the Water Management Goal of the Settlement, subject to—

(A) applicable provisions of California water law;

(B) the Secretary’s use of Central Valley Project facilities to make Project water (other than water released from Friant Dam pursuant to the Settlement) and water acquired through transfers available to existing south-of-Delta Central Valley Project contractors; and

(C) the Secretary’s performance of the Agreement of November 24, 1986, between the United States of America and the Department of Water Resources of the State of California for the coordinated operation of the Central Valley Project and the State Water Project as authorized by Congress in section 2(d) of the Act of August 26, 1937 (50 Stat. 850, 100 Stat. 3051), including any agreement to resolve conflicts arising from said Agreement.

(5) Develop and implement the Recovered Water Account as specified in paragraph 16(b) of the Settlement, including the pricing and payment crediting provisions described in paragraph 16(b)(3) of the Settlement, provided that all other provisions of Federal reclamation law shall remain applicable.

(b) AGREEMENTS.—

(1) AGREEMENTS WITH THE STATE.—In order to facilitate or expedite implementation of the Settlement, the Secretary is authorized and directed to enter into appropriate agreements, including cost-sharing agreements, with the State of California.

(2) OTHER AGREEMENTS.—The Secretary is authorized to enter into contracts, memoranda of understanding, financial assistance agreements, cost sharing agreements, and other appropriate agreements with State, tribal, and local governmental agencies, and with private parties, including agreements related to construction, improvement, and operation and maintenance of facilities, subject to any terms and conditions that the Secretary deems necessary to achieve the purposes of the Settlement.

(c) ACCEPTANCE AND EXPENDITURE OF NON-FEDERAL FUNDS.—The Secretary is authorized to accept and expend non-Federal funds in order to facilitate implementation of the Settlement.

(d) MITIGATION OF IMPACTS.—Prior to the implementation of decisions or agreements to construct, improve, operate, or maintain facilities that the Secretary determines are needed to implement the Settlement, the Secretary shall identify—

(1) the impacts associated with such actions; and

(2) the measures which shall be implemented to mitigate impacts on adjacent and downstream water users and landowners.

(e) DESIGN AND ENGINEERING STUDIES.—The Secretary is authorized to conduct any design or engineering studies that are necessary to implement the Settlement.

(f) EFFECT ON CONTRACT WATER ALLOCATIONS.—Except as otherwise provided in this section, the implementation of the Settlement and the reintroduction of California Central Valley Spring Run Chinook salmon pursuant to the Settlement and section 111, shall not result in the involuntary reduction in contract water allocations to Central Valley Project long-term contractors, other than Friant Division long-term contractors.

(g) EFFECT ON EXISTING WATER CONTRACTS.—Except as provided in the Settlement and this title, nothing in this title shall modify or amend the rights and obligations of the parties to any existing water service, repayment, purchase, or exchange contract.

SEC. 105. ACQUISITION AND DISPOSAL OF PROPERTY; TITLE TO FACILITIES.

(a) TITLE TO FACILITIES.—Unless acquired pursuant to subsection (b), title to any facility or facilities, stream channel, levees, or other real property modified or improved in the course of implementing the Settlement authorized by this title, and title to any modifications or improvements of such facility or facilities, stream channel, levees, or other real property—

(1) shall remain in the owner of the property; and

(2) shall not be transferred to the United States on account of such modifications or improvements.

(b) ACQUISITION OF PROPERTY.—

(1) IN GENERAL.—The Secretary is authorized to acquire through purchase from willing sellers any property, interests in property, or options to acquire real property needed to implement the Settlement authorized by this title.

(2) APPLICABLE LAW.—The Secretary is authorized, but not required, to exercise all of the authorities provided in section 2 of the Act of August 26, 1937 (50 Stat. 844, chapter 832), to carry out the measures authorized in this section and section 104.

(c) DISPOSAL OF PROPERTY.—

(1) IN GENERAL.—Upon the Secretary's determination that retention of title to property or interests in property acquired pursuant to this title is no longer needed to be held by the United States for the furtherance of the Settlement, the Secretary is authorized to dispose of such property or interest in property on such terms and conditions as the Secretary deems appropriate and in the best interest of the United States, including possible transfer of such property to the State of California.

(2) RIGHT OF FIRST REFUSAL.—In the event the Secretary determines that property acquired pursuant to this title through the exercise of its eminent domain authority is no longer necessary for implementation of the Settlement, the Secretary shall provide a right of first refusal to the property owner from whom the property was initially acquired, or his or her successor in interest, on the same terms and conditions as the property is being offered to other parties.

(3) DISPOSITION OF PROCEEDS.—Proceeds from the disposal by sale or transfer of any such property or interests in such property shall be deposited in the fund established by section 109(c).

(d) GROUNDWATER BANK.—Nothing in this title authorizes the Secretary to operate a groundwater bank along or adjacent to the San Joaquin River upstream of the confluence with the Merced River, and any such groundwater bank shall be operated by a non-Federal entity.

SEC. 106. COMPLIANCE WITH APPLICABLE LAW.

(a) APPLICABLE LAW.—

(1) IN GENERAL.—In undertaking the measures authorized by this title, the Secretary and the Secretary of Commerce shall comply with all applicable Federal and State laws, rules, and regulations, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as necessary.

(2) ENVIRONMENTAL REVIEWS.—The Secretary and the Secretary of Commerce are authorized and directed to initiate and expeditiously complete applicable en-

vironmental reviews and consultations as may be necessary to effectuate the purposes of the Settlement.

(b) **EFFECT ON STATE LAW.**—Nothing in this title shall preempt State law or modify any existing obligation of the United States under Federal reclamation law to operate the Central Valley Project in conformity with State law.

(c) **USE OF FUNDS FOR ENVIRONMENTAL REVIEWS.**—

(1) **DEFINITION OF ENVIRONMENTAL REVIEW.**—For purposes of this subsection, the term “environmental review” includes any consultation and planning necessary to comply with subsection (a).

(2) **PARTICIPATION IN ENVIRONMENTAL REVIEW PROCESS.**—In undertaking the measures authorized by section 104, and for which environmental review is required, the Secretary may provide funds made available under this title to affected Federal agencies, State agencies, local agencies, and Indian tribes if the Secretary determines that such funds are necessary to allow the Federal agencies, State agencies, local agencies, or Indian tribes to effectively participate in the environmental review process.

(3) **LIMITATION.**—Funds may be provided under paragraph (2) only to support activities that directly contribute to the implementation of the terms and conditions of the Settlement.

(d) **NONREIMBURSABLE FUNDS.**—The United States’ share of the costs of implementing this title shall be nonreimbursable under Federal reclamation law, provided that nothing in this subsection shall limit or be construed to limit the use of the funds assessed and collected pursuant to sections 3406(c)(1) and 3407(d)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721, 4727), for implementation of the Settlement, nor shall it be construed to limit or modify existing or future Central Valley Project ratesetting policies.

SEC. 107. COMPLIANCE WITH CENTRAL VALLEY PROJECT IMPROVEMENT ACT.

Congress hereby finds and declares that the Settlement satisfies and discharges all of the obligations of the Secretary contained in section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721), provided, however, that—

(1) the Secretary shall continue to assess and collect the charges provided in section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721), as provided in the Settlement; and

(2) those assessments and collections shall continue to be counted toward the requirements of the Secretary contained in section 3407(c)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4726).

SEC. 108. NO PRIVATE RIGHT OF ACTION.

(a) **IN GENERAL.**—Nothing in this title confers upon any person or entity not a party to the Settlement a private right of action or claim for relief to interpret or enforce the provisions of this title or the Settlement.

(b) **APPLICABLE LAW.**—This section shall not alter or curtail any right of action or claim for relief under any other applicable law.

SEC. 109. APPROPRIATIONS; SETTLEMENT FUND.

(a) **IMPLEMENTATION COSTS.**—

(1) **IN GENERAL.**—The costs of implementing the Settlement shall be covered by payments or in-kind contributions made by Friant Division contractors and other non-Federal parties, including the funds provided in paragraphs (1) through (4) of subsection (c), estimated to total \$440,000,000, of which the non-Federal payments are estimated to total \$200,000,000 (at October 2006 price levels) and the amount from repaid Central Valley Project capital obligations is estimated to total \$240,000,000, the additional Federal appropriation of \$250,000,000 authorized pursuant to subsection (b)(1), and such additional funds authorized pursuant to subsection (b)(2); provided however, that the costs of implementing the provisions of section 104(a)(1) shall be shared by the State of California pursuant to the terms of a memorandum of understanding executed by the State of California and the Parties to the Settlement on September 13, 2006, which includes at least \$110,000,000 of State funds.

(2) **ADDITIONAL AGREEMENTS.**—

(A) **IN GENERAL.**—The Secretary shall enter into 1 or more agreements to fund or implement improvements on a project-by-project basis with the State of California.

(B) **REQUIREMENTS.**—Any agreements entered into under subparagraph (A) shall provide for recognition of either monetary or in-kind contributions

toward the State of California's share of the cost of implementing the provisions of section 104(a)(1).

(3) LIMITATION.—Except as provided in the Settlement, to the extent that costs incurred solely to implement this Settlement would not otherwise have been incurred by any entity or public or local agency or subdivision of the State of California, such costs shall not be borne by any such entity, agency, or subdivision of the State of California, unless such costs are incurred on a voluntary basis.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to the funding provided in subsection (c), there are also authorized to be appropriated not to exceed \$250,000,000 (at October 2006 price levels) to implement this title and the Settlement, to be available until expended; provided however, that the Secretary is authorized to spend such additional appropriations only in amounts equal to the amount of funds deposited in the Fund (not including payments under subsection (c)(2) and proceeds under subsection (c)(3)), the amount of in-kind contributions, and other non-Federal payments actually committed to the implementation of this title or the Settlement.

(2) USE OF THE CENTRAL VALLEY PROJECT RESTORATION FUND.—The Secretary is authorized to use monies from the Central Valley Project Restoration Fund created under section 3407 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4727) for purposes of this title in an amount not to exceed \$2,000,000 (October 2006 price levels) in any fiscal year.

(c) FUND.—There is hereby established within the Treasury of the United States a fund, to be known as the San Joaquin River Restoration Fund, into which the following shall be deposited and used solely for the purpose of implementing the Settlement except as otherwise provided in subsections (a) and (b) of section 303, to be available for expenditure without further appropriation:

(1) At the beginning of the fiscal year following enactment of this title, all payments received pursuant to section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721).

(2) The construction cost component (not otherwise needed to cover operation and maintenance costs) of payments made by Friant Division, Hidden Unit, and Buchanan Unit long-term contractors pursuant to long-term water service contracts or pursuant to repayment contracts, including repayment contracts executed pursuant to section 110. The construction cost repayment obligation assigned such contractors under such contracts shall be reduced by the amount paid pursuant to this paragraph and the appropriate share of the existing Federal investment in the Central Valley Project to be recovered by the Secretary pursuant to Public Law 99–546 (100 Stat. 3050) shall be reduced by an equivalent sum.

(3) Proceeds from the sale of water pursuant to the Settlement, or from the sale of property or interests in property as provided in section 105.

(4) Any non-Federal funds, including State cost-sharing funds, contributed to the United States for implementation of the Settlement, which the Secretary may expend without further appropriation for the purposes for which contributed.

(d) LIMITATION ON CONTRIBUTIONS.—Payments made by long-term contractors who receive water from the Friant Division and Hidden and Buchanan Units of the Central Valley Project pursuant to sections 3406(c)(1) and 3407(d)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721, 4727) and payments made pursuant to paragraph 16(b)(3) of the Settlement and subsection (c)(2) shall be the limitation of such entities' direct financial contribution to the Settlement, subject to the terms and conditions of paragraph 21 of the Settlement.

(e) NO ADDITIONAL EXPENDITURES REQUIRED.—Nothing in this title shall be construed to require a Federal official to expend Federal funds not appropriated by Congress, or to seek the appropriation of additional funds by Congress, for the implementation of the Settlement.

(f) REACH 4B.—

(1) STUDY.—

(A) IN GENERAL.—In accordance with the Settlement and the memorandum of understanding executed pursuant to paragraph 6 of the Settlement, the Secretary shall conduct a study that specifies—

(i) the costs of undertaking any work required under paragraph 11(a)(3) of the Settlement to increase the capacity of reach 4B prior to reinitiation of Restoration Flows;

(ii) the impacts associated with reinitiation of such flows; and

(iii) measures that shall be implemented to mitigate impacts.

(B) DEADLINE.—The study under subparagraph (A) shall be completed prior to restoration of any flows other than Interim Flows.

(2) REPORT.—

(A) IN GENERAL.—The Secretary shall file a report with Congress not later than 90 days after issuing a determination, as required by the Settlement, on whether to expand channel conveyance capacity to 4500 cubic feet per second in reach 4B of the San Joaquin River, or use an alternative route for pulse flows, that—

(i) explains whether the Secretary has decided to expand Reach 4B capacity to 4500 cubic feet per second; and

(ii) addresses the following matters:

(I) The basis for the Secretary's determination, whether set out in environmental review documents or otherwise, as to whether the expansion of Reach 4B would be the preferable means to achieve the Restoration Goal as provided in the Settlement, including how different factors were assessed such as comparative biological and habitat benefits, comparative costs, relative availability of State cost-sharing funds, and the comparative benefits and impacts on water temperature, water supply, private property, and local and downstream flood control.

(II) The Secretary's final cost estimate for expanding Reach 4B capacity to 4500 cubic feet per second, or any alternative route selected, as well as the alternative cost estimates provided by the State, by the Restoration Administrator, and by the other parties to the Settlement.

(III) The Secretary's plan for funding the costs of expanding Reach 4B or any alternative route selected, whether by existing Federal funds provided under this Act, by non-Federal funds, by future Federal appropriations, or some combination of such sources.

(B) DETERMINATION REQUIRED.—The Secretary shall, to the extent feasible, make the determination in subparagraph (A) prior to undertaking any substantial construction work to increase capacity in reach 4B.

(3) COSTS.—If the Secretary's estimated Federal cost for expanding reach 4B in paragraph (2), in light of the Secretary's funding plan set out in that paragraph, would exceed the remaining Federal funding authorized by this title (including all funds reallocated, all funds dedicated, and all new funds authorized by this title and separate from all commitments of State and other non-Federal funds and in-kind commitments), then before the Secretary commences actual construction work in reach 4B (other than planning, design, feasibility, or other preliminary measures) to expand capacity to 4500 cubic feet per second to implement this Settlement, Congress must have increased the applicable authorization ceiling provided by this title in an amount at least sufficient to cover the higher estimated Federal costs.

SEC. 110. REPAYMENT CONTRACTS AND ACCELERATION OF REPAYMENT OF CONSTRUCTION COSTS.

(a) CONVERSION OF CONTRACTS.—

(1) The Secretary is authorized and directed to convert, prior to December 31, 2010, all existing long-term contracts with the following Friant Division, Hidden Unit, and Buchanan Unit contractors, entered under subsection (e) of section 9 of the Act of August 4, 1939 (53 Stat. 1196), to contracts under subsection (d) of section 9 of said Act (53 Stat. 1195), under mutually agreeable terms and conditions: Arvin-Edison Water Storage District; Delano-Earlimart Irrigation District; Exeter Irrigation District; Fresno Irrigation District; Ivanhoe Irrigation District; Lindmore Irrigation District; Lindsay-Strathmore Irrigation District; Lower Tule River Irrigation District; Orange Cove Irrigation District; Porterville Irrigation District; Saucelito Irrigation District; Shafter-Wasco Irrigation District; Southern San Joaquin Municipal Utility District; Stone Corral Irrigation District; Tea Pot Dome Water District; Terra Bella Irrigation District; Tulare Irrigation District; Madera Irrigation District; and Chowchilla Water District. Upon request of the contractor, the Secretary is authorized to convert, prior to December 31, 2010, other existing long-term contracts with Friant Division contractors entered under subsection (e) of section 9 of the Act of August 4, 1939 (53 Stat. 1196), to contracts under subsection (d) of section 9 of said Act (53 Stat. 1195), under mutually agreeable terms and conditions.

(2) Upon request of the contractor, the Secretary is further authorized to convert, prior to December 31, 2010, any existing Friant Division long-term con-

tract entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to a contract under subsection (c)(1) of section 9 of said Act, under mutually agreeable terms and conditions.

(3) All such contracts entered into pursuant to paragraph (1) shall—

(A) require the repayment, either in lump sum or by accelerated prepayment, of the remaining amount of construction costs identified in the Central Valley Project Schedule of Irrigation Capital Rates by Contractor 2007 Irrigation Water Rates, dated January 25, 2007, as adjusted to reflect payments not reflected in such schedule, and properly assignable for ultimate return by the contractor, no later than January 31, 2011, or if made in approximately equal annual installments, no later than January 31, 2014; such amount to be discounted by $\frac{1}{2}$ the Treasury Rate. An estimate of the remaining amount of construction costs as of January 31, 2011, as adjusted, shall be provided by the Secretary to each contractor no later than June 30, 2010;

(B) require that, notwithstanding subsection (c)(2), construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversions under this subsection of less than \$5,000,000. If such amount is \$5,000,000 or greater, such cost shall be repaid as provided by applicable Reclamation law, provided that the reference to the amount of \$5,000,000 shall not be a precedent in any other context;

(C) provide that power revenues will not be available to aid in repayment of construction costs allocated to irrigation under the contract; and

(D) conform to the Settlement and this title and shall continue so long as the contractor pays applicable charges, consistent with subsection (c)(2) and applicable law.

(4) All such contracts entered into pursuant to paragraph (2) shall—

(A) require the repayment in lump sum of the remaining amount of construction costs identified in the most current version of the Central Valley Project Schedule of Municipal and Industrial Water Rates, as adjusted to reflect payments not reflected in such schedule, and properly assignable for ultimate return by the contractor, no later than January 31, 2014. An estimate of the remaining amount of construction costs as of January 31, 2014, as adjusted, shall be provided by the Secretary to each contractor no later than June 30, 2013;

(B) require that, notwithstanding subsection (c)(2), construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversions under this subsection of less than \$5,000,000. If such amount is \$5,000,000 or greater, such cost shall be repaid as provided by applicable Reclamation law, provided that the reference to the amount of \$5,000,000 shall not be a precedent in any other context; and

(C) conform to the Settlement and this title and shall continue so long as the contractor pays applicable charges, consistent with subsection (c)(2) and applicable law.

(b) FINAL ADJUSTMENT.—The amounts paid pursuant to subsection (a) shall be subject to adjustment following a final cost allocation by the Secretary upon completion of the construction of the Central Valley Project. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are greater than what has been paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be no less than 1 year and no more than 10 years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the parties. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are less than what the contractor has paid, the Secretary is authorized and directed to credit such overpayment as an offset against any outstanding or future obligation of the contractor.

(c) APPLICABILITY OF CERTAIN PROVISIONS.—

(1) Notwithstanding any repayment obligation under subsection (a)(3)(B) or subsection (b), upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs as provided in subsection (a)(3)(A),

the provisions of section 213(a) and (b) of the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to lands in such district.

(2) Notwithstanding any repayment obligation under paragraph (3)(B) or (4)(B) of subsection (a), or subsection (b), upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs as provided in paragraphs (3)(A) and (4)(A) of subsection (a), the Secretary shall waive the pricing provisions of section 3405(d) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575) for such contractor, provided that such contractor shall continue to pay applicable operation and maintenance costs and other charges applicable to such repayment contracts pursuant to the then-current rate-setting policy and applicable law.

(3) Provisions of the Settlement applying to Friant Division, Hidden Unit, and Buchanan Unit long-term water service contracts shall also apply to contracts executed pursuant to this section.

(d) REDUCTION OF CHARGE FOR THOSE CONTRACTS CONVERTED PURSUANT TO SUBSECTION (A)(1).—

(1) At the time all payments by the contractor required by subsection (a)(3)(A) have been completed, the Secretary shall reduce the charge mandated in section 107(1) of this title, from 2020 through 2039, to offset the financing costs as defined in section 110(d)(3). The reduction shall be calculated at the time all payments by the contractor required by subsection (a)(3)(A) have been completed. The calculation shall remain fixed from 2020 through 2039 and shall be based upon anticipated average annual water deliveries, as mutually agreed upon by the Secretary and the contractor, for the period from 2020 through 2039, and the amounts of such reductions shall be discounted using the Treasury Rate; provided, that such charge shall not be reduced to less than \$4.00 per acre foot of project water delivered; provided further, that such reduction shall be implemented annually unless the Secretary determines, based on the availability of other monies, that the charges mandated in section 107(1) are otherwise needed to cover ongoing federal costs of the Settlement, including any federal operation and maintenance costs of facilities that the Secretary determines are needed to implement the Settlement. If the Secretary determines that such charges are necessary to cover such ongoing federal costs, the Secretary shall, instead of making the reduction in such charges, reduce the contractor's operation and maintenance obligation by an equivalent amount, and such amount shall not be recovered by the United States from any Central Valley Project contractor, provided nothing herein shall affect the obligation of the contractor to make payments pursuant to a transfer agreement with a non-federal operating entity.

(2) If the calculated reduction in paragraph (1), taking into consideration the minimum amount required, does not result in the contractor offsetting its financing costs, the Secretary is authorized and directed to reduce, after 2019, any outstanding or future obligations of the contractor to the Bureau of Reclamation, other than the charge assessed and collected under section 3407(d) of Public Law 102-575, by the amount of such deficiency, with such amount indexed to 2020 using the Treasury Rate and such amount shall not be recovered by the United States from any Central Valley Project contractor, provided nothing herein shall affect the obligation of the contractor to make payments pursuant to a transfer agreement with a non-Federal operating entity.

(3) Financing costs, for the purposes of this subsection, shall be computed as the difference of the net present value of the construction cost identified in subsection (a)(3)(A) using the full Treasury Rate as compared to using one half of the Treasury Rate and applying those rates against a calculated average annual capital repayment through 2030.

(4) Effective in 2040, the charge shall revert to the amount called for in section 107(1) of this title.

(5) For purposes of this section, "Treasury Rate" shall be defined as the 20 year Constant Maturity Treasury (CMT) rate published by the United States Department of the Treasury as of October 1, 2010.

(e) SATISFACTION OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Upon the first release of Interim Flows or Restoration Flows, pursuant to paragraphs 13 or 15 of the Settlement, any short- or long-term agreement, to which 1 or more long-term Friant Division, Hidden Unit, or Buchanan Unit contractor that converts its contract pursuant to subsection (a) is a party, providing for the transfer or exchange of water not released as Interim Flows or Restoration Flows shall be deemed to satisfy the provisions of subsection 3405(a)(1)(A) and (I) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575) without the further concurrence of the Secretary as to compliance with said subsections if the contractor provides, not later than 90 days before commencement of any such transfer or

exchange for a period in excess of 1 year, and not later than 30 days before commencement of any proposed transfer or exchange with duration of less than 1 year, written notice to the Secretary stating how the proposed transfer or exchange is intended to reduce, avoid, or mitigate impacts to water deliveries caused by the Interim Flows or Restoration Flows or is intended to otherwise facilitate the Water Management Goal, as described in the Settlement. The Secretary shall promptly make such notice publicly available.

(2) DETERMINATION OF REDUCTIONS TO WATER DELIVERIES.—Water transferred or exchanged under an agreement that meets the terms of this subsection shall not be counted as a replacement or an offset for purposes of determining reductions to water deliveries to any Friant Division long-term contractor except as provided in paragraph 16(b) of the Settlement. The Secretary shall, at least annually, make publicly available a compilation of the number of transfer or exchange agreements exercising the provisions of this subsection to reduce, avoid, or mitigate impacts to water deliveries caused by the Interim Flows or Restoration Flows or to facilitate the Water Management Goal, as well as the volume of water transferred or exchanged under such agreements.

(3) STATE LAW.—Nothing in this subsection alters State law or permit conditions, including any applicable geographical restrictions on the place of use of water transferred or exchanged pursuant to this subsection.

(f) CERTAIN REPAYMENT OBLIGATIONS NOT ALTERED.—Implementation of the provisions of this section shall not alter the repayment obligation of any other long-term water service or repayment contractor receiving water from the Central Valley Project, or shift any costs that would otherwise have been properly assignable to the Friant contractors absent this section, including operations and maintenance costs, construction costs, or other capitalized costs incurred after the date of enactment of this Act, to other such contractors.

(g) STATUTORY INTERPRETATION.—Nothing in this title shall be construed to affect the right of any Friant Division, Hidden Unit, or Buchanan Unit long-term contractor to use a particular type of financing to make the payments required in paragraph (3)(A) or (4)(A) of subsection (a).

SEC. 111. CALIFORNIA CENTRAL VALLEY SPRING RUN CHINOOK SALMON.

(a) FINDING.—Congress finds that the implementation of the Settlement to resolve 18 years of contentious litigation regarding restoration of the San Joaquin River and the reintroduction of the California Central Valley Spring Run Chinook salmon is a unique and unprecedented circumstance that requires clear expressions of Congressional intent regarding how the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) are utilized to achieve the goals of restoration of the San Joaquin River and the successful reintroduction of California Central Valley Spring Run Chinook salmon.

(b) REINTRODUCTION IN THE SAN JOAQUIN RIVER.—California Central Valley Spring Run Chinook salmon shall be reintroduced in the San Joaquin River below Friant Dam pursuant to section 10(j) of the Endangered Species Act of 1973 (16 U.S.C. 1539(j)) and the Settlement, provided that the Secretary of Commerce finds that a permit for the reintroduction of California Central Valley Spring Run Chinook salmon may be issued pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)(1)(A)).

(c) FINAL RULE.—

(1) DEFINITION OF THIRD PARTY.—For the purpose of this subsection, the term “third party” means persons or entities diverting or receiving water pursuant to applicable State and Federal laws and shall include Central Valley Project contractors outside of the Friant Division of the Central Valley Project and the State Water Project.

(2) ISSUANCE.—The Secretary of Commerce shall issue a final rule pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) governing the incidental take of reintroduced California Central Valley Spring Run Chinook salmon prior to the reintroduction.

(3) REQUIRED COMPONENTS.—The rule issued under paragraph (2) shall provide that the reintroduction will not impose more than de minimus: water supply reductions, additional storage releases, or bypass flows on unwilling third parties due to such reintroduction.

(4) APPLICABLE LAW.—Nothing in this section—

(A) diminishes the statutory or regulatory protections provided in the Endangered Species Act for any species listed pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) other than the reintroduced population of California Central Valley Spring Run Chinook salmon, including protections pursuant to existing biological opinions or new biological opinions issued by the Secretary or Secretary of Commerce; or

(B) precludes the Secretary or Secretary of Commerce from imposing protections under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for other species listed pursuant to section 4 of that Act (16 U.S.C. 1533) because those protections provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(d) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2024, the Secretary of Commerce shall report to Congress on the progress made on the reintroduction set forth in this section and the Secretary’s plans for future implementation of this section.

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) an assessment of the major challenges, if any, to successful reintroduction;

(B) an evaluation of the effect, if any, of the reintroduction on the existing population of California Central Valley Spring Run Chinook salmon existing on the Sacramento River or its tributaries; and

(C) an assessment regarding the future of the reintroduction.

(e) FERC PROJECTS.—

(1) IN GENERAL.—With regard to California Central Valley Spring Run Chinook salmon reintroduced pursuant to the Settlement, the Secretary of Commerce shall exercise its authority under section 18 of the Federal Power Act (16 U.S.C. 811) by reserving its right to file prescriptions in proceedings for projects licensed by the Federal Energy Regulatory Commission on the Calaveras, Stanislaus, Tuolumne, Merced, and San Joaquin rivers and otherwise consistent with subsection (c) until after the expiration of the term of the Settlement, December 31, 2025, or the expiration of the designation made pursuant to subsection (b), whichever ends first.

(2) EFFECT OF SUBSECTION.—Nothing in this subsection shall preclude the Secretary of Commerce from imposing prescriptions pursuant to section 18 of the Federal Power Act (16 U.S.C. 811) solely for other anadromous fish species because those prescriptions provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(f) EFFECT OF SECTION.—Nothing in this section is intended or shall be construed—

(1) to modify the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the Federal Power Act (16 U.S.C. 791a et seq.); or

(2) to establish a precedent with respect to any other application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the Federal Power Act (16 U.S.C. 791a et seq.).

TITLE II—STUDY TO DEVELOP WATER PLAN; REPORT

SEC. 201. STUDY TO DEVELOP WATER PLAN; REPORT.

(a) PLAN.—

(1) GRANT.—To the extent that funds are made available in advance for this purpose, the Secretary of the Interior, acting through the Bureau of Reclamation, shall provide direct financial assistance to the California Water Institute, located at California State University, Fresno, California, to conduct a study regarding the coordination and integration of sub-regional integrated regional water management plans into a unified Integrated Regional Water Management Plan for the subject counties in the hydrologic basins that would address issues related to—

(A) water quality;

(B) water supply (both surface, ground water banking, and brackish water desalination);

(C) water conveyance;

(D) water reliability;

(E) water conservation and efficient use (by distribution systems and by end users);

(F) flood control;

(G) water resource-related environmental enhancement; and

(H) population growth.

(2) STUDY AREA.—The study area referred to in paragraph (1) is the proposed study area of the San Joaquin River Hydrologic Region and Tulare Lake Hydrologic Region, as defined by California Department of Water Resources Bulletin

160–05, volume 3, chapters 7 and 8, including Kern, Tulare, Kings, Fresno, Madera, Merced, Stanislaus, and San Joaquin counties in California.

(b) **USE OF PLAN.**—The Integrated Regional Water Management Plan developed for the 2 hydrologic basins under subsection (a) shall serve as a guide for the counties in the study area described in subsection (a)(2) to use as a mechanism to address and solve long-term water needs in a sustainable and equitable manner.

(c) **REPORT.**—The Secretary shall ensure that a report containing the results of the Integrated Regional Water Management Plan for the hydrologic regions is submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives not later than 24 months after financial assistance is made available to the California Water Institute under subsection (a)(1).

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$1,000,000 to remain available until expended.

TITLE III—FRIANT DIVISION IMPROVEMENTS

SEC. 301. FEDERAL FACILITY IMPROVEMENTS.

(a) The Secretary of the Interior (hereafter referred to as the “Secretary”) is authorized and directed to conduct feasibility studies in coordination with appropriate Federal, State, regional, and local authorities on the following improvements and facilities in the Friant Division, Central Valley Project, California:

(1) Restoration of the capacity of the Friant-Kern Canal and Madera Canal to such capacity as previously designed and constructed by the Bureau of Reclamation.

(2) Reverse flow pump-back facilities on the Friant-Kern Canal, with reverse-flow capacity of approximately 500 cubic feet per second at the Poso and Shafter Check Structures and approximately 300 cubic feet per second at the Woollomes Check Structure.

(b) Upon completion of and consistent with the applicable feasibility studies, the Secretary is authorized to construct the improvements and facilities identified in subsection (a) in accordance with all applicable Federal and State laws.

(c) The costs of implementing this section shall be in accordance with section 303, and shall be a nonreimbursable Federal expenditure.

SEC. 302. FINANCIAL ASSISTANCE FOR LOCAL PROJECTS.

(a) **AUTHORIZATION.**—The Secretary is authorized to provide financial assistance to local agencies within the Central Valley Project, California, for the planning, design, environmental compliance, and construction of local facilities to bank water underground or to recharge groundwater, and that recover such water, provided that the project meets the criteria in subsection (b). The Secretary is further authorized to require that any such local agency receiving financial assistance under the terms of this section submit progress reports and accountings to the Secretary, as the Secretary deems appropriate, which such reports shall be publicly available.

(b) **CRITERIA.**—

(1) A project shall be eligible for Federal financial assistance under subsection (a) only if all or a portion of the project is designed to reduce, avoid, or offset the quantity of the expected water supply impacts to Friant Division long-term contractors caused by the Interim or Restoration Flows authorized in title I of this Act, and such quantities have not already been reduced, avoided, or offset by other programs or projects.

(2) Federal financial assistance shall only apply to the portion of a project that the local agency designates as reducing, avoiding, or offsetting the expected water supply impacts caused by the Interim or Restoration Flows authorized in title I of this Act, consistent with the methodology developed pursuant to paragraph (3)(C).

(3) No Federal financial assistance shall be provided by the Secretary under this title for construction of a project under subsection (a) unless the Secretary—

(A) determines that appropriate planning, design, and environmental compliance activities associated with such a project have been completed, and that the Secretary has been offered the opportunity to participate in the project at a price that is no higher than the local agency’s own costs, in order to secure necessary storage, extraction, and conveyance rights for water that may be needed to meet the Restoration Goal as described in title I of this Act, where such project has capacity beyond that designated for the purposes in paragraph (2) or where it is feasible to expand such project to allow participation by the Secretary;

(B) determines, based on information available at the time, that the local agency has the financial capability and willingness to fund its share of the project's construction and all operation and maintenance costs on an annual basis;

(C) determines that a method acceptable to the Secretary has been developed for quantifying the benefit, in terms of reduction, avoidance, or offset of the water supply impacts expected to be caused by the Interim or Restoration Flows authorized in title I of this Act, that will result from the project, and for ensuring appropriate adjustment in the recovered water account pursuant to section 104(a)(5); and

(D) has entered into a cost-sharing agreement with the local agency which commits the local agency to funding its share of the project's construction costs on an annual basis.

(c) **GUIDELINES.**—Within 1 year from the date of enactment of this title, the Secretary shall develop, in consultation with the Friant Division long-term contractors, proposed guidelines for the application of the criteria defined in subsection (b), and will make the proposed guidelines available for public comment. Such guidelines may consider prioritizing the distribution of available funds to projects that provide the broadest benefit within the affected area and the equitable allocation of funds. Upon adoption of such guidelines, the Secretary shall implement such assistance program, subject to the availability of funds appropriated for such purpose.

(d) **COST SHARING.**—The Federal financial assistance provided to local agencies under subsection (a) shall not exceed—

(1) 50 percent of the costs associated with planning, design, and environmental compliance activities associated with such a project; and

(2) 50 percent of the costs associated with construction of any such project.

(e) **PROJECT OWNERSHIP.**—

(1) Title to, control over, and operation of, projects funded under subsection (a) shall remain in one or more non-Federal local agencies. Nothing in this title authorizes the Secretary to operate a groundwater bank along or adjacent to the San Joaquin River upstream of the confluence with the Merced River, and any such groundwater bank shall be operated by a non-Federal entity. All projects funded pursuant to this subsection shall comply with all applicable Federal and State laws, including provisions of California water law.

(2) All operation, maintenance, and replacement and rehabilitation costs of such projects shall be the responsibility of the local agency. The Secretary shall not provide funding for any operation, maintenance, or replacement and rehabilitation costs of projects funded under subsection (a).

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) The Secretary is authorized and directed to use monies from the fund established under section 109 to carry out the provisions of section 301(a)(1), in an amount not to exceed \$35,000,000.

(b) In addition to the funds made available pursuant to subsection (a), the Secretary is also authorized to expend such additional funds from the fund established under section 109 to carry out the purposes of section 301(a)(2), if such facilities have not already been authorized and funded under the plan provided for pursuant to section 104(a)(4), in an amount not to exceed \$17,000,000, provided that the Secretary first determines that such expenditure will not conflict with or delay his implementation of actions required by title I of this Act. Notice of the Secretary's determination shall be published not later than his submission of the report to Congress required by section 109(f)(2).

(c) In addition to funds made available in subsections (a) and (b), there are authorized to be appropriated \$50,000,000 (October 2008 price levels) to carry out the purposes of this title which shall be non-reimbursable.

PURPOSE OF THE MEASURE

The purpose of S. 27 is to authorize the implementation of the San Joaquin River Restoration Settlement.

BACKGROUND AND NEED

S. 27 is intended to resolve a long-standing conflict on the San Joaquin River in central California. The conflict stems from the development of the Friant Division of the Bureau of Reclamation's Central Valley Project, and the impacts such development has had on the salmon fishery in the upper portion of the river.

The Friant Division was constructed in the 1940s as a key part of the Central Valley Project. Its facilities deliver water to 28 entities (cities & water districts), with the primary infrastructure being Friant Dam and Millerton Lake. Other features include the Friant-Kern Canal which takes water from Friant Dam to the Kern River in Bakersfield, California, and the Madera Canal, which runs northwest to the Chowchilla River. The Division now serves approximately 15,000 farms, totaling about 1.04 million acres.

Historically, Friant Dam has been operated to minimize downstream flows and maximize water deliveries through the Canals. As a result, approximately 60 miles of the 153 river miles between Friant Dam and the confluence of the Merced River have been dried up in most years, except during flood control releases. Prior to construction of Friant Dam, that portion of the river downstream of the dam supported a salmon fishery which the dam and its operations effectively eliminated.

In 1988, a coalition of environmental and fishing interests sued the Bureau of Reclamation over its operation of the Friant Division in U.S. District Court (Natural Resources Defense Council, et al. v. Kirk Rodgers, et al.). One of the grounds for the suit as later amended was that operation of Friant Dam was in violation of California Fish & Game Code Section 5937, a provision requiring dam operators to release sufficient water to keep fish in good condition below the dam. On August 27, 2004, the court issued an order concluding that Reclamation violated Section 5937 and scheduled a trial to determine the remedy for that violation.

On September 13, 2006, the parties to the litigation (Natural Resources Defense Council, Friant Water Users Authority, and the United States) announced a settlement of the 18 year-old litigation which was approved by the court on October 23, 2006. The settlement establishes fishery restoration and water management goals that resolve issues associated with operation of the Friant Division and the need to reestablish a sustainable Chinook salmon population in the San Joaquin River by providing for (a) substantial river channel improvements; (b) water flows necessary to sustain a salmon fishery; (c) reintroduction of Chinook salmon as an experimental population pursuant to the Endangered Species Act (ESA); and (d) water management planning to minimize settlement impacts on existing water users.

Subsequently, third parties not involved in the negotiations expressed concern about potential impacts the settlement might have on their interests. The settling parties negotiated additional provisions to address their concerns, and those provisions were incorporated into the legislation. The State of California is also supportive of the settlement, having committed approximately \$200 million in support of its implementation. Federal legislation is needed to authorize the full range of actions and resources necessary for the Federal agencies to implement the terms of the settlement.

LEGISLATIVE HISTORY

S. 27 was introduced in the Senate on January 4, 2007 by Senator Feinstein for herself and Senator Boxer, and referred to the Committee on Energy and Natural Resources. The Subcommittee on Water and Power held a hearing on S. 27 on May 3, 2007. (S.

Hrg. 110–93.) At its business meeting on May 7, 2008, the Committee on Energy and Natural Resources ordered S. 27 favorably reported as amended.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on May 7, 2008, by voice vote of a quorum present, recommends that the Senate pass S. 27, if amended as described herein.

The rollcall vote on reporting the measure was 15 yeas, 7 nays, as follows:

YEAS	NAYS
Mr. Bingaman	Mr. Craig
Mr. Akaka ¹	Ms. Murkowski
Mr. Dorgan ¹	Mr. Burr ¹
Mr. Wyden ¹	Mr. DeMint
Mr. Johnson ¹	Mr. Barrasso
Ms. Landrieu	Mr. Bunning ¹
Ms. Cantwell	Mr. Martinez ¹
Mr. Salazar	
Mr. Menendez	
Mrs. Lincoln ¹	
Mr. Sanders ¹	
Mr. Tester	
Mr. Domenici	
Mr. Corker	
Mr. Smith	

¹ Indicates vote by proxy.
Mr. Sessions did not vote.

COMMITTEE AMENDMENT

During the consideration of S. 27, the Committee adopted a substitute amendment to improve the bill. The first set of changes are intended to reduce the bill's score as estimated by the Congressional Budget Office, while still ensuring that funding is available early in the settlement implementation phase to meet the construction deadlines associated with the settlement's restoration goals. The amendment deletes a provision authorizing Friant (or other subdivisions of the State) to use the Settlement revenue stream as collateral for a bond or loan that would be used to fund construction and other implementation activities. This provision would have had the effect of making settlement funds available early, when they are needed most, instead of being spread out over several years. Funds expected to be available through this provision are replaced by an alternative approach in the substitute amendment. The new provision (Section 110) directs the Secretary to negotiate new water supply contracts with the Friant districts that will require repayment of Friant's construction repayment obligation in a lump sum by 2011, or in equal annual installments by 2014. The funds available through an accelerated repayment are to be placed in the San Joaquin River Restoration Fund and made available for implementation activity. The Friant districts are provided other benefits in Section 110 to help mitigate for the accelerated repayment.

The substitute amendment also adds two new titles to the bill. The new Title II authorizes financial assistance to the California Water Institute to develop a unified Integrated Regional Water Management Plan for the counties and hydrologic basins associated with the settlement. Title III addresses water management improvements in the Friant Division. Specifically, it enhances implementation of the Settlement's Water Management Goal by authorizing the Secretary to make improvements and build a recirculation project on the Friant-Kern and Madera Canals and authorizing additional cost-shared financial assistance to local groundwater projects that reduce, avoid, or offset water losses in the Friant Division. Funding is drawn in part from funds provided by the Settlement and in part by a new authorization of appropriations.

SECTION-BY-SECTION ANALYSIS

Section 1 provides a table of contents for the Act.

Title I—San Joaquin River Restoration Settlement Act

Section 101 provides the short title for Title I of the Act.

Section 102 provides the purpose of Title I of the Act.

Section 103 provides the definition of key terms used in Title I.

Section 104(a) authorizes and directs the Secretary of the Interior (Secretary) to implement the Settlement in cooperation with the State of California and includes a list of prescribed measures to be carried out.

Section 104(b) authorizes and directs the Secretary to enter into appropriate agreements, including cost sharing agreements, with the State of California, and a range of other appropriate agreements with identified entities which contain terms and conditions necessary to achieve the purposes of the Settlement.

Section 104(c) authorizes the Secretary to accept and expend non-Federal funds to facilitate Settlement implementation.

Section 104(d) requires that prior to a range of implementation actions, the Secretary identify impacts of those actions and mitigation measures for downstream water users and landowners.

Section 104(e) authorizes the Secretary to conduct design and engineering studies necessary to implement the Settlement.

Section 104(f) provides that the Settlement and reintroduction of Chinook Salmon as provided in the Act shall not result in an involuntary reduction in certain contract water allocations except as otherwise provided in Section 104.

Section 104(g) provides a disclaimer of Title I's impact on specified rights and obligations.

Section 105(a) specifies that title to identified property and facilities that are modified or improved as part of Settlement implementation shall remain in the hands of the present owner and not be transferred to the United States unless acquired as authorized.

Section 105(b) authorizes the Secretary to acquire certain interests in property under specified conditions to implement the Settlement. The Secretary is also authorized to use existing authority to carry out Sections 104 and 105.

Section 105(c) authorizes the Secretary to exercise appropriate discretion and dispose of property and property interests if no longer needed for settlement purposes. The subsection also identifies certain rights of first refusal when disposing of property, and

specifies that any proceeds are to be deposited into the San Joaquin River Restoration Fund.

Section 105(d) limits the Secretary's authority to operate a groundwater bank in a specified area.

Section 106(a) directs the Secretaries of the Interior and Commerce to comply with all applicable federal and state laws, rules, and regulations in carrying out the measures authorized by Title I.

Section 106(b) provides that nothing in Title I preempts state law or modifies any existing obligation of the United States under federal reclamation law to operate the Central Valley Project in conformity with state law.

Section 106(c) authorizes the Secretary, in undertaking Settlement implementation measures authorized in Section 104, to provide funds made available under Title I to affected federal, state, and local agencies, and Indian tribes if necessary to enable such entities to effectively participate in the environmental review process.

Section 106(d) provides that the United States' share of the costs of implementing Title I is non-reimbursable provided that this provision does not limit the use of the funds assessed and collected pursuant to specified provisions of Reclamation law for implementation of the Settlement. The subsection also directs that the legislation shall not be construed to limit or modify existing or future Central Valley Project Ratesetting Policies.

Section 107 addresses how implementation of the Settlement affects obligations of the Secretary contained in certain specified provisions of Reclamation law.

Section 108(a) states that nothing in Title I confers upon any person or entity not a party to the Settlement a private right of action or claim for relief to interpret or enforce this Act or the Settlement.

Section 108(b) clarifies that subsection (a) does not alter or curtail any rights or claims under any other applicable law.

Section 109(a) provides that costs of implementing this Settlement are to be shared among federal and non-federal entities in the estimated amounts, and from the sources, shown. The Secretary is also directed to enter into one or more agreements, recognizing either monetary or in-kind contributions, to fund or implement improvements on a project-by-project basis with the State of California. Except as provided in the Settlement, additional costs incurred solely to implement the Settlement are to be incurred on a voluntary basis.

Section 109(b) specifies that, in addition to the other funds made available in the San Joaquin Restoration Fund established in subsection (c), there are authorized to be appropriated the identified amounts to implement Title I and the Settlement to be available until expended under the criteria set forth. The Secretary is also authorized to use monies from the Central Valley Project Restoration Fund for the purposes set forth in Title I, as specified.

Section 109(c) establishes a "San Joaquin River Restoration Fund" in the Treasury to be used for the purpose of implementing the Settlement except as otherwise provided in Section 303. The sources of money to be deposited into the Fund are identified.

Section 109(d) specifies that certain payments made by long-term contractors who receive water from the Friant Division and Hidden and Buchanan Units of the Central Valley Project shall be the maximum of the settlement parties' direct financial contribution to the Settlement, subject to paragraph 21 of the Settlement.

Section 109(e) provides that nothing in Title I requires a federal official to expend federal funds not appropriated by Congress or to seek the appropriation of additional funds for Settlement implementation.

Section 109(f) provides that, prior to restoring any flows other than Interim Flows in a specified section of the San Joaquin River (reach 4B), the Secretary shall conduct a study of the cost, impacts, and mitigation measures of restoring certain levels of flow. The subsection also requires the Secretary to file a report with Congress after making a determination on restoring flows in that section of the existing channel of the San Joaquin River which is to include specific identified information. If the estimated federal cost for increasing flow capacity in reach 4B exceeds remaining federal funding authorized by this Act, then before commencing construction, Congress must have increased the applicable authorization ceiling as specified.

Section 110(a) authorizes and directs the Secretary to convert, before December 31, 2010, certain listed existing Friant division, Hidden Unit, and Buchanan Unit long-term irrigation water service contracts to repayment contracts. The Secretary is also authorized, but not required, to convert other existing long-term water service contracts for irrigation and municipal water deliveries to repayment contracts by the same date. All such contracts must require the repayment of the remaining amount of construction costs allocated to each contractor no later than January 31, 2011, or by January 31, 2014, if payment is made in approximately equal annual installments or if the contract is for municipal water. The subsection also provides for payment of additional construction or other capitalized costs properly assignable to such contractor, makes clear that power revenues will not be available to aid the contractors in fulfilling the repayment obligations, specifies that the repayment contracts will continue as long as the contractors pay applicable charges, and specifies other terms.

Section 110(b) directs that payments made under subsection (a) shall be adjusted as set forth following a final cost allocation of the costs of the Central Valley Project.

Section 110(c) provides for specific application and non-application of existing provisions of Reclamation law notwithstanding certain continuing repayment obligations set out in subsection 110(a). The contractor must continue to pay all applicable operation and maintenance costs and other charges as set forth.

Section 110(d) provides that beginning in 2020, the Secretary shall reduce the charge mandated in Section 107(1) of the Act for a specified time in recognition of financing costs incurred by the districts in making the payments under subsection 110(a). Other terms related to this reduction are also specified.

Section 110(e) provides that upon the first release of Interim Flows or Restoration Flows pursuant to the Settlement, if certain conditions are met, any agreement by which one or more long-term Friant water service or repayment contractor (that has converted

its contract) for the transfer or exchange of water (other than water released as Interim Flows or Restoration Flows) shall be deemed to comply with an identified existing provision of Reclamation law. Subsection (e) also establishes that any such water transferred or exchanged shall not be counted as a replacement or offset under the Settlement except as called for in a specific provision.

Section 110(f) provides that nothing in Section 110 shall be construed to alter the repayment obligation of, or shift any other costs to, other long term water contractors receiving water from the Central Valley Project.

Section 110(g) states that Title I does not affect the right of any Friant Division long-term contractor to use a particular type of financing to make certain required payments.

Section 111(a) contains a Congressional finding as stated.

Section 111(b) directs that California Central Valley Spring Run Chinook salmon be reintroduced in the San Joaquin River below Friant Dam as an experimental population pursuant to section 10(j) of the ESA and the Settlement under a specified condition.

Section 111(c) directs the Secretary of Commerce to issue a final rule pursuant to section 4(d) of the ESA governing the incidental take of reintroduced Central Valley Spring Run Chinook salmon prior to the reintroduction. The rule is to include certain specified provisions but does not diminish the applicability of identified provisions of existing law.

Section 111(d) provides that no later than December 31, 2024, the Secretary of Commerce is required to report to Congress on the progress made on the reintroduction set forth in this section and the Secretary's plans for further implementation of the reintroduction.

Section 111(e) directs the Secretary of Commerce to exercise his or her authority under Section 18 of the Federal Power Act by reserving the right to file prescriptions in proceedings for projects licensed by the Federal Energy Regulatory Commission on identified rivers until a time certain, but no later than December 31, 2025.

Section 111(f) provides that nothing modifies or establishes a precedent with respect to any other application of the ESA or Federal Power Act.

Title II—Study to develop water plan; report

Section 201(a) authorizes the Secretary to provide financial assistance to the California Water Institute to develop a unified Integrated Regional Water Management Plan (Plan) which addresses specific issues within an identified study area.

Section 201(b) describes how the Plan is to be used.

Section 201(c) requires the Secretary to develop a report which contains the results of the Plan.

Section 201(d) authorizes appropriations to carry out Section 201.

Title III—Friant division improvements

Section 301(a) directs the Secretary to conduct feasibility studies on certain identified improvements and facilities.

Section 301(b) authorizes the Secretary to construct the improvements and facilities identified in subsection (a) consistent with the studies and in accordance with applicable laws.

Section 301(c) declares that the costs of implementing the Section 301 shall be nonreimbursable and consistent with Section 303.

Section 302(a) authorizes the Secretary to provide financial assistance to local agencies for costs associated with developing local facilities to bank water underground or to recharge groundwater, subject to certain criteria and certain progress reports and accountings being provided.

Section 302(b) provides that such projects will be eligible for financial assistance only to the extent projects meet a number of specified conditions and criteria in the subsection.

Section 302(c) provides within one year of enactment of Title III, the Secretary is to develop guidelines for application of the criteria provided in subsection (b) and thereafter shall implement the financial assistance program.

Section 302(d) requires that the Federal assistance provided under subsection (a) shall not exceed 50 percent of the cost associated with planning, design, environmental compliance, and construction.

Section 302(e) provides that title to, control over and operation of such funded projects shall remain in the non-Federal local agency and that all operation, maintenance and replacement and rehabilitation costs of such projects shall be the responsibility of the local agency. The subsection also states that nothing in Title III authorizes the Secretary to operate a ground water bank as described.

Section 303(a) authorizes and directs the Secretary to use up to \$35,000,000 from the San Joaquin Restoration Fund established to carry out projects under Section 301(a)(1).

Section 303(b) authorizes the Secretary to expend up to \$17,000,000 from the San Joaquin Restoration Fund to carry out Section 301(a)(2) provided certain conditions are met.

Section 303(c) authorizes appropriations of \$50,000,000 (October 2008 price levels) to carry out Title III on a nonreimbursable basis.

It is expected by the Committee that the Secretary will initiate actions to carry out the provisions of Title I and Title III of the bill simultaneously and proceed with implementation activity with equal diligence.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at *www.cbo.gov*.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 27. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 27, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

In accordance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides the following identification of congressionally directed spending items contained in the bill, as reported:

Section	Provision	Member
109	Appropriations, Settlement Fund	Senators Feinstein and Boxer.
201	Study to Develop Water Plan; Report	Senators Feinstein and Boxer.
303	Authorization of Appropriations	Senators Feinstein and Boxer.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the subcommittee hearing on May 3, 2007 on S. 27 follows:

STATEMENT OF MARK LIMBAUGH, ASSISTANT SECRETARY
FOR WATER AND SCIENCE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss S. 27, the San Joaquin River Restoration Settlement Act. S. 27 provides authorization and funding for the Secretary of the Interior to implement the terms and conditions of the Stipulation of Settlement (Settlement) dated September 13, 2006, in *Natural Resources Defense Council, et al. v. Kirk Rodgers, et al.*, which was approved by the U.S. District Court on October 23, 2006. The Department supports S. 27.

During the eighteen years since this case was filed, relations between stakeholders in the San Joaquin River basin, including the State of California, Reclamation water users, environmentalists, and Federal agencies, have often been contentious. However, through the good faith efforts of the "Settling Parties," namely Natural Resources Defense Council (NRDC), Friant Water Users Authority (FWUA), and representatives of the Bureau of Reclamation, Fish and Wildlife Service, National Marine Fisheries Service, and the Department of Justice for the United States, an opportunity has been presented to resolve this litigation in a way that will both restore the San Joaquin River and increase water supply certainty to farmers in the Friant Division. My testimony today will provide an overview of the Settlement and the importance of this authorizing legislation.

BRIEF BACKGROUND

The Bureau of Reclamation has water service contracts with 28 entities made up of cities and water districts of various sorts that rely on the water supply from the Friant Division, one of the key features of the Central Valley Project. Friant Dam is located on the upper San Joaquin River, where it forms Millerton Lake, and became fully operational in the late 1940s. Our understanding is that about 15,000 farms rely on Friant water supplies.

Except for flood-control operations, Friant Dam/Millerton Lake is operated to meet minimum downstream flow requirements and maximize water deliveries. As a result, approximately 60 miles of the 153 river miles between Friant Dam and the confluence of the Merced River have been dried up in most years, except during seasonal flood control releases. Prior to construction of Friant Dam, the stretch of river downstream of the dam supported a healthy fishery, including salmon runs, which the dam effectively eliminated.

In 1988, a coalition of environmental groups led by NRDC filed suit challenging the federal defendants' compliance with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA) in connection with the renewal of the long-term water service contracts between the United States and the Central Valley Project, Friant Division contractors. Most of the Friant Division long-term contractors intervened as additional defendants.

Through amended complaints, the plaintiffs subsequently included a claim asserting that pursuant to § 8 of the Reclamation Act of 1902, the federal defendants must operate Friant Dam in accordance with California Fish and Game Code § 5937. California Fish and Game Code § 5937 requires the owner or operator of any dam in California to allow sufficient water to flow through or around the dam in order to keep the downstream fishery in "good condition." During the initial phase of the litigation, the District Court ruled that the contracts were not entered into in violation of NEPA requirements, but held that approval of the renewal contracts violated procedural requirements of the ESA. The District Court did not rule on the § 5937 claim. On June 24, 1998, the Ninth Circuit Court of Appeals affirmed most of the District Court's rulings but remanded to the District Court the issue of the applicability of California Fish and Game Code § 5937 to the operation of Friant Dam.

From 1998 to 2003, without direct involvement by Federal defendants, FWUA and NRDC attempted to settle the remanded issue. In 2003, those discussions were terminated, and on July 19, 2003, the plaintiffs amended their complaint by adding the Secretary of Commerce and the National Marine Fisheries Service as additional defendants and adding claims asserting that the long-term renewal contracts do not conform to the requirements of the Central Valley Project Improvement Act (CVPIA). In an Order issued on August 27, 2004, Judge Karlton concluded that Reclamation violated California Fish and Game Code § 5937, and scheduled a trial on the issue of remedy for that violation.

During the summer of 2005, at the request of Subcommittee Chairman George Radanovich and Senator Dianne Feinstein, FWUA and NRDC reinitiated settlement discussions. In November 2005, the Federal government was invited into those discussions, and in spring

2006, the State of California was also approached about the negotiations since the negotiators foresaw that the State would have a significant role in the implementation of any settlement. On September 13, 2006, the Settling Parties filed the Settlement, including proposed Federal implementing legislation, with the Court. The Settlement Agreement is based on two goals and objectives:

1. To restore and maintain fish populations in “good condition” in the main stem of the San Joaquin River below Friant Dam to the confluence of the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish.
2. To reduce or avoid adverse water supply impacts to all of the Friant Division long-term contractors that may result from the Interim Flows and Restoration Flows provided for in the Settlement.

RESTORATION GOAL

The Settling Parties have carefully studied San Joaquin River restoration for many years and as part of the Settlement have identified the actions and highest priority projects necessary to achieve the restoration goal. These include among others: expanding channel capacity, improving levees, and making modifications necessary to provide fish passage through or around certain structures in the river channel. Also called for are year-round flows in the San Joaquin River, including those areas that have been without continuous flows for decades. This action would be taken to restore and maintain fish populations in good condition, including naturally reproducing and self-sustaining populations of Chinook salmon and other fish in the 153-mile stretch of the river between Friant Dam and the confluence of the Merced River.

WATER MANAGEMENT GOAL

Recognizing that the Settlement’s Restoration Flows will reduce the amount of water available for diversion at Friant Dam, the Settlement also includes provisions to protect water availability for the 15,000 farms that currently rely on these supplies. One million acres of some of the most productive farmland in the country as well as many towns and cities along the southern San Joaquin Valley’s East Side receive all or a major portion of their water supplies from the Friant Division. The Settlement recognizes the importance of this water to those farms and calls for development of water management solutions to provide these users water supply certainty for the long term. Such a program would include a Recovered Water Account to make surplus water available at a reduced rate to farmers who have contributed water to the Restoration Flows and a flexible combination of recirculation, recapture, reuse, exchange and/or transfer programs. Additional groundwater banking may also be explored.

PHASED APPROACH

Restoring continuous flows to the approximately 60 miles of dry river will take place in a phased manner. Planning, design work, and environmental reviews will begin immediately, and interim flows for experimental purposes will start in 2009. The flows will be increased gradually over the next several years, with the goal of re-introducing salmon by December 31, 2012.

The flow regime called for in the Settlement continues unchanged until 2026, with the U.S. District Court retaining jurisdiction to resolve disputes arising under the Settlement.

After December 31st, 2025 the court, in conjunction with the California State Water Resources Control Board, could consider any requests by the parties for changes to the Restoration Flows.

IMPORTANCE OF LEGISLATION

As the implementation of this historic Settlement begins, I can't emphasize enough how important it is for Federal authorizing legislation to be approved and signed into law. Passing this legislation soon will demonstrate the kind of support and commitment from the Federal government that is necessary to prove we are serious about making this settlement and its twin goals a reality. Some initial funding and authority exists for Interior agencies to work with our State partners to initiate planning and environmental review activities, which we have already begun to do. Without authorizing legislation such as S. 27, however, we lack sufficient authority to implement the actions in the Settlement. Moreover, beginning in fiscal year 2008 we will have insufficient funding to stay on the aggressive schedule called for in the Settlement to complete the necessary planning and environmental reviews for initiating construction activities and ultimately restoring flows into the San Joaquin River from Friant Dam. Such delays would send the wrong message regarding the Federal support for implementation.

RESTORATION FUNDING

The proposed legislation is consistent with the recommendation in the Settlement regarding funding sources to support implementation of these projects, including the use of current payments from farmers and cities served by Friant Dam, redirection of Federal funds from the Reclamation Fund, state bond initiatives, and authorization for additional Federal appropriations as long as there is a non-Federal cost share. Funds are to be used to meet both the Water Management and Restoration goals.

More specifically, the proposed legislation, consistent with the Settlement, allows for the continuation of and the dedication of the "Friant Surcharge," an environmental fee charged pursuant to the Central Valley Project Improvement Act (CVPIA) of \$7 per acre foot of water delivered to

Friant Contractors. This fee is expected to average about \$8 million per year (\$160 million over the 20-year period). Up to \$2 million annually of other CVPIA Restoration Fund payments made by Friant water users under the CVPIA (\$40 million over the 20-year period) would also be directed for implementation of the Settlement.

The legislation also calls for the dedication of the capital component of water rates paid by Friant Division water users to the Settlement implementation (approximately \$220–240 million over the 20-year period). These are funds that at present go to the Reclamation Fund in the U.S. Treasury to repay the capital costs of construction in the Friant Division. Under this bill, these funds would be deposited into a newly established San Joaquin River Restoration Fund to pay directly for implementing the Settlement. The Settlement provides that the monies contributed to the Settlement from the Friant Surcharge and capital repayment obligation may be used to fund bonds, guaranteed loans or other finance instruments issued by agencies or subdivisions of the State of California.

In addition, the legislation authorizes up to \$250 million of additional Federal appropriations to contribute to the implementation and requires a non-federal cost-share of an equivalent amount.

Funding by the State of California will also support the Settlement. Last November, State propositions 84 and 1e were passed by the California voters and should provide about \$200 million of State bond funds for projects that will directly contribute to the restoration efforts.

Although the Settling Parties have agreed on a suite of actions to be taken to restore flows and salmon runs, the total cost and the specificity of those actions still contain significant uncertainty. The Parties anticipate that a multi-agency technical team established to implement the Settlement would develop additional design details typically found in a Feasibility-level study needed to take the proposed actions. The Parties also anticipate that the estimated costs projected to be required to meet the restoration goal (i.e. \$250 million–\$800 million) would be further refined during the initial phase of implementation.

This uncertainty in project costs has been a source of concern to both the Administration and the State of California. As project partners, we realize that the Federal appropriations proposed in this legislation, in addition to the funding sources already described, may be integral to implementing the settlement. However, the Administration is not willing to commit to seeking any particular level of funding until further planning and engineering studies are completed that identify with more certainty the total estimated cost of this Program. All the parties to the Settlement must also realize that implementation of this settlement, including this authorizing legislation, does not imply a limitless Federal commitment to fund whatever it costs.

STATUS OF IMPLEMENTATION

As already mentioned, some initial funding and authority exists for Interior to work with our State partners to initiate planning and environmental review activities, and we have been doing just that. Interior, through Reclamation and the Fish and Wildlife Service, is working with the other Settling Parties, the State of California, the affected Third Parties (discussed below), and other Federal agencies regarding the implementation process and other related matters. A multi-agency Program Management Team including California Dept. of Water Resources, California Dept. of Fish and Game, and U.S. Fish and Wildlife Service, National Marine Fisheries Service, and Reclamation have begun efforts to initiate an implementation process, including public outreach, planning, design, and environmental reviews. This multi-agency team is developing a Program Management Plan (PMP), scheduled for completion this Spring, that will describe the implementation process, the scope and timeline of the activities, studies to be completed, and the process to involve and receive input from interested third parties as well as the broader public. The PMP will address strategies to meet both the Restoration Goal and the Water Management Goal described in the Settlement. As a further demonstration of the Administration's commitment to implementing this settlement, the President's FY 2008 Budget for Reclamation presumes a redirection of capital repayment receipts away from the Reclamation Fund and into the newly-created San Joaquin Restoration Fund; it also presumes the allocation \$7.5 million of funds from the CVPIA Restoration Fund to the San Joaquin Restoration Fund. However, these actions in the Budget presume enactment of the legislation.

THIRD PARTIES

We fully recognize and appreciate the importance of involving affected third parties in the implementation of the Settlement, and several steps have been taken to meaningfully involve them in the development and implementation of the Settlement. Prior to the execution of the settlement documents, copies of the draft documents were made available in Sacramento, Fresno, and San Francisco for review by interested third parties, subject to confidentiality agreements. Representatives of water users on the west side of the Central Valley; water users from tributaries to the San Joaquin River downstream of Friant Dam; the Exchange Contractors, who receive water from the Delta in lieu of water they would otherwise divert from the San Joaquin River below Friant Dam; and other parties concerned about river management issues (collectively, "Third Parties") took the opportunity to review the Settlement documents. In addition, the Settling Parties conducted numerous briefings throughout the Central Valley, which were attended by approximately 70 Third Party representatives. At those briefings, the Settling Parties reviewed the pro-

posed Settlement in detail, responded to questions, and listened to comments. Following those briefings, a number of entities submitted written comments on the Settlement documents. Their primary areas of concern were related to the ESA take provisions, operation & maintenance, funding, meaningful participation in implementation of the program, and water rights. After consideration of comments from Third Parties, the Settling Parties made modifications deemed appropriate to some of the settlement documents and further provided the Third Parties with a comprehensive written response to their written comments. In addition, language was added to the legislation before it was introduced to strengthen protections for Third Party interests.

Since the Settlement was signed and the legislation was drafted, the Bureau of Reclamation has been working closely with a group of Third Parties with downstream concerns on a Memorandum of Understanding (MOU), which was reviewed by the Settling Parties and was signed on February 26, 2007 by Reclamation and the Third Parties involved.

The MOU articulates the interests of these Third Parties and agrees that Reclamation will work closely and involve the Third Parties throughout the implementation of the Settlement on matters pertaining to their interests.

In supporting this settlement, the Administration remains committed to implementing other salmon restoration programs along the Pacific coast. The San Joaquin settlement that would be implemented by S. 27 provides a model of how stakeholders can come together to rebuild historic salmon populations and restore communities. We are open to exploring how this model could be used to help implement other similar restoration programs.

CONCLUSION

This monumental agreement ends an 18-year legal dispute over the operation of Friant Dam and provides increased certainty to Friant Division farmers who rely on CVP water deliveries while returning flows and salmon runs back to the San Joaquin River. S. 27 would provide the federal authorization and funding needed to move into implementation. We believe that this historic agreement is the start of a truly collaborative process that will result in a restored river for all. I strongly recommend that this committee act swiftly on this legislation to allow the Federal government to move forward without delay and to send a message of support to the Parties and our implementing partners.

Mr. Chairman, this concludes my testimony. I would like to reiterate my appreciation to the subcommittee for your interest in this settlement. I would be happy to answer any questions at this time.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 27, as ordered reported.

