

103^D CONGRESS
2^D SESSION

S. 2418

To improve the management of floodplains, to protect and restore the environment in floodplains, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 24 (legislative day, AUGUST 18), 1994

Mr. BAUCUS introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To improve the management of floodplains, to protect and restore the environment in floodplains, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Floodplain Management, Environmental Restoration,
6 and Recreation Act of 1994”.

7 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Definition of Secretary.

TITLE I—FLOODPLAIN MANAGEMENT

Sec. 101. Water Resources Council.

- Sec. 102. Upper Mississippi River system flood management.
- Sec. 103. Lower Mississippi River system flood management.
- Sec. 104. Missouri River Basin Association.
- Sec. 105. Studies.
- Sec. 106. River basin management plans.
- Sec. 107. Determination of flood control benefits.
- Sec. 108. Use of funds for nonstructural measures.
- Sec. 109. Levee maintenance and repair program.
- Sec. 110. Missouri River floodway project.
- Sec. 111. Buy-out funding.
- Sec. 112. Watershed approach to flood loss reduction.

TITLE II—ENVIRONMENTAL PROTECTION AND RECREATION

- Sec. 201. Findings.
- Sec. 202. Project modifications for improvement of the environment.
- Sec. 203. Aquatic ecosystem restoration.
- Sec. 204. Revision of Principles and Guidelines.
- Sec. 205. Small recreation and environmental projects.
- Sec. 206. Cost share for recreation projects.
- Sec. 207. Local cost-share credit for in-kind contributions for environmental and recreation projects.
- Sec. 208. Rebuilding recreational facilities after reservoir drawdowns.

1 **SEC. 2. DEFINITION OF SECRETARY.**

2 As used in this Act, the term “Secretary” means the
3 Secretary of the Army.

4 **TITLE I—FLOODPLAIN** 5 **MANAGEMENT**

6 **SEC. 101. WATER RESOURCES COUNCIL.**

7 (a) MEMBERSHIP AND PURPOSES.—Section 101 of
8 the Water Resources Planning Act (42 U.S.C. 1962a) is
9 amended—

10 (1) in the first sentence, by striking “and the
11 Chairman of the Federal Power Commission” and
12 inserting “the Secretary of Energy, and the Director
13 of the Federal Emergency Management Agency”;

14 (2) in the second sentence, by inserting “(or
15 designees of the heads)” after “agencies”; and

1 (3) in the third sentence, by striking “des-
2 ignated by the President.” and inserting “the Chair-
3 man of the Council on Environmental Quality estab-
4 lished by section 202 of the National Environmental
5 Policy Act of 1969 (42 U.S.C. 4342). The Chairman
6 of the Council shall report directly to the Presi-
7 dent.”.

8 (b) DUTIES.—Section 102 of such Act (42 U.S.C.
9 1962a-1) is amended—

10 (1) by striking “(a)” and inserting “(1)”;

11 (2) in paragraph (1) (as so redesignated), by
12 striking “and” at the end;

13 (3) by striking “(b)” and inserting “(2)”;

14 (4) in paragraph (2) (as so redesignated), by
15 striking the period at the end and inserting a semi-
16 colon; and

17 (5) by adding at the end the following new
18 paragraphs:

19 “(3) serve as the primary center for assistance
20 concerning the coordination and resolution of inter-
21 state and interagency water resources management
22 issues;

23 “(4)(A) seek to align Federal floodplain man-
24 agement with other broad national goals; and

1 “(B) serve as an innovative planning and tech-
2 nology clearinghouse for floodplain management;

3 “(5) not later than March 1, 1996, prepare and
4 submit to Congress a report evaluating the efforts of
5 the Secretary of the Army to change the policies and
6 practices of the Army Corps of Engineers concerning
7 the use of structural solutions to water resources
8 management problems; and

9 “(6) oversee the activities of—

10 “(A) the Upper Mississippi River Flood
11 Management Coordinating Committee estab-
12 lished under section 102(b) of the Floodplain
13 Management, Environmental Restoration, and
14 Recreation Act of 1994;

15 “(B) the Lower Mississippi River Flood
16 Management Coordinating Committee estab-
17 lished under section 103(c) of the Floodplain
18 Management, Environmental Restoration, and
19 Recreation Act of 1994; and

20 “(C) the Missouri River Flood Manage-
21 ment Coordinating Committee established under
22 section 104(c) of the Floodplain Management,
23 Environmental Restoration, and Recreation Act
24 of 1994.”.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
2 401 of such Act (42 U.S.C. 1962d) is amended to read
3 as follows:

4 **“SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

5 “There are authorized to be appropriated to the
6 Water Resources Council to carry out title I and this title
7 \$1,000,000 for each fiscal year.”.

8 (d) CONFORMING AMENDMENT.—Section 13(e) of
9 the Federal Nonnuclear Energy Research and Develop-
10 ment Act of 1974 (42 U.S.C. 5912(e)) is amended by
11 striking “section 102(a) of the Water Resources Planning
12 Act (42 U.S.C. 1962a-1(a))” and inserting “section
13 102(1) of the Water Resources Planning Act (42 U.S.C.
14 1962a-1(1))”.

15 **SEC. 102. UPPER MISSISSIPPI RIVER SYSTEM FLOOD MAN-**
16 **AGEMENT.**

17 (a) DEFINITION OF UPPER MISSISSIPPI RIVER SYS-
18 TEM.—Section 1103 of the Water Resources Development
19 Act of 1986 (33 U.S.C. 652) is amended—

20 (1) in subsection (b), by striking paragraph (1)
21 and inserting the following new paragraph:

22 “(1) the terms ‘Upper Mississippi River system’
23 and ‘system’ mean the Mississippi River and the
24 tributaries of the river north of and adjacent to

1 Cairo, Illinois, except for the Missouri River and the
2 tributaries of the river;” and

3 (2) in subsection (e), by striking paragraph (2)
4 and inserting the following new paragraph:

5 “(2) REPORT.—Not later than 2 years after the
6 date of enactment of the Floodplain Management,
7 Environmental Restoration, and Recreation Act of
8 1994, the Secretary and the Secretary of the Inte-
9 rior, in cooperation with the States of Illinois, Iowa,
10 Minnesota, Missouri, and Wisconsin, and with the
11 approval of the Upper Mississippi River Basin Asso-
12 ciation, shall prepare and submit to Congress a re-
13 port that assesses the environmental sustainability
14 of the Upper Mississippi River system, evaluates the
15 programs referred to in paragraph (1), and rec-
16 ommends additional or alternative actions to en-
17 hance and protect the long-term ecological integrity
18 of the basin of the Upper Mississippi River system.
19 The report shall use information obtained through
20 the long-term resource monitoring program referred
21 to in paragraph (1)(B) and shall address both wa-
22 tershed and floodplain actions.”.

23 (b) FLOOD MANAGEMENT COORDINATING COMMIT-
24 TEE.—

1 (1) ESTABLISHMENT.—The Secretary shall es-
2 tablish a committee to be known as the “Upper Mis-
3 sissippi River Flood Management Coordinating Com-
4 mittee” to review and recommend approval or dis-
5 approval of the river basin management plan devel-
6 oped under section 106(a).

7 (2) MEMBERSHIP.—The Committee shall con-
8 sist of the Secretary, the Secretary of the Interior,
9 the Secretary of Agriculture, and the Governors of
10 the States of Illinois, Iowa, Minnesota, Missouri, and
11 Wisconsin.

12 (3) OVERSIGHT.—The Committee shall report
13 to the Water Resources Council established under
14 title I of the Water Resources Planning Act (42
15 U.S.C. 1962a et seq.).

16 (4) COMPENSATION.—A member of the Com-
17 mittee who is an officer or employee of the Federal
18 Government shall serve without additional com-
19 pensation. A member of the Committee who is a
20 Governor shall not receive any compensation from
21 the Federal Government for the service of the mem-
22 ber on the Committee.

23 **SEC. 103. LOWER MISSISSIPPI RIVER SYSTEM FLOOD MAN-**
24 **AGEMENT.**

25 (a) DEFINITIONS.— As used in this section:

1 (1) LOWER MISSISSIPPI RIVER SYSTEM.—The
2 terms “Lower Mississippi River system” and “sys-
3 tem” mean the Mississippi River and the tributaries
4 of the river south of, and adjacent to, Cairo, Illinois,
5 except for the Ohio River and the tributaries of the
6 river.

7 (2) MISSISSIPPI RIVER COMMISSION.—The term
8 “Mississippi River Commission” means the commis-
9 sion established by the Act of June 28, 1879 (21
10 Stat. 37, chapter 43; 33 U.S.C. 641).

11 (b) PROGRAM AUTHORITY.—The Secretary, in con-
12 sultation with the Secretary of the Interior, the Secretary
13 of Agriculture, and the Secretary of Transportation, shall
14 carry out, with respect to the system and consistent with
15 the river basin management plan developed under section
16 106(b)—

17 (1) a program for the planning, construction,
18 and evaluation of measures for fish and wildlife
19 habitat restoration and enhancement; and

20 (2) a long-term resource monitoring program.

21 (c) FLOOD MANAGEMENT COORDINATING COMMIT-
22 TEE.—

23 (1) ESTABLISHMENT.—The Secretary shall es-
24 tablish a subcommittee of the Mississippi River
25 Commission to be known as the “Lower Mississippi

1 River Flood Management Coordinating Committee”
2 to review and recommend approval or disapproval of
3 projects developed under the programs established
4 under subsection (b) and the river basin manage-
5 ment plan developed under section 106(b).

6 (2) MEMBERSHIP.—The Committee shall con-
7 sist of the Secretary, the Secretary of the Interior,
8 the Secretary of Agriculture, the Secretary of Trans-
9 portation, and the Governors of the States of Arkan-
10 sas, Kentucky, Louisiana, Mississippi, Missouri, and
11 Tennessee.

12 (3) OVERSIGHT.—The Committee shall report
13 to the Water Resources Council established under
14 title I of the Water Resources Planning Act (42
15 U.S.C. 1962a et seq.) and coordinate activities with
16 the Mississippi River Commission.

17 (d) AUTHORIZATION OF APPROPRIATIONS.—

18 (1) FLOOD MANAGEMENT PROGRAM.—There
19 are authorized to be appropriated to the Department
20 of the Army to carry out subsection (b)(1)
21 \$13,000,000 for each of the first 5 fiscal years be-
22 ginning after the date of completion of the river
23 basin management plan under section 106(b).

24 (2) LONG-TERM RESOURCE MONITORING PRO-
25 GRAM.—There are authorized to be appropriated to

1 the Department of the Army to carry out subsection
2 (b)(2) \$5,000,000 for each of the first 5 fiscal years
3 beginning after the date of completion of the river
4 basin management plan under section 106(b).

5 **SEC. 104. MISSOURI RIVER BASIN ASSOCIATION.**

6 (a) DEFINITIONS.— As used in this section:

7 (1) MISSOURI RIVER BASIN ASSOCIATION.—The
8 term “Missouri River Basin Association” means an
9 association of representatives of the States of Iowa,
10 Kansas, Missouri, Montana, Nebraska, North Da-
11 kota, and South Dakota formed for the purposes of
12 cooperative effort and united assistance in the com-
13 prehensive planning for the use, protection, growth,
14 and development of the Missouri River system.

15 (2) MISSOURI RIVER SYSTEM.—The terms
16 “Missouri River system” and “system” mean the
17 Missouri River and the tributaries of the river.

18 (b) PROGRAM AUTHORITY.—The Secretary, in con-
19 sultation with the Secretary of the Interior, the Secretary
20 of Agriculture, and the Secretary of Transportation, shall
21 carry out, with respect to the system and consistent with
22 the river basin management plan developed under section
23 106(c)—

1 (1) a program for the planning, construction,
2 and evaluation of measures for fish and wildlife
3 habitat restoration and enhancement;

4 (2) a long-term resource monitoring program;
5 and

6 (3) a program for the planning and construc-
7 tion of recreation projects.

8 (c) FLOOD MANAGEMENT COORDINATING COMMIT-
9 TEE.—

10 (1) ESTABLISHMENT.—The Secretary shall es-
11 tablish a subcommittee of the Missouri River Basin
12 Association to be known as the “Missouri River
13 Flood Management Coordinating Committee” to re-
14 view and recommend approval or disapproval of
15 projects developed under the programs established
16 under subsection (b) and the river basin manage-
17 ment plan developed under section 106(c).

18 (2) MEMBERSHIP.—The Committee shall con-
19 sist of the Secretary, the Secretary of the Interior,
20 the Secretary of Agriculture, the Secretary of Trans-
21 portation, and the Governors of the States of Iowa,
22 Kansas, Missouri, Montana, Nebraska, North Da-
23 kota, and South Dakota.

24 (3) OVERSIGHT.—The Committee shall report
25 to the Water Resources Council established under

1 title I of the Water Resources Planning Act (42
2 U.S.C. 1962a et seq.).

3 (d) AUTHORIZATION OF APPROPRIATIONS.—

4 (1) FLOOD MANAGEMENT PROGRAM.—There
5 are authorized to be appropriated to the Department
6 of the Army to carry out subsection (b)(1)
7 \$13,000,000 for each of the first 5 fiscal years be-
8 ginning after the date of completion of the river
9 basin management plan under section 106(c).

10 (2) LONG-TERM RESOURCE MONITORING PRO-
11 GRAM.—There are authorized to be appropriated to
12 the Department of the Army to carry out subsection
13 (b)(2) \$5,000,000 for each of the first 5 fiscal years
14 beginning after the date of completion of the river
15 basin management plan under section 106(c).

16 (3) RECREATION PROJECT CONSTRUCTION PRO-
17 GRAM.—There are authorized to be appropriated to
18 the Department of the Army to carry out subsection
19 (b)(3) \$2,000,000 for each of the first 5 fiscal years
20 beginning after the date of completion of the river
21 basin management plan under section 106(c).

22 **SEC. 105. STUDIES.**

23 (a) IN GENERAL.—

24 (1) UPPER MISSISSIPPI RIVER BASIN LEVEES.—
25 In carrying out the study authorized under title I of

1 the Energy and Water Development Appropriations
2 Act, 1994 (Public Law 103–126), concerning the
3 adequacy of flood control measures on the upper
4 Mississippi River and the tributaries of the river, the
5 Secretary of the Army shall survey the levees (other
6 than a levee that is constructed to less than a 10-
7 year flood protection level and that protects the land
8 of 5 or fewer landowners) in existence on the date
9 of completion of the study. The survey shall be a
10 general assessment of—

11 (A) the physical condition of each levee;

12 (B) the estimated economic benefit of the
13 levee to the area protected by the levee;

14 (C) the estimated environmental impact of
15 the levee; and

16 (D) the estimated cost of bringing the
17 levee into compliance with the standards of the
18 Army Corps of Engineers where the compliance
19 is necessary.

20 (2) HYDROLOGY OF UPPER MISSISSIPPI RIVER
21 BASIN.—

22 (A) IN GENERAL.—Not later than 2 years
23 after the date of enactment of this Act, the Sec-
24 retary shall conduct a study of the hydrology of
25 the Upper Mississippi River basin to determine

1 the systemic effects of structural flood control
2 measures in existence on the date of completion
3 of the study, including the measures assessed
4 under the study described in paragraph (1).

5 (B) AUTHORIZATION OF APPROPRIA-
6 TIONS.—There are authorized to be appro-
7 priated to the Department of the Army
8 \$10,000,000 to carry out this paragraph.

9 (3) LOCAL DRAINAGE SYSTEMS.—

10 (A) IN GENERAL.—Not later than 1 year
11 after the date of enactment of this Act, in con-
12 sultation with the Administrator of the Envi-
13 ronmental Protection Agency and the Secretary
14 of Housing and Urban Development, the Sec-
15 retary shall conduct a study to determine how
16 local drainage systems may be designed and
17 retrofitted to preserve aquatic habitat, limit po-
18 tential increases in flood discharges, and meet
19 the needs of the areas served by the systems.

20 (B) AUTHORIZATION OF APPROPRIA-
21 TIONS.—There are authorized to be appro-
22 priated to the Department of the Army
23 \$1,000,000 to carry out this paragraph.

24 (4) FLOODPRONE AREAS.—

1 (A) IN GENERAL.—Not later than 1 year
2 after the date of enactment of this Act, in co-
3 ordination with the Director of the Federal
4 Emergency Management Agency, the Secretary
5 shall conduct a study of the entire Mississippi
6 River and Missouri River basins to determine
7 the most frequently flooded areas with the
8 greatest loss of human life and property.

9 (B) AUTHORIZATION OF APPROPRIA-
10 TIONS.—There are authorized to be appro-
11 priated to the Department of the Army
12 \$1,000,000 to carry out this paragraph.

13 (b) PROHIBITION ON DELEGATION.—Each study re-
14 quired under subsection (a) shall be carried out under the
15 personal direction of the Secretary. The conduct and su-
16 pervision of the studies may not be delegated below the
17 position of the Deputy Assistant Secretary of the Army
18 having responsibility for civil works.

19 **SEC. 106. RIVER BASIN MANAGEMENT PLANS.**

20 (a) UPPER MISSISSIPPI RIVER BASIN.—

21 (1) IN GENERAL.—To ensure the coordinated
22 development and enhancement of the Upper Mis-
23 sissippi River system, the Secretary, not later than
24 2 years after the date of enactment of this Act, shall
25 develop, in consultation with the Upper Mississippi

1 River Basin Association and the Upper Mississippi
2 River Flood Management Coordinating Committee
3 established under section 102(b), a comprehensive
4 river basin management plan that addresses the
5 long-term ecological, economic, and flood control
6 needs of the basin of the Upper Mississippi River
7 system.

8 (2) CONTENTS OF PLAN.—The plan shall pro-
9 vide for the integration of the flood-control facilities
10 in existence on the date of enactment of this Act in
11 the basin of the Upper Mississippi River system into
12 an efficiently functioning flood damage reduction
13 system, including structural and nonstructural meas-
14 ures, that is compatible with the functioning and
15 restoration of the floodplain ecosystem.

16 (3) PUBLIC PARTICIPATION.—In order to pro-
17 vide for the full participation of affected persons and
18 persons interested in floodplain management, the
19 plan shall be developed—

20 (A) in consultation with the Governors of
21 the States of Illinois, Iowa, Minnesota, Mis-
22 souri, and Wisconsin, or designees of the Gov-
23 ernors;

24 (B) in consultation with non-Federal inter-
25 ests; and

1 (C) in a manner that is consistent with—

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

4 (ii) the Economic and Environmental
5 Principles and Guidelines for Water and
6 Related Land Resources Implementation
7 Studies after the revision of the Principles
8 and Guidelines pursuant to section 204(a).

9 (4) DEFINITIONS.—As used in this subsection:

10 (A) NONSTRUCTURAL MEASURE.—The
11 term “nonstructural measure” means—

12 (i) the floodproofing of a structure;

13 (ii) a flood warning system;

14 (iii) floodplain regulation and manage-
15 ment;

16 (iv) the acquisition of floodplain land
17 for recreational, fish and wildlife, riparian
18 restoration, wetlands restoration, and other
19 public purposes;

20 (v) relocation; and

21 (vi) any other measure not involving a
22 structure that is designed to or has the ef-
23 fect of changing the natural flow of a river
24 that floods.

1 (B) UPPER MISSISSIPPI RIVER BASIN ASSO-
2 CIATION.—The term “Upper Mississippi River
3 Basin Association” has the meaning provided in
4 section 1103(b)(4) of the Water Resources De-
5 velopment Act of 1986 (33 U.S.C. 652(b)(4)).

6 (C) UPPER MISSISSIPPI RIVER SYSTEM.—
7 The term “Upper Mississippi River system” has
8 the meaning provided in section 1103(b)(1) of
9 such Act (33 U.S.C. 652(b)(1)).

10 (b) LOWER MISSISSIPPI RIVER BASIN.—

11 (1) IN GENERAL.—To ensure the coordinated
12 development and enhancement of the Lower Mis-
13 sissippi River system (as defined in section
14 103(a)(1)), the Secretary, not later than 2 years
15 after the date of enactment of this Act, in consulta-
16 tion with the Upper Mississippi River Flood Man-
17 agement Coordinating Committee established under
18 section 102(b) and the Mississippi River Commission
19 established by the Act of June 28, 1879 (21 Stat.
20 37, chapter 43; 33 U.S.C. 641), shall develop a com-
21 prehensive river basin management plan that ad-
22 dresses the long-term ecological, economic, and flood
23 control needs of the basin of the Lower Mississippi
24 River system.

1 (2) PUBLIC PARTICIPATION.—In order to pro-
2 vide for the full participation of affected persons and
3 persons interested in floodplain management, the
4 plan shall be developed—

5 (A) in consultation with the Governors of
6 the States of Arkansas, Kentucky, Louisiana,
7 Mississippi, Missouri, and Tennessee; and

8 (B) in a manner that is consistent with—

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

11 (ii) the Economic and Environmental
12 Principles and Guidelines for Water and
13 Related Land Resources Implementation
14 Studies after the revision of the Principles
15 and Guidelines pursuant to section 204(a).

16 (c) MISSOURI RIVER BASIN.—

17 (1) IN GENERAL.—To ensure the coordinated
18 development and enhancement of the Missouri River
19 system (as defined in section 104(a)(2)), the Sec-
20 retary, not later than 2 years after the date of en-
21 actment of this Act, in consultation with the Mis-
22 souri River Basin Association (as defined in section
23 104(a)(1)) and the Missouri River Flood Manage-
24 ment Coordinating Committee established under sec-
25 tion 104(c), shall develop a comprehensive river

1 basin management plan that addresses the long-term
2 ecological, economic, and flood control needs of the
3 basin of the Missouri River system.

4 (2) PUBLIC PARTICIPATION.—In order to pro-
5 vide for the full participation of affected persons and
6 persons interested in floodplain management, the
7 plan shall be developed—

8 (A) in consultation with the Governors of
9 the States of Iowa, Kansas, Missouri, Montana,
10 Nebraska, North Dakota, and South Dakota;
11 and

12 (B) in a manner that is consistent with—

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

15 (ii) the Economic and Environmental
16 Principles and Guidelines for Water and
17 Related Land Resources Implementation
18 Studies after the revision of the Principles
19 and Guidelines pursuant to section 204(a).

20 (d) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated \$5,000,000 to carry out
22 this section.

23 **SEC. 107. DETERMINATION OF FLOOD CONTROL BENEFITS.**

24 Section 905 of the Water Resources Development Act
25 of 1986 (33 U.S.C. 2282) is amended—

1 (1) in the second sentence of subsection (a), by
2 striking “Such feasibility report” and inserting
3 “Subject to subsection (e), the feasibility report”;

4 (2) in the second sentence of subsection (b), by
5 striking “Such reconnaissance study” and inserting
6 “Subject to subsection (e), the reconnaissance
7 study”; and

8 (3) by adding at the end the following new sub-
9 section:

10 “(e) DETERMINATION OF FLOOD CONTROL BENE-
11 FITS.—In preparing a feasibility report under subsection
12 (a), or a reconnaissance study under subsection (b), for
13 a water resources project, the flood control benefits deter-
14 mined for the project shall not include the benefits derived
15 from any use of the 100-year floodplain that involves, after
16 the date of initiation of the reconnaissance study for the
17 project—

18 “(1) the construction of a new structure;

19 “(2) a substantial improvement to a structure;

20 or

21 “(3) any other change in an activity in the area
22 of the floodplain in which the project is located that
23 significantly increases the commercial or resale value
24 of property in the floodplain subject to damage from
25 flooding.”.

1 **SEC. 108. USE OF FUNDS FOR NONSTRUCTURAL MEASURES.**

2 Section 5(a) of the Act entitled “An Act authorizing
3 the construction of certain public works on rivers and har-
4 bors for flood control, and for other purposes”, approved
5 August 18, 1941 (33 U.S.C. 701n(a)), is amended by add-
6 ing at the end the following new paragraph:

7 “(3) NONSTRUCTURAL MEASURES.—

8 “(A) USE OF FUNDS.—The Secretary may
9 use funds from the emergency fund authorized
10 under paragraph (1) to replace with a non-
11 structural measure any flood control measure
12 damaged or destroyed by flood.

13 “(B) OTHER FUNDS.—The Secretary shall
14 consult with the heads of other agencies and
15 other persons in an effort to combine funds
16 from the emergency fund authorized under
17 paragraph (1) with funds available from other
18 Federal programs, and with funds from State,
19 local, and private sources, for the purpose of
20 using nonstructural measures to reduce damage
21 in the event of future flooding.

22 “(C) MITIGATION PLANS.—At the request
23 of a non-Federal interest with jurisdiction over
24 an area that has been subject to repeat flood-
25 ing, as identified by the Director of the Federal
26 Emergency Management Agency or as deter-

1 mined pursuant to the study required under
2 section 105(a)(4) of the Floodplain Manage-
3 ment, Environmental Restoration, and Recre-
4 ation Act of 1994, the Secretary may use funds
5 from the emergency fund authorized under
6 paragraph (1) to develop a mitigation plan for
7 the area that provides for carrying out 1 or
8 more nonstructural measures to reduce damage
9 in the event of future flooding.

10 “(D) FUNDING FOR NONSTRUCTURAL
11 MEASURES.—

12 “(i) MINIMUM FUNDING LEVEL.—Ex-
13 cept as provided in clause (ii), not less
14 than 15 percent of all funds expended for
15 each fiscal year by the Secretary for the
16 purpose of flood control (including funds
17 from the emergency fund authorized under
18 paragraph (1) and funds allotted under
19 section 205 of the Flood Control Act of
20 1948 (33 U.S.C. 701s)) shall be used for
21 the study, design, construction, and imple-
22 mentation of nonstructural measures.

23 “(ii) WAIVER.—With respect to a fis-
24 cal year, the Secretary may apply to the
25 Water Resources Council established under

1 title I of the Water Resources Planning
2 Act (42 U.S.C. 1962a et seq.) for a waiver
3 from the minimum funding level estab-
4 lished under clause (i). The Water Re-
5 sources Council may grant the waiver—

6 “(I) if the Secretary dem-
7 onstrates, to the satisfaction of the
8 Council, that there are an insufficient
9 number of appropriate nonstructural
10 measures on which to expend the full
11 amount of the funds; and

12 “(II) only to the extent that the
13 minimum funding level cannot be met
14 because of the insufficiency.

15 “(E) COST SHARE FOR NONSTRUCTURAL
16 MEASURES.—The Federal share of the cost of
17 an activity relating to a nonstructural measure
18 carried out under this paragraph shall be 75
19 percent. The non-Federal interests with respect
20 to such a measure shall provide all land, ease-
21 ments, rights-of-way, dredged material disposal
22 areas, and relocations necessary for the meas-
23 ure, but shall not be required to contribute any
24 amount in cash during the construction or im-
25 plementation of the measure.”.

1 **SEC. 109. LEVEE MAINTENANCE AND REPAIR PROGRAM.**

2 Section 5(a) of the Act entitled “An Act authorizing
3 the construction of certain public works on rivers and har-
4 bors for flood control, and for other purposes”, approved
5 August 18, 1941 (33 U.S.C. 701n(a)) (as amended by sec-
6 tion 108), is further amended by adding at the end the
7 following new paragraphs:

8 “(4) LEVEE MAINTENANCE AND REPAIR PRO-
9 GRAM.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), the Secretary shall coordi-
12 nate and carry out repair and rehabilitation of
13 a levee, after the levee is damaged by a flood
14 or other natural disaster, if the State or local
15 interest with respect to the levee—

16 “(i) participates in the national flood
17 insurance program established under chap-
18 ter 1 of the National Flood Insurance Act
19 of 1968 (42 U.S.C. 4011 et seq.) with re-
20 spect to the levee;

21 “(ii) carries out routine operation and
22 maintenance and upkeep of the levee;

23 “(iii) in the case of a levee that pro-
24 vides 100-year flood protection, requires all
25 properties protected by the levee to comply
26 with the national flood insurance program;

1 “(iv) in the case of a levee that pro-
2 vides less than 100-year flood protection,
3 requires insurance on all structures and
4 crops protected by the levee;

5 “(v) with respect to the repair and re-
6 habilitation, meets the cost-sharing re-
7 quirements for flood control projects speci-
8 fied in section 103(a) of the Water Re-
9 sources Development Act of 1986 (33
10 U.S.C. 2213(a)), except that the minimum
11 non-Federal share shall be 20 percent;

12 “(vi) provides for appropriate environ-
13 mental enhancements to the land protected
14 by the levee, in coordination with appro-
15 priate Federal and State agencies;

16 “(vii) does not raise the height of the
17 levee immediately preceding or during a
18 flood without the prior agreement of the
19 State and the Army Corps of Engineers;
20 and

21 “(viii) in the case of a levee not pre-
22 viously subject to the engineering stand-
23 ards of the Army Corps of Engineers (as
24 of the day before the date of the damage),

1 brings the levee into compliance with the
2 standards.

3 “(B) INELIGIBLE LEVEES.—A levee shall
4 not be eligible for Federal assistance under sub-
5 paragraph (A) if the Secretary determines that
6 the levee—

7 “(i) is in a hydrologically inappropri-
8 ate location, as determined pursuant to the
9 study required under section 105(a)(2) of
10 the Floodplain Management, Environ-
11 mental Restoration, and Recreation Act of
12 1994;

13 “(ii) is inconsistent with the Economic
14 and Environmental Principles and Guide-
15 lines for Water and Related Land Re-
16 sources Implementation Studies after the
17 revision of the Principles and Guidelines
18 pursuant to section 204(a) of such Act; or

19 “(iii) should be replaced with 1 or
20 more nonstructural measures.

21 “(C) LEVEE OWNERS MANUAL.—

22 “(i) IN GENERAL.—Not later than 1
23 year after the date of enactment of this
24 paragraph, the Secretary shall prepare a
25 manual describing the maintenance and

1 upkeep responsibilities that the Army
2 Corps of Engineers requires of a non-Fed-
3 eral interest in order for the non-Federal
4 interest to receive Federal assistance under
5 this paragraph, including responsibilities
6 relating to compliance with the Principles
7 and Guidelines referred to in subparagraph
8 (B)(ii). The Secretary shall provide a copy
9 of the manual to each non-Federal interest
10 that receives Federal assistance under this
11 paragraph.

12 “(ii) PROHIBITION ON DELEGA-
13 TION.—The preparation of the manual
14 shall be carried out under the personal di-
15 rection of the Secretary and may not be
16 delegated below the position of the Assist-
17 ant Secretary of the Army having respon-
18 sibility for civil works.

19 “(iii) AUTHORIZATION OF APPROPRIA-
20 TIONS.—There are authorized to be appro-
21 priated \$1,000,000 to carry out this sub-
22 paragraph.

23 “(5) LOCAL COST-SHARE CREDIT FOR IN-KIND
24 CONTRIBUTIONS.—

1 “(A) IN GENERAL.—In meeting the cost-
2 sharing requirements of an activity assisted by
3 the Secretary under paragraph (3) or (4), the
4 non-Federal interest may—

5 “(i) accept from any source contribu-
6 tions of funds, materials, services, and
7 other items of value, and in-kind contribu-
8 tions, for the purpose of providing a por-
9 tion of the non-Federal share of the cost of
10 the activity; and

11 “(ii) provide a noncash contribution
12 described in clause (i) for that purpose.

13 “(B) DETERMINATION OF VALUE.—A
14 noncash contribution described in subparagraph
15 (A) may be credited towards the non-Federal
16 share of the cost of the activity if the contribu-
17 tion has a positive impact on the activity. The
18 value of the contribution shall be determined in
19 advance of the crediting of the contribution by
20 mutual agreement of the Army Corps of Engi-
21 neers and the non-Federal interest. If the Army
22 Corps of Engineers denies credit for a contribu-
23 tion, the denial may be appealed to the Sec-
24 retary.

25 “(6) DEFINITIONS.—As used in this subsection:

1 “(A) MAINTENANCE AND UPKEEP.—The
2 term ‘maintenance and upkeep’ means all main-
3 tenance and general upkeep of a levee per-
4 formed on a regular and consistent basis that
5 is not repair and rehabilitation.

6 “(B) NONSTRUCTURAL MEASURE.—The
7 term ‘nonstructural measure’ means—

8 “(i) the floodproofing of a structure;

9 “(ii) a flood warning system;

10 “(iii) floodplain regulation and man-
11 agement;

12 “(iv) the acquisition of floodplain land
13 for recreational, fish and wildlife, riparian
14 restoration, wetlands restoration, or other
15 public purposes;

16 “(v) relocation; and

17 “(vi) any other measure not involving
18 a structure that is designed to or has the
19 effect of changing the natural flow of a
20 river that floods.

21 “(C) REPAIR AND REHABILITATION.—The
22 term ‘repair and rehabilitation’—

23 “(i) except as provided in clause (ii),
24 means the rebuilding or repair of a levee or
25 other flood control structure, after the

1 structure has been damaged by a flood, to
2 the level of protection provided by the
3 structure before the flood; and

4 “(ii) does not include—

5 “(I) any improvement to the
6 structure; or

7 “(II) rebuilding or repair de-
8 scribed in clause (i) if, in the normal
9 course of usage, the structure becomes
10 structurally unsound and is no longer
11 fit to provide the level of protection
12 for which the structure was designed.

13 “(D) SECRETARY.—The term ‘Secretary’
14 means the Secretary of the Army.”.

15 **SEC. 110. MISSOURI RIVER FLOODWAY PROJECT.**

16 (a) IN GENERAL.—For the purpose of improving the
17 riparian habitat and reducing flood losses along the Mis-
18 souri River, the Secretary shall pay the Federal share of
19 purchasing, from willing sellers, land along the Missouri
20 River between Sioux City, Iowa, and St. Louis, Missouri.
21 In determining the land to be purchased, the Secretary
22 may use data collected by the Scientific Assessment and
23 Strategy Team for the Interagency Floodplain Manage-
24 ment Review Committee, and shall consult with the Sec-
25 retary of the Interior and the Secretary of Agriculture.

1 (b) COST-SHARING.—The Federal share of the cost
2 of purchasing a parcel of land under this section shall be
3 not more than 80 percent.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to carry out this section
6 \$8,000,000 for each of fiscal years 1995 through 2004.

7 **SEC. 111. BUY-OUT FUNDING.**

8 (a) IN GENERAL.—In each fiscal year, the Secretary
9 shall purchase land or easements and relocate willing sell-
10 ers in floodprone areas, or areas protected by flood control
11 structures that repeatedly fail, as determined pursuant to
12 the study required under section 105(a)(4).

13 (b) COOPERATION WITH OTHER AGENCIES.—To the
14 maximum extent practicable, the Secretary shall—

15 (1) combine funds made available under this
16 section with funds of other Federal agencies avail-
17 able for the same purpose; and

18 (2) cooperate with other Federal agencies to
19 identify areas that, if purchased, would be available
20 to achieve multiple Federal purposes, including a re-
21 duction in flood damages, a decrease in the repair
22 and rehabilitation required of flood control struc-
23 tures, and environmental enhancement.

24 (c) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to carry out this section

1 \$25,000,000 for each fiscal year, to remain available until
2 expended.

3 **SEC. 112. WATERSHED APPROACH TO FLOOD LOSS REDUC-**
4 **TION.**

5 Section 2 of the Act entitled “An Act authorizing the
6 construction of certain public works on rivers and harbors
7 for flood control, and for other purposes”, approved June
8 22, 1936 (33 U.S.C. 701b), is amended by adding at the
9 end the following new sentence: “The Secretary of the
10 Army shall collaborate with Federal, State, and local agen-
11 cies during the planning, design, and construction phases
12 of all flood control projects for the purpose of adopting
13 a watershed-wide approach to the reduction of flood
14 losses.”.

15 **TITLE II—ENVIRONMENTAL**
16 **PROTECTION AND RECREATION**

17 **SEC. 201. FINDINGS.**

18 Congress finds that—

19 (1) the rivers and reservoirs of the United
20 States are principal sources of water-based recre-
21 ation for the citizens of the United States;

22 (2) the water resources described in paragraph

23 (1) provide habitat to numerous species of animals
24 and plant life;

1 (3) the water resources comprise important
2 ecosystems whose delicate balance is critical to sus-
3 taining and preserving the environment and natural
4 resources of the United States;

5 (4) the provision of recreation and the environ-
6 mental protection of water resources are proper ac-
7 tivities for the Federal Government in cooperation
8 with States, political subdivisions of States, and
9 local governments; and

10 (5) providing recreational opportunities and
11 protecting the environment are missions of the Army
12 Corps of Engineers of at least equal import to the
13 provision of flood control protection and navigational
14 opportunities along the inland and shoreline waters
15 and harbors and ports of the United States.

16 **SEC. 202. PROJECT MODIFICATIONS FOR IMPROVEMENT**
17 **OF THE ENVIRONMENT.**

18 (a) PAYMENT OF NON-FEDERAL SHARE THROUGH
19 IN-KIND CONTRIBUTIONS.—Section 1135(b) of the Water
20 Resources Development Act of 1986 (33 U.S.C. 2309a(b))
21 is amended by inserting before the last sentence the fol-
22 lowing new sentence: “Not more than 80 percent of the
23 non-Federal share may be in kind, fairly evaluated, includ-
24 ing a facility, supply, or service that is necessary to carry
25 out the modification.”.

1 (b) MANDATORY REVIEW OF CONSTRUCTED
2 PROJECTS.—

3 (1) IN GENERAL.—The Secretary shall annually
4 conduct a review of not fewer than 5 flood control
5 projects, and not fewer than 5 navigation or other
6 projects, constructed or assisted by the Secretary—

7 (A) in accordance with subsection (a) of
8 section 1135 of the Water Resources Develop-
9 ment Act of 1986 (33 U.S.C. 2309a(a)); and

10 (B) to determine the need for environ-
11 mental restoration projects in river systems im-
12 pacted by the construction or operation of the
13 flood control, navigation, or other projects for
14 the purpose described in such subsection.

15 (2) GEOGRAPHIC REPRESENTATION.—With re-
16 spect to each annual review, the projects reviewed
17 shall be geographically representative of all flood
18 control, navigation, and other projects, constructed
19 or assisted by the Secretary.

20 (3) REPORT TO CONGRESS.—Not later than 18
21 months after the date of enactment of this Act and
22 every 2 years thereafter, the Secretary shall transmit
23 to Congress a report on the results of the review
24 conducted under paragraph (1), including rec-
25 ommendations resulting from the review.

1 **SEC. 203. AQUATIC ECOSYSTEM RESTORATION.**

2 (a) PROGRAM.—The Secretary may pay the Federal
3 share of the cost of carrying out projects, and project com-
4 ponents, the primary purpose of which is the restoration
5 of an aquatic ecosystem or a portion of an aquatic eco-
6 system.

7 (b) COST-SHARING.—

8 (1) IN GENERAL.—The Federal share of a
9 project or component described in subsection (a)
10 shall be 75 percent. Any portion of the non-Federal
11 share of the cost of such a project or component (in-
12 cluding any portion of a feasibility plan) may be in
13 kind, fairly evaluated, including a facility, supply, or
14 service that is necessary to carry out the project. A
15 non-Federal interest shall not be required to provide
16 all land or interests in land (including any right-of-
17 way) with respect to the project.

18 (2) PROJECTS OF CRITICAL NATIONAL INTER-
19 EST.—

20 (A) IN GENERAL.—The Federal share of a
21 project or component described in subsection
22 (a) that is of critical national interest shall be
23 100 percent.

24 (B) TYPES OF PROJECTS.—A project de-
25 scribed in subsection (a) shall be considered to
26 be of critical national interest if—

1 (i) the purpose of the project is to
2 provide national benefits by protecting and
3 restoring the structure, function, and hy-
4 drologic regime of an aquatic ecosystem;
5 and

6 (ii) the project is located on Federal
7 land or is approved by the Director of the
8 United States Fish and Wildlife Service,
9 the Director of the National Marine Fish-
10 eries Service, or the Director of the Na-
11 tional Park Service.

12 (c) RECONNAISSANCE STUDIES.—

13 (1) IN GENERAL.—Upon the request of, and in
14 coordination with, potential non-Federal interests
15 and the Administrator of the Environmental Protec-
16 tion Agency, the Director of the United States Fish
17 and Wildlife Service, the Director of the National
18 Marine Fisheries Service, or the Director of the Na-
19 tional Park Service, the Chief of Engineers of the
20 Army Corps of Engineers may carry out reconnais-
21 sance studies for aquatic restoration projects of crit-
22 ical national interest described in subsection (b)(2).

23 (2) AUTHORIZATION OF APPROPRIATIONS.—

24 There are authorized to be appropriated to carry out
25 paragraph (1) \$15,000,000 for each fiscal year.

1 (d) PROJECT RECOMMENDATIONS.—Congress may
2 not appropriate funds for an aquatic ecosystem restoration
3 project under this section unless the project receives a fa-
4 vorable recommendation from the Chief of Engineers of
5 the Army Corps of Engineers and the Secretary of the
6 Interior under the Fish and Wildlife Coordination Act (16
7 U.S.C. 661 et seq.).

8 (e) FUNDS FROM OTHER AGENCIES.—

9 (1) IN GENERAL.—In the case of an aquatic
10 ecosystem restoration project assisted under this sec-
11 tion, the Secretary shall coordinate with the heads of
12 other Federal agencies to determine whether con-
13 servation funds available to the agencies can and
14 should be used to contribute to the project. The Sec-
15 retary shall include funds so used as part of the de-
16 sign of the project if the project is approved by the
17 contributing agency.

18 (2) COST-SHARING.—Funds used for a project
19 under paragraph (1) shall not be subject to the cost-
20 sharing requirements of this section but shall be
21 subject to any cost-sharing requirements applicable
22 to the funds under other laws.

23 (f) RESPONSIBILITY FOR LAND.—In the case of an
24 aquatic ecosystem restoration project assisted under this
25 section, land or an interest in land may be held or acquired

1 by any person or instrumentality of government, including
2 any Federal instrumentality, considered by the Army
3 Corps of Engineers to be capable of fulfilling the respon-
4 sibilities of holding and maintaining the land or interest
5 in a manner necessary for successful completion and oper-
6 ation of the project.

7 (g) APPLICABILITY.—If aquatic ecosystem restora-
8 tion is only 1 purpose of a project, the provisions of this
9 section concerning cost-sharing, consultation, and ap-
10 proval shall apply to each project component justified in
11 whole or in part by the contribution of the component to
12 aquatic ecosystem restoration.

13 (h) ENVIRONMENTAL IMPACTS ON AQUATIC SYS-
14 TEMS.—

15 (1) CONSIDERATION OF FISH AND WILDLIFE
16 BENEFITS.—For the purpose of a water resources
17 project carried out or assisted by the Secretary, fish
18 and wildlife benefits shall not be considered seg-
19 regable benefits but shall be considered part of
20 aquatic ecosystem preservation or restoration bene-
21 fits.

22 (2) ENVIRONMENTAL EVALUATIONS.—An envi-
23 ronmental evaluation of a water resources project
24 carried out or assisted by the Secretary that affects
25 the physical structure or hydrology of a river, lake,

1 estuary, wetland, or any other component of an
2 aquatic system, shall be based on the impact of the
3 project on all functions of the aquatic system, in-
4 cluding the impact on each aquatic organism and
5 terrestrial organism that uses the aquatic system, on
6 water quality, and on downstream and upstream hy-
7 drology. In carrying out any such evaluation, the
8 Secretary shall consider the risk that the biological
9 impact of an adverse alteration of the natural hy-
10 drology and physical structure of an aquatic system
11 will be different and greater than the impact that
12 can be predicted using scientific knowledge as of the
13 date of the evaluation.

14 (3) MITIGATION.—In the case of a water re-
15 sources project that has an adverse effect on the
16 natural hydrology or physical structure of an aquatic
17 system, the focus of mitigation of the effect shall be
18 on efforts to restore the hydrology or structure of
19 the natural system to replicate the acreage and func-
20 tions lost or negatively impacted by the project.

21 (4) GUIDANCE.—Not later than 1 year after
22 the date of enactment of this Act, the Chief of Engi-
23 neers of the Army Corps of Engineers, in consulta-
24 tion with the Director of the United States Fish and
25 Wildlife Service, the Director of the National Marine

1 Fisheries Service, and the Administrator of the En-
2 vironmental Protection Agency, shall issue technical
3 guidance for the implementation of this subsection.

4 **SEC. 204. REVISION OF PRINCIPLES AND GUIDELINES.**

5 (a) IN GENERAL.—Not later than 1 year after the
6 date of enactment of this Act, the Secretary, in consulta-
7 tion with the Principles and Guidelines Advisory Council
8 established under subsection (c), shall revise the Economic
9 and Environmental Principles and Guidelines for Water
10 and Related Land Resources Implementation Studies is-
11 sued on March 10, 1983, by the Water Resources Council
12 established under title I of the Water Resources Planning
13 Act (42 U.S.C. 1962a et seq.), to—

14 (1) establish economic and environmental bene-
15 fits as co-equal objectives of water resources plan-
16 ning, for the purpose of reviewing projects con-
17 structed by the Secretary;

18 (2) encourage the enhancement of the economic
19 development of the United States; and

20 (3) encourage the restoration and improvement
21 of the quality of the environment through the man-
22 agement, conservation, preservation, creation, res-
23 toration, and improvement of natural and cultural
24 resources and ecological systems.

1 (b) REVISION OF PLANNING MANUALS.—The Sec-
2 retary shall use the Principles and Guidelines as revised
3 pursuant to subsection (a) to revise all planning manuals
4 used by the Secretary for the operation and construction
5 of water resources projects as soon as practicable, but not
6 later than 18 months after the date of enactment of this
7 Act.

8 (c) PRINCIPLES AND GUIDELINES ADVISORY COUN-
9 CIL.—

10 (1) ESTABLISHMENT.—The Secretary shall es-
11 tablish an advisory council to be known as the
12 “Principles and Guidelines Advisory Council” (re-
13 ferred to in this subsection as the “Council”), con-
14 sisting of the Secretary, the Secretary of the Inte-
15 rior, the Secretary of Agriculture, and 3 members of
16 the public with expertise in water resources plan-
17 ning.

18 (2) DUTY.—The Council shall advise the Sec-
19 retary in carrying out subsections (a) and (b).

20 (3) COMPENSATION.—

21 (A) IN GENERAL.—Subject to subpara-
22 graph (B), each of the 3 members of the public
23 of the Council shall be compensated at a rate
24 equal to the daily equivalent of the annual rate
25 of basic pay prescribed for level IV of the Exec-

1 utive Schedule under section 5315 of title 5,
2 United States Code, for each day, including
3 traveltime, during which the member is engaged
4 in the actual performance of the duties of the
5 Council.

6 (B) FEDERAL OFFICERS AND EMPLOY-
7 EES.—A member of the Council who is an offi-
8 cer or employee of the Federal Government
9 shall serve without additional compensation.

10 (4) TRAVEL EXPENSES.—While away from the
11 home or regular place of business of the member in
12 the performance of duties of the Council, each mem-
13 ber of the Council shall be allowed travel expenses,
14 including per diem in lieu of subsistence, at rates
15 authorized for employees of agencies under sub-
16 chapter I of chapter 57 of title 5, United States
17 Code.

18 (5) TERMINATION.—The Council shall termi-
19 nate on the date that is 18 months after the date
20 of enactment of this Act, unless the Council is tem-
21 porarily extended by the Secretary after consultation
22 with the appropriate committees of Congress.

1 **SEC. 205. SMALL RECREATION AND ENVIRONMENTAL**
2 **PROJECTS.**

3 (a) **IN GENERAL.**—In each fiscal year, the Secretary
4 shall provide for the construction of small projects that—

5 (1) are for recreation and environmental res-
6 toration and related purposes;

7 (2) are not specifically authorized by Congress;
8 and

9 (3) the Secretary determines are advisable.

10 (b) **AMOUNT FOR EACH PROJECT.**—The amount pro-
11 vided for a project under subsection (a) shall be sufficient
12 to complete Federal participation in the project, except
13 that not more than \$5,000,000 shall be provided for a
14 project at a single location.

15 (c) **EXTENT OF PROJECTS.**—With respect to a
16 project carried out under subsection (a), the Secretary
17 may not commit to any additional improvements, after the
18 completion of the project, to ensure the successful oper-
19 ation of the project.

20 (d) **SURVEYS AND REPORTS.**—The Secretary shall
21 not be required to prepare a survey or report prior to car-
22 rying out a project under this section.

23 (e) **ALLOTMENT OF AMOUNTS.**—From any amounts
24 made available before, on, or after the date of enactment
25 of this Act for general construction projects of the Depart-
26 ment of the Army, the Secretary may allot to carry out

1 this section \$40,000,000 for each fiscal year, to remain
2 available until expended.

3 **SEC. 206. COST SHARE FOR RECREATION PROJECTS.**

4 Section 103(c)(4) of the Water Resources Develop-
5 ment Act of 1986 (33 U.S.C. 2213(c)(4)) is amended—

6 (1) by striking “50” each place it appears and
7 inserting “75”; and

8 (2) by inserting before the semicolon at the end
9 the following: “, and in determining the non-Federal
10 share under this paragraph, the Secretary shall in-
11 clude the fair market value of any land, easement,
12 right-of-way, dredged material disposal area, or relo-
13 cation provided by the non-Federal interest”.

14 **SEC. 207. LOCAL COST-SHARE CREDIT FOR IN-KIND CON-**
15 **TRIBUTIONS FOR ENVIRONMENTAL AND**
16 **RECREATION PROJECTS.**

17 Section 203 of the Water Resources Development Act
18 of 1992 (33 U.S.C. 2325) is amended by adding at the
19 end the following new subsection:

20 “(c) LOCAL COST-SHARE CREDIT FOR IN-KIND CON-
21 TRIBUTIONS.—

22 “(1) IN GENERAL.—Subject to paragraphs (2)
23 and (3), a non-Federal interest that carries out a
24 project described in subsection (a) may—

1 “(A) accept from any source contributions
2 of funds, materials, services, and other items of
3 value, and in-kind contributions, for the pur-
4 pose of providing a portion of the non-Federal
5 share of the cost of the project; and

6 “(B) provide a noncash contribution de-
7 scribed in subparagraph (A) for that purpose.

8 “(2) DETERMINATION OF VALUE.—A noncash
9 contribution described in paragraph (1) may be
10 credited towards the non-Federal share of the cost
11 of the project if the contribution has a positive im-
12 pact on the uses of the project. The value of the con-
13 tribution shall be determined in advance of the cred-
14 iting of the contribution by the mutual agreement of
15 the Army Corps of Engineers and the non-Federal
16 interest. If the Army Corps of Engineers denies
17 credit for a contribution, the denial may be appealed
18 to the Secretary.

19 “(3) MINIMUM CASH CONTRIBUTION.—Subject
20 to section 105(a)(1) of the Water Resources Devel-
21 opment Act of 1986 (33 U.S.C. 2215(a)(1)), the
22 non-Federal interest shall pay not less than 5 per-
23 cent of the non-Federal share in cash.”.

1 **SEC. 208. REBUILDING RECREATIONAL FACILITIES AFTER**
2 **RESERVOIR DRAWDOWNS.**

3 If a recreational facility at a water resources project
4 carried out or assisted by the Secretary becomes unusable
5 or unsafe for more than 90 consecutive days because of
6 a release of water or reservoir drawdown for any purpose,
7 the Secretary may, at full Federal cost, restore the facility,
8 or build a new recreational facility of a comparable level
9 of development at the lower reservoir level. The Secretary
10 shall seek contribution for the Federal cost from any agen-
11 cy that directs or requests the release or drawdown, in-
12 cluding the Department of the Interior and the Depart-
13 ment of Energy.

○

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S 2418 IS—3

S 2418 IS—4