To amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams.

IN THE HOUSE OF REPRESENTATIVES
AUGUST 1, 2012

Mr. CARNahan (for himself and Mr. LaTOURETTE) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL
To amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Dam Rehabilitation and Repair Act of 2012”.

SEC. 2. REHABILITATION AND REPAIR OF DEFICIENT DAMS.
(a) DEFINITIONS.—Section 2 of the National Dam Safety Program Act (33 U.S.C. 467) is amended—
(1) by striking paragraph (3);

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(3) by inserting before paragraph (2) (as redesignated by paragraph (2) of this subsection) the following:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.”;

(4) by redesignating paragraphs (4), (5), (6), (7), (8), (9), (10), (11), (12), and (13) as paragraphs (5), (6), (7), (8), (9), (10), (13), (14), (15), and (16), respectively;

(5) by inserting after paragraph (3) (as redesignated by paragraph (2) of this subsection) the following:

“(4) DEFICIENT DAM.—The term ‘deficient dam’ means a dam that the State within the boundaries of which the dam is located determines—

“(A) fails to meet minimum dam safety standards of the State; and

“(B) poses an unacceptable risk to the public.”; and
(6) by inserting after paragraph (10) (as redesignated by paragraph (4) of this subsection) the following:

“(11) PUBLICLY-OWNED DAM.—

“(A) IN GENERAL.—The term ‘publicly-owned dam’ means a dam that is owned by 1 or more State agencies or governments, local governments, municipal governments, or tribal governments.

“(B) INCLUSIONS.—The term ‘publicly-owned dam’ includes a dam owned by a non-profit organization that—

“(i) is established by 1 or more State, local, municipal, or tribal governments; and

“(ii) provides public benefits, such as—

“(I) local flood control districts;

“(II) regional public water utilities; and

“(III) local irrigation districts.

“(12) REHABILITATION.—The term ‘rehabilitation’ means the repair, replacement, reconstruction, or removal of a dam that is carried out to meet applicable State dam safety standards.”.”
(b) Program for Rehabilitation and Repair of Deficient Dams.—The National Dam Safety Program Act is amended by inserting after section 8 (33 U.S.C. 467f) the following:

“SEC. 8A. REHABILITATION AND REPAIR OF DEFICIENT DAMS.

“(a) Establishment of Program.—The Administrator shall establish, within FEMA, a program to provide grant assistance to States for use in rehabilitation of deficient dams that are publicly-owned dams.

“(b) Award of Grants.—

“(1) Application.—

“(A) In general.—A State interested in receiving a grant under this section may submit to the Administrator an application for the grant.

“(B) Requirements.—An application submitted to the Administrator under this section shall be submitted at such time, be in such form, and contain such information as the Administrator may prescribe by regulation.

“(2) Grant.—

“(A) In general.—The Administrator may make a grant in accordance with this section for rehabilitation of a deficient dam to a
State that submits an application for the grant in accordance with the regulations prescribed by the Administrator.

“(B) PROJECT GRANT AGREEMENT.—The Administrator shall enter into a project grant agreement with the State to establish the terms of the grant and the project, including the amount of the grant.

“(C) GRANT ASSURANCE.—As part of a project agreement entered into under subparagraph (B), the Administrator shall require a State to provide an assurance, with respect to the dam to be rehabilitated under the project, that the owner of the dam has developed and will carry out a plan for maintenance of the dam during the expected life of the dam.

“(3) APPLICABILITY OF REQUIREMENTS.—The Administrator shall require recipients of grants under this section to assure compliance with the standards set forth in section 611(j)(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(j)(9)), as in effect on the date of enactment of this section, in the same manner that recipients of financial contributions
under section 611(j) of such Act are required to assure compliance with such standards.

“(c) PRIORITY SYSTEM.—The Administrator, in consultation with the Board, shall develop a risk-based priority system for use in identifying deficient dams for which grants may be made under this section.

“(d) ALLOCATION OF FUNDS.—The total amount of funds appropriated pursuant to subsection (h)(1) for a fiscal year shall be allocated for making grants under this section to States applying for the grants for that fiscal year as follows:

“(1) 1⁄3 divided equally among applying States.

“(2) 2⁄3 divided among applying States based on the proportion that—

“(A) the number of non-Federal publicly-owned dams that the Secretary of the Army identifies in the national inventory of dams maintained under section 6 as constituting a danger to human health and that are located within the boundaries of the State; bears to

“(B) the number of non-Federal publicly-owned dams that are so identified and that are located within the boundaries of all applying States.
“(e) **USE OF FUNDS.**—None of the funds provided in the form of a grant or otherwise made available under this section shall be used—

“(1) to rehabilitate a Federal dam;

“(2) to perform routine operation or maintenance of a dam;

“(3) to modify a dam to produce hydroelectric power;

“(4) to increase water supply storage capacity; or

“(5) to make any other modification to a dam that does not also improve the safety of the dam.

“(f) **COST SHARING.**—The Federal share of the cost of rehabilitation of a deficient dam for which a grant is made under this section may not exceed 65 percent of the cost of the rehabilitation.

“(g) **CONTRACTUAL REQUIREMENTS.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), as a condition on the receipt of a grant under this section, a State that receives the grant shall require that each contract and subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services entered into
using funds from the grant be awarded in the same
manner as a contract for architectural and engineering services is awarded under—

“(A) chapter 11 of title 40, United States
Code; or

“(B) an equivalent qualifications-based re-
quirement prescribed by the State.

“(2) No proprietary interest.—A contract
awarded in accordance with paragraph (1) shall not
be considered to confer a proprietary interest upon
the United States.

“(h) Authorization of Appropriations.—

“(1) In general.—There are authorized to be
appropriated to carry out this section—

“(A) $10,000,000 for fiscal year 2013;
“(B) $15,000,000 for fiscal year 2014;
“(C) $25,000,000 for fiscal year 2015;
“(D) $50,000,000 for fiscal year 2016;

and

“(E) $100,000,000 for fiscal year 2017.

“(2) Staff.—There is authorized to be appro-
priated to provide for the employment of such addi-
tional staff of FEMA as are necessary to carry out
this section $400,000 for each of fiscal years 2013
through 2017.
“(3) Period of availability.—Amounts made available under this section shall remain available until expended.”.

SEC. 3. RULEMAKING.

(a) Proposed Rulemaking.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall issue a notice of proposed rulemaking regarding the amendments made by section 2 to the National Dam Safety Program Act (33 U.S.C. 467 et seq.).

(b) Final Rule.—Not later than 120 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall promulgate a final rule regarding the amendments described in subsection (a).