To allow a State or local government to construct levees on certain properties otherwise designated as open space lands.

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

SECTION 1. LEVEES.

(a) DEFINITIONS.—In this section—

(1) the term “Administrator” means the Administrator of the Federal Emergency Management Agency; and

(2) the term “covered hazard mitigation land” means land—
(A) acquired and deed restricted under section 404(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)) before, on, or after the date of enactment of this Act; and

(B) that is located—

(i) in North Dakota; and

(ii) in a community that—

(I) is participating in the National Flood Insurance Program on the date on which a State, local, or tribal government submits an application requesting to construct a permanent flood risk reduction levee under subsection (b); and

(II) certifies to the Administrator and the Chief of Engineers that the community will continue to participate in the National Flood Insurance Program.

(b) AUTHORITY.—Notwithstanding clause (i) or (ii) of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2)(B)), the Administrator shall approve the construction of a permanent flood risk reduction levee by a
State, local, or tribal government on covered hazard mitigation land if the Administrator and the Chief of Engineers determine, through a process established by the Administrator and Chief of Engineers, that—

(1) construction of the proposed permanent flood risk reduction levee would more effectively mitigate against flooding risk than an open floodplain;

(2) the proposed permanent flood risk reduction levee complies with Federal, State, and local requirements, including the consideration of mitigation of adverse impacts and floodplain management requirements, which shall include an evaluation of whether the construction, operation, and maintenance of the proposed levee would continue to meet best available industry standards and practices and would protect against the assessed flood risk; and

(3) the State, local, or tribal government seeking to construct the proposed levee has provided an adequate maintenance plan that documents the procedures the State, local, or tribal government will use to ensure that the stability, height, and overall integrity of the proposed levee and the structure and systems of the proposed levee are maintained, including—
(A) specifying the maintenance activities to
be performed;

(B) specifying the frequency with which
maintenance activities will be performed;

(C) specifying the person responsible for
performing each maintenance activity (by name
or title);

(D) detailing the plan for financing the
maintenance of the levee; and

(E) documenting the ability of the State,
local, or tribal government to finance the main-
tenance of the levee.

(e) MAINTENANCE CERTIFICATION.—

(1) IN GENERAL.—A State, local, or tribal gov-
ernment that constructs a permanent flood risk re-
duction levee under subsection (b) shall submit to
the Administrator and the Chief of Engineers an an-
nual certification indicating whether the State, local,
or tribal government is in compliance with the main-
tenance plan provided under subsection (b)(3).

(2) REVIEW.—The Chief of Engineers shall re-
view a certification submitted under paragraph (1)
and determine whether the State, local, or tribal
government has complied with the maintenance plan.