

113TH CONGRESS
1ST SESSION

S. 407

To provide funding for construction and major rehabilitation for projects located on inland and intracoastal waterways of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2013

Mr. CASEY (for himself, Ms. LANDRIEU, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To provide funding for construction and major rehabilitation for projects located on inland and intracoastal waterways of the United States, 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.**

4 This Act may be cited as the “Reinvesting In Vital
5 Economic Rivers and Waterways Act of 2013” or the
6 “RIVER Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds that the inland waterways navigation
9 system—

1 (1) is an essential economic resource for the
2 United States;

3 (2) serves as the most efficient sustainable
4 transportation mode for bulk commodities in the
5 United States while maintaining environmental re-
6 sources; and

7 (3) as of the date of enactment of this Act, is
8 underfunded and needs significant changes to re-
9 main viable in the future.

10 **SEC. 3. PURPOSES.**

11 The purpose of this Act is to establish a sustainable,
12 cost-effective way to ensure that the inland and intra-
13 coastal waterways of the United States remain economi-
14 cally viable through—

15 (1) the redesign of the program and project
16 management process applicable to the construction
17 and major rehabilitation of navigation projects on
18 those waterways;

19 (2) the continued development and improve-
20 ment of inland waterways navigation systems;

21 (3) enhanced efficiency of inland waterways
22 navigation project completion schedules; and

23 (4) inland waterways navigation capital invest-
24 ments to ensure that projects can be completed in a

1 reasonable timeframe and to allow maximum sys-
2 temwide benefits.

3 **SEC. 4. DEFINITIONS.**

4 In this Act:

5 (1) INLAND AND INTRACOASTAL WATER-
6 WAYS.—The term “inland and intracoastal water-
7 ways” means the inland and intracoastal waterways
8 of the United States described in section 206 of the
9 Inland Waterways Revenue Act of 1978 (33 U.S.C.
10 1804).

11 (2) INLAND WATERWAY USERS BOARD.—The
12 term “Inland Waterway Users Board” means the
13 Inland Waterway Users Board established by section
14 302 of the Water Resources Development Act of
15 1986 (33 U.S.C. 2251).

16 (3) MAJOR REHABILITATION PROJECT.—The
17 term “major rehabilitation project” means a project
18 for the restoration of a major project or major
19 project feature of the inland and intracoastal water-
20 ways that has an estimated cost greater than
21 \$50,000,000.

22 (4) QUALIFYING PROJECT.—The term “quali-
23 fying project” means any construction or major re-
24 habilitation project for navigation infrastructure of
25 the inland and intracoastal waterways that is—

1 (A) authorized before, on, or after the date
2 of enactment of this Act;

3 (B) not completed as of the date of enact-
4 ment of this Act; and

5 (C) funded at least in part from the Inland
6 Waterways Trust Fund established by section
7 9506 of the Internal Revenue Code of 1986.

8 (5) SECRETARY.—The term “Secretary” means
9 the Secretary of the Army, acting through the Chief
10 of Engineers.

11 **SEC. 5. PROJECT DELIVERY PROCESS REFORMS.**

12 (a) IN GENERAL.—The Secretary shall promulgate
13 regulations that, at a minimum, shall require for each
14 qualifying project—

15 (1) a cost estimation that is risk-based and has
16 a confidence level of not less than 80 percent;

17 (2) an independent external peer review and
18 submission to Congress (in the case of a feasibility
19 report) or the Secretary (in the case of a rehabilita-
20 tion evaluation report) for any qualifying project—

21 (A) that—

22 (i) has an estimated total project cost
23 greater than \$45,000,000;

24 (ii) is subject to public safety con-
25 cerns, as determined by the Secretary;

1 (iii) involves a high level of complexity
2 or novel or precedent-setting approaches,
3 as determined by the Secretary; or

4 (iv) is identified by the Secretary as a
5 matter of significant interagency interest;
6 or

7 (B) for which a review has been requested
8 by the Governor of any State affected by the
9 project;

10 (3) the appointment to a project development
11 team for the qualifying project of a member of the
12 Inland Waterways Users Board, as selected by a ma-
13 jority of the Inland Waterways Users Board;

14 (4) a quarterly update submitted to the Inland
15 Waterways Users Board of the status of a qualifying
16 project that is under construction;

17 (5) the inclusion of the Chairman of the Inland
18 Waterways Users Board and the project develop-
19 ment team appointee under paragraph (3) as sig-
20 natories of the project management plan for a quali-
21 fying project;

22 (6) the establishment of a system to identify
23 and apply on a continuing basis lessons learned from
24 prior or ongoing projects so as to improve the likeli-

1 hood of on-time and on-budget completion of quali-
 2 fying projects;

3 (7) the evaluation, including through the use of
 4 1 or more pilot projects, of early contractor involve-
 5 ment acquisition procedures to improve on-time and
 6 on-budget project delivery performance; and

7 (8) any additional measures that the Secretary
 8 determines will achieve the purposes of this Act, in-
 9 cluding, as determined appropriate by the Sec-
 10 retary—

11 (A) the implementation of applicable prac-
 12 tices and procedures drawn from the manage-
 13 ment of the military construction program by
 14 the Secretary;

15 (B) the development and use of a portfolio
 16 of standard designs for inland navigation locks;

17 (C) the use of full-funding contracts or the
 18 formulation of a revised continuing contracts
 19 provision; and

20 (D) the establishment of procedures for
 21 recommending new project construction starts
 22 using a capital projects business model.

23 (b) REPORT REQUIREMENT.—

24 (1) IN GENERAL.—For each fiscal year, the
 25 Secretary shall submit to Congress a report that de-

scribes each project, if any, that receives more than 50 percent of the total amount of funds made available in that fiscal year under the Inland Waterways Trust Fund established by section 9506 of the Internal Revenue Code of 1986.

(2) REQUIREMENT.—For each project described in paragraph (1) that exceeds the estimated cost of carrying out that project for 3 or more consecutive years, the Secretary shall include in the report submitted under that paragraph alternative financing plans for the project.

SEC. 6. 20-YEAR CAPITAL INVESTMENT PROGRAM.

(a) PROGRAM REQUIRED.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in conjunction with the Inland Waterways Users Board, shall submit to Congress a 20-year program for making capital investments on the inland and intracoastal waterways, which shall include plans to update communications technology and be based on the application of objective national project-selection prioritization criteria, as developed by the Secretary.

(2) CONTENTS.—The 20-year program described in paragraph (1) may be based on the 20-year capital investment strategy contained in the In-

1 land Marine Transportation System Capital Projects
2 Business Model, Final Report published on April 13,
3 2010, as approved by the Inland Waterways Users
4 Board.

5 (b) ANNUAL REVIEW AND UPDATE.—

6 (1) IN GENERAL.—Beginning not later than 1
7 year after the date on which a 20-year program is
8 submitted to Congress under subsection (a), and
9 each year thereafter, the Secretary, in conjunction
10 with the Inland Waterways Users Board, shall sub-
11 mit to Congress an updated 20-year program.

12 (2) CONTENTS.—The updated program de-
13 scribed in paragraph (1) shall include an identifica-
14 tion and explanation of any changes that were made
15 to the project-specific recommendations included in
16 the previous 20-year program, including any changes
17 that were made to the objective national project-se-
18 lection prioritization criteria used to develop the up-
19 dated recommendations.

20 (c) STRATEGIC REVIEW AND UPDATE.—

21 (1) IN GENERAL.—Not later than 5 years after
22 the date of enactment of this Act, and every 5 years
23 thereafter, the Secretary, in conjunction with the In-
24 land Waterways Users Board, shall submit to Con-
25 gress a strategic review of the capital investment

1 program for the Inland Marine Transportation Sys-
 2 tem, including any revisions to the program that the
 3 Secretary and the Users Board jointly consider to be
 4 appropriate.

5 (2) INCLUSIONS.—The review described in
 6 paragraph (1) shall include an analysis of the com-
 7 munications technology in use on the inland and in-
 8 tracoastal waterways system and a description of
 9 any plans to modernize that technology to increase
 10 safety and maximize efficiency.

11 **SEC. 7. LIMITATION ON EXPENDITURES FROM THE INLAND**
 12 **WATERWAYS TRUST FUND.**

13 Section 9506 of the Internal Revenue Code of 1986
 14 is amended—

15 (1) in subsection (c)(1), by—

16 (A) inserting “and subject to subsection
 17 (d),” after “Except as provided in paragraph
 18 (2),”; and

19 (B) inserting before the period at the end
 20 “, provided that such expenditures may not ex-
 21 ceed 50 percent of the total cost of the con-
 22 struction or rehabilitation”; and

23 (2) by inserting at the end the following:

24 “(d) LIMITATION ON EXPENDITURES FROM TRUST
 25 FUND.—

1 “(1) IN GENERAL.—Amounts in the Inland Wa-
2 terways Trust Fund shall not be available for ex-
3 penditures for—

4 “(A) construction or rehabilitation of
5 dams, or

6 “(B) any rehabilitation expenditure that
7 does not equal or exceed \$50,000,000.

8 “(2) RESTRICTION ON TOTAL COST.—Amounts
9 in the Inland Waterways Trust Fund shall not be
10 used to pay for any part of the cost to construct an
11 authorized Federal project that exceeds the sum
12 of—

13 “(A) the amount equal to—

14 “(i) the total authorized cost to con-
15 struct the Federal project as specified in
16 the Public Law that authorized construc-
17 tion of the project or, in the case of a re-
18 habilitation project, in the relevant reha-
19 bilitation evaluation report, multiplied by

20 “(ii) the cost-of-living adjustment de-
21 termined under section 1(f)(3) for the year
22 in which construction or rehabilitation
23 under the project begins (determined by
24 substituting the year that precedes the cal-
25 endar year in which such project was au-

1 thorized for ‘1992’ in subparagraph (B) of
2 such section), and

3 “(B) any additional amount that is jointly
4 agreed to by the Secretary and the Inland Wa-
5 terways Users Board as appropriate to the
6 project.”.

7 **SEC. 8. REVISION TO INLAND WATERWAYS USER FEE.**

8 Section 4042(b)(2)(A) of the Internal Revenue Code
9 of 1986 is amended to read as follows:

10 “(A) The Inland Waterways Trust Fund
11 financing rate is the rate determined in accord-
12 ance with the following table:

“If the use occurs:	The tax per gallon is:
During 2013	20 cents
After 2013	29 cents”.

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