

113TH CONGRESS
1ST SESSION

S. 565

To provide for the safe and reliable navigation of the Mississippi River,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2013

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

A BILL

To provide for the safe and reliable navigation of the
Mississippi River, 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 “Mississippi River Navi-
5 gation Sustainment Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Mississippi River is the largest, most fa-
9 mous river in the United States and a vital natural
10 resource;

1 (2) the Mississippi River Basin is the third
2 largest watershed in the world, covering more than
3 1,000,000 square miles and approximately 40 per-
4 cent of the continental United States;

5 (3) the rivers, tributaries, and reservoirs that
6 make up the Mississippi River Basin operate natu-
7 rally as a system and any attempt to operate
8 projects within the Mississippi River Basin by man-
9 kind should take this fact into consideration;

10 (4) the Mississippi River is the backbone of the
11 inland waterway system of the United States and a
12 crucial artery for the movement of goods;

13 (5) each year millions of tons of commodities,
14 including grain, coal, petroleum, and chemicals, rep-
15 resenting billions of dollars are transported on the
16 Mississippi River by barge;

17 (6) the Mississippi River is home to some of the
18 busiest commercial ports in the United States, in-
19 cluding the Port of New Orleans and the Port of St.
20 Louis;

21 (7) safe and reliable navigation of the Mis-
22 sissippi River is vital to the national economy;

23 (8) extreme weather events pose challenges to
24 navigation and life along the Mississippi River and
25 are likely to become more severe and more frequent

1 in the coming years, as evidenced by the devastating
2 floods along the Mississippi River in 2011 and the
3 near historic low water levels seen on the same
4 stretch of the Mississippi River in the winter of
5 2012–2013;

6 (9) the American Waterways Operators and the
7 Waterways Council, Incorporated have estimated
8 that a disruption of navigation on the Mississippi
9 River due to low water levels between December
10 2012 and January 2013 would have negatively im-
11 pacted 20,000 jobs and \$7,000,000,000 in cargo;

12 (10) the Regulating Works Program of the St.
13 Louis District of the Corps of Engineers is critical
14 to maintaining navigation on the middle Mississippi
15 River during extreme weather events and should re-
16 ceive continued Federal financial assistance and sup-
17 port; and

18 (11) the Federal Government, commercial
19 users, and others have a shared responsibility to
20 take steps to maintain the critical flow of goods on
21 the Mississippi River during extreme weather events.

22 **SEC. 3. DEFINITIONS.**

23 (a) **EXTREME WEATHER.**—The term “extreme
24 weather” means—

(1) severe flooding and drought conditions that lead to above or below average water levels; or

(2) other severe weather events that threaten personal safety, property, and navigation on the inland waterways of the United States.

(b) GREATER MISSISSIPPI RIVER BASIN.—The term “greater Mississippi River Basin” means the area covered by hydrologic units 5, 6, 7, 8, 10, and 11, as identified by the United States Geological Survey as of the date of enactment of this Act.

(c) LOWER MISSISSIPPI RIVER.—The term “lower Mississippi River” means the portion of the Mississippi River that begins at the confluence of the Ohio River and flows to the Gulf of Mexico.

(d) MIDDLE MISSISSIPPI RIVER.—The term “middle Mississippi River” means the portion of the Mississippi River that begins at the confluence of the Missouri River and flows to the lower Mississippi River.

(e) SECRETARY.—The term “Secretary” means the Secretary of the Army, acting through the Chief of Engineers.

22 SEC. 4. GREATER MISSISSIPPI RIVER BASIN EXTREME
23 WEATHER MANAGEMENT STUDY.

24 (a) IN GENERAL.—The Secretary shall carry out a
25 study of the Mississippi River Basin—

(1) to improve the coordinated and comprehensive management of water resource projects in the greater Mississippi River Basin relating to extreme weather conditions; and

(2) to evaluate the feasibility of any modifications to those water resource projects and develop new water resource projects to improve the reliability of navigation and more effectively reduce flood risk.

(b) CONTENTS.—The study shall—

(1) identify any Federal actions necessary to prevent and mitigate the impacts of extreme weather, including changes to authorized channel dimensions, operational procedures of locks and dams, and reservoir management within the Mississippi River Basin;

(2) evaluate the effect on navigation and flood risk management to the Mississippi River of all upstream rivers and tributaries, especially the confluence of the Illinois River, Missouri River, and Ohio River;

(3) identify and make recommendations to remedy challenges to the Corps of Engineers presented by extreme weather, including river access, in carrying out its mission to maintain safe, reliable navigation; and

1 (4) identify and locate natural or other poten-
2 tial impediments to maintaining navigation on the
3 middle and lower Mississippi River during periods of
4 low water, including existing industrial pipeline
5 crossings.

6 (c) CONSULTATION AND USE OF EXISTING DATA.—

7 In carrying out the study, the Secretary shall—

8 (1) consult with appropriate committees of Con-
9 gress, Federal, State, tribal, and local agencies, envi-
10 ronmental interests, river navigation industry rep-
11 resentatives, other shipping and business interests,
12 organized labor, and nongovernmental organizations;

13 (2) to the maximum extent practicable, use
14 data in existence on the date of enactment of this
15 Act; and

16 (3) incorporate lessons learned and best prac-
17 tices developed as a result of past extreme weather
18 events, including major floods and the successful ef-
19 fort to maintain navigation during the near historic
20 low water levels on the Mississippi River during the
21 winter of 2012–2013.

22 (d) COST-SHARING.—The Federal share of the cost
23 of carrying out the study under this section shall be 100
24 percent.

1 (e) REPORT.—Not later than 3 years after the date
 2 of enactment of this Act, the Secretary shall submit to
 3 Congress a report on the study carried out under this sec-
 4 tion.

5 **SEC. 5. MISSISSIPPI RIVER FORECASTING IMPROVEMENTS.**

6 (a) IN GENERAL.—The Secretary, in consultation
 7 with the Secretary of the department in which the Coast
 8 Guard is operating, the Director of the United States Geo-
 9 logical Survey, the Administrator of the National Oceanic
 10 and Atmospheric Administration, and the Director of the
 11 National Weather Service, as applicable, shall improve
 12 forecasting on the Mississippi River by—

13 (1) updating forecasting technology deployed on
 14 the Mississippi River and its tributaries through—

15 (A) the construction of additional auto-
 16 mated river gages;

17 (B) the rehabilitation of existing auto-
 18 mated and manual river gages; and

19 (C) the replacement of manual river gages
 20 with automated gages, as the Secretary deter-
 21 mines to be necessary;

22 (2) constructing additional sedimentation
 23 ranges on the Mississippi River and its tributaries;
 24 and

1 (3) deploying additional automatic identification
2 system base stations at river gage sites.

3 (b) PRIORITIZATION.—In carrying out this section,
4 the Secretary shall prioritize the sections of the Mis-
5 sissippi River on which additional and more reliable infor-
6 mation would have the greatest impact on maintaining
7 navigation on the Mississippi River.

8 (c) REPORT.—Not later than 1 year after the date
9 of enactment of this Act, the Secretary shall submit to
10 Congress a report on the activities carried out by the Sec-
11 retary under this section.

12 **SEC. 6. CORPS OF ENGINEERS FLEXIBILITY IN MAINTAIN-**
13 **ING NAVIGATION.**

14 (a) IN GENERAL.—If the Secretary determines it to
15 be critical to maintaining safe and reliable navigation, the
16 Secretary—

17 (1) in consultation with the department in
18 which the Coast Guard is operating, may construct
19 ingress and egress paths to docks, loading facilities,
20 fleeting areas, and other critical locations outside of
21 the authorized navigation channel on the Mississippi
22 River; and

23 (2) operate and maintain, through dredging and
24 construction of river training structures, ingress and
25 egress paths to loading docks and fleeting areas out-

1 side of the authorized navigation channel on the
2 Mississippi River.

3 (b) MITIGATION.—The Secretary may mitigate
4 through dredging any incidental impacts to loading or
5 fleeting areas outside of the authorized navigation channel
6 on the Mississippi River that result from operation and
7 maintenance of the authorized channel.

8 **SEC. 7. MIDDLE MISSISSIPPI RIVER ENVIRONMENTAL**
9 **PILOT PROGRAM.**

10 (a) IN GENERAL.—In accordance with the project for
11 navigation, Mississippi River between the Ohio and Mis-
12 souri Rivers (Regulating Works), Missouri and Illinois,
13 authorized by the Act of June 25, 1910 (36 Stat. 631,
14 chapter 382) (commonly known as the “River and Harbor
15 Act of 1910”), the Act of January 1, 1927 (44 Stat. 1010,
16 chapter 47) (commonly known as the “River and Harbor
17 Act of 1927”), and the Act of July 3, 1930 (46 Stat. 918,
18 chapter 847), the Secretary shall carry out for a period
19 of not less than 10 years, a pilot program to restore and
20 protect fish and wildlife habitat in the middle Mississippi
21 River.

22 (b) AUTHORIZED ACTIVITIES.—

23 (1) IN GENERAL.—As part of the pilot program
24 carried out under subsection (a), the Secretary shall
25 conduct any activities that are necessary to improve

1 navigation through the project while restoring and
 2 protecting fish and wildlife habitat in the middle
 3 Mississippi River.

4 (2) INCLUSIONS.—Activities authorized under
 5 paragraph (1) shall include—

6 (A) the modification of navigation training
 7 structures;

8 (B) the modification and creation of side
 9 channels;

10 (C) the modification and creation of is-
 11 lands;

12 (D) any studies and analyses necessary to
 13 develop adaptive management principles; and

14 (E) the acquisition from willing sellers of
 15 any land associated with a riparian corridor
 16 needed to carry out the goals of the pilot pro-
 17 gram.

18 (c) COST-SHARING REQUIREMENT.—The cost-shar-
 19 ing requirements under the provisions of law described in
 20 subsection (a) for the project described in that subsection
 21 shall apply to any activities carried out under this section.

22 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated to carry out
 24 this Act such sums as are necessary.

○