

TABLE 3.—SUMMARY OF THE SENATE PAY-AS-YOU-GO SCORECARD AS OF APRIL 8, 2019—Continued

(In millions of dollars)				
	2018	2019	2018–2023	2018–2028
Impact on Deficit	*	1,957	3,373	442
Total Change in Outlays	*	1,530	2,479	–192
Total Change in Revenues	*	–427	–894	–634

Source: Congressional Budget Office

Notes: P.L. = Public Law, * = between –\$500,000 and \$500,000.

*On May 7, 2018, the Chairman of the Senate Committee on the Budget reset the Senate's Pay-As-You-Go Scorecard to zero for all fiscal years.

*The amounts shown represent the estimated effect of the public laws on the deficit.

*Excludes off-budget amounts.

*Pursuant to section 232(b) of H.C. Res. 290 (106th Congress), the Concurrent Budget Resolution for Fiscal Year 2001, the budgetary effects related to the Federal Reserve's surplus funds are excluded. As a result, the amounts shown do not include estimated increases in revenues of \$655 million in fiscal year 2019, \$570 million over the 2019–2023 period, and \$454 million over the 2019–2028 period.

*The budgetary effects of this Act are excluded from the Senate's PAYGO scorecard, pursuant to section 512 of the Act.

*Division I of P.L. 115–254 contains the Supplemental Appropriations for Disaster Relief Act, 2018, which provided \$1,680 million in supplemental appropriations for fiscal year 2019, and designated as an emergency requirement pursuant to section 251 of the Deficit Control Act. At the direction of the Committees on the Budget, and consistent with the language in section 1701, those amounts are shown as discretionary spending.

*The budgetary effects of this Act are excluded from the Senate's PAYGO scorecard, pursuant to section 8231 of the Act.

*The budgetary effects of title I of division H are excluded from the Senate's PAYGO scorecard, pursuant to title III of division H of the Act.

ENFORCEMENT REPORT OF POINTS OF ORDER RAISED SINCE THE FY 2019 ENFORCEMENT FILING

Vote	Date	Measure	Violation	Motion to Waive	Result
127	June 18, 2018	H.R. 5515—John S. McCain National Defense Authorization Act for Fiscal Year 2019.	4106(a)-Senate-Pay-As-You-Go Violation ¹	Sen. McConnell (R-KY) ²	81–14, waived
192	August 23, 2018	S. Amdt. #3695 to H.R. 6157, the Defense, Labor, HHS, and Education Appropriations Act ³ .	314(a) CHIMP with Net-Costs	Sen. Leahy (D-VT)	68–24, waived

¹ Senator Sanders raised a section 4106(a) of H. Con. Res. 71 (115th Congress) point of order against the bill because the bill would increase the on-budget deficit.² By unanimous consent the Senate proceeded to a roll call vote to waive the point of order.³ This surgical point of order would have struck lines 7–8 of page 270 in Division B (Title III) of the substitute amendment, which was related to the Pell Grant program. This provision was a Change in Mandatory Program (CHIMP) estimated to increase spending by \$390 million over 10 years.

NOMINATION OF DAVID BERNHARDT

Mr. VAN HOLLEN. Mr. President, President Trump has nominated David Bernhardt to be Secretary of the Interior.

The Department of the Interior has broad management responsibilities over our public lands and waters, wildlife, and is also responsible for maintaining the trust responsibilities on behalf of the United States with Indian Country. They also have over 70,000 Federal employees.

There have been significant questions raised about Mr. Bernhardt's decisions and priorities in his position as Deputy Secretary and Acting Secretary that have directly benefitted his former clients, while harming our public lands and wildlife.

There are a number of troubling issues with Mr. Bernhardt's record on the critical issues before the Department of the Interior, but there are two that are of particular concern to me.

First, I am particularly concerned about Mr. Bernhardt's role in the Solicitor's Opinion, M-37050, on the Migratory Bird Treaty Act, MBTA. The Solicitor's Opinion, or M-Opinion, on the MBTA was released on December 22, 2017, without any public or scientific input or environmental analysis, abruptly removing longstanding protections for migratory birds. These protections have been implemented in a bipartisan manner from every administration since the early 1970s. It is likely that millions of birds have been saved thanks to this law and the leadership of the Department. The MBTA has significantly reduced the number of birds killed from oil waste pits and other threats, and it has provided accountability and recovery funds after oil spills such as Deepwater Horizon. This change has been opposed by 17 former Interior officials from every Republican and Democratic administration since the early 1970s, as well as Flyway Councils representing nearly every State wildlife agency in the country.

In letters exchanged between me and the Department of the Interior, they have admitted that due to the M-Opin-

ion on the MBTA, they will no longer be able to secure fines or penalties for violations of the MBTA from companies responsible for an oil spill that non-intentionally kills migratory birds similar to the British Petroleum (BP) Deepwater Horizon disaster of 2010, which killed an estimated 1,000,000 migratory birds.

Furthermore, despite the MBTA's strong record in saving birds through reasonable enforcement, one of Mr. Bernhardt's former clients, the Independent Petroleum Association of America, IPAA, urged the Department of the Interior to gut the MBTA and remove protections for birds and any requirements to take actions to minimize impacts to birds from their activities.

Just this week, we learned that there have been at least three oil spills recently that appear to have killed migratory birds, in which the Department of the Interior admitted in internal emails they can't respond to due to the MBTA M-Opinion.

So in the case of the MBTA, we see a dramatic change in the Department of the Interior's legal interpretation of a key wildlife law that appears to have benefitted a former client of Mr. Bernhardt.

The second issue of critical concern to me is offshore drilling. I hail from a coastal State and a State that is firmly opposed to any oil and gas drilling off of our coastline. Mr. Bernhardt has overseen the Bureau of Ocean Energy Management's, BOEM, development of an oil and gas leasing plan that dramatically expands risky offshore drilling and that has prompted bipartisan criticism at all levels of government. The Department of the Interior, under Mr. Bernhardt's leadership, has simultaneously been working to weaken offshore drilling safety standards put in place in response to the Deepwater Horizon oil spill and at the recommendation of a bipartisan commission that investigated the disaster.

I have serious questions about whether Mr. Bernhardt can do his job without confronting conflicts of interest at every turn, and I fear that he will put powerful special interests before the public interest.

For these reasons, I opposed David Bernhardt's nomination as Secretary of the Interior.

VOTE EXPLANATION

Ms. HARRIS. Mr. President, I was absent for vote No. 76 the motion to invoke cloture on Executive Calendar No. 200, the nomination of David Bernhardt to be Secretary of the Interior. Had I been present, I would have voted no on the motion to invoke cloture.

COLORADO RIVER DROUGHT CONTINGENCY PLAN AUTHORIZATION ACT

Ms. MCSALLY. Mr. President, on Monday, the Senate passed my bill, and yesterday, we passed identical House legislation to ensure this went to the President as quickly as possible. I would like to take a few minutes to thank those involved with these agreements and again highlight the importance of this historic achievement.

The Colorado River Drought Contingency Plan, also known as the DCP, was negotiated between the seven Colorado River Basin States to respond to this prolonged drought. It is designed to protect Lakes Mead and Powell from reaching certain critical water elevations that would trigger severe water supply and hydropower impacts, including the risk of reaching crisis levels where operational control of the Colorado River System is lost.

The set of five agreements that makes up the DCP builds off of the tools and water saving commitments made by the basin States in the 2007 Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lakes Powell and Mead to further address water security and respond to actual water conditions as demanded by responsible water resource management. These added savings bring the risk of the Mead hitting 1,000 feet over the next 7 years to near zero.

I am especially proud of the work done on these agreements in Arizona, which takes the biggest and most immediate reduction in water supply under the DCP. Through inclusive,

good-faith negotiations, cities, farmers, tribes, and conservations groups came together to make the tough decisions required to improve long-term water security and avert the looming water supply crisis.

I would like to thank and congratulate Governor Doug Ducey and his staff, the Arizona State legislature, Tom Buschatzke and his team at the Department of Water Resources, the CAWCD board, Ted Cooke and the CAP staff, Gila River Indian Community Governor Stephen Lewis and the Gila River Indian Community Tribal Council, Colorado River Indian Tribes Chairman Dennis Patch and the CRIT Tribal Council, and the dozens and dozens of ag, water, municipal, NGO, and other stakeholders, including the entire Arizona DCP Steering Committee, involved on this outstanding achievement that will improve Arizona's water security for years to come.

Work on the DCP has been underway for nearly 6 years. It has spanned the terms of two Presidents, three Interior Secretaries, and 13 Governors. The effort has seamlessly transitioned between Republican and Democrat administrations, both here in DC and out in the States, and I am proud of the swift action taken by Congress to authorize this agreement.

The Colorado River DCP Authorization Act was developed in a bipartisan and bicameral manner, and involved the Governors' representatives for each of the seven basin States. Responding to concerns of some in the House and Senate about potential unintended consequences of the legislative language proposed as part of the DCP agreements, several changes were made to provide assurances that the National Environmental Policy Act applies to future Federal actions outside the scope of existing environmental analysis and compliance done in the Upper and Lower Basins.

I would like to thank Senators CORTEZ MASTO, GARDNER, and BARRASSO, along with House Natural Resources Chairman RAÚL GRIJALVA and Ranking Member ROB BISHOP for working with me to reach this compromise legislation.

This exact statutory language is crafted to ensure water conservation activities in the Colorado River Basin can begin in 2019 and be built in to the Annual Operations Plans for 2020. Once the Colorado River Drought Contingency Plan Authorization Act is enacted, execution and implementation of the DCP can and should begin immediately, as all of the actions in the agreements authorized by this bill are well within the scope of existing NEPA and Endangered Species Act compliance in the Upper and Lower Basins. Specifically, the actions to be undertaken are within the analyses and range of effects reviewed in the 2007 final environmental impact statement on Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lakes Powell and

Mead, and the EISs and ESA documents prepared for operation of the Colorado River Storage Project Act initial storage unit reservoirs. Additional environmental compliance is only applicable should future Federal actions be undertaken that are outside the range of effects analyzed in those documents or the applicable Records of Decision.

In closing, I am proud to have led my colleagues from the seven basin States to get this DCP Authorization Act passed through Congress as quickly as possible, and I thank them for their hard work and support. The Colorado River DCP Act chooses the path of water conservation, compromise, and proactive water management over and litigation, conflict, and creation of a zero sum game on the River. I understand that there will be more work to be done after we have authorized the DCP, but we have made important progress in passing this critical legislation.

CORPS OF ENGINEERS FISCAL YEAR 2020 BUDGET REQUEST

Mr. ALEXANDER. Mr. President I ask unanimous consent that a copy of my opening statement at the Subcommittee on Energy and Water Development's budget hearing for the Corps of Engineers and Bureau of Reclamation's fiscal year 2020 budget request be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CORPS OF ENGINEERS FISCAL YEAR 2020 BUDGET REQUEST

Mr. ALEXANDER. First, I would like to thank our witnesses for being here today, and also Senator Feinstein, with whom I have the pleasure to work with again this year to draft the Energy and Water Appropriations bill.

Our witnesses today include: R.D. James, Assistant Secretary of the Army for Civil Works; Lieutenant General Todd Semonite, Chief of Engineers for the U.S. Army Corps of Engineers; Brenda Burman, Commissioner for the Bureau of Reclamation at the Department of the Interior; and Timothy R. Petty, Ph.D., Assistant Secretary for Water and Science at the Department of the Interior.

Based on the number of appropriations requests we receive each year, the Corps of Engineers is the federal government's most popular agency. Because this is so important to many Senators, Senator Feinstein and I have provided record level funding in a regular appropriations bill for the last four years.

The U.S. Army Corps of Engineers touches the lives of almost every American. The Corps maintains our inland waterways, it deepens and keeps our ports open, and its dams provide emission-free, renewable hydroelectric energy. The Corps also manages river levels to help prevent flooding. This year record rainfall caused the Missouri River to experience historic flooding, devastating parts of Iowa, Nebraska and Missouri.

I can recall when, after the Missouri and Mississippi rivers flooded in 2011, a room full of Senators showed up at a Senate Environment and Public Works Committee hearing to ask what went wrong and what went right

with disaster relief efforts. So, there's a real interest in what the Corps does.

So, last year, Senator Feinstein and I worked together to provide record funding for the Corps of Engineers—a total of \$7 billion. However, this year, the president's budget request only includes \$4.8 billion for the Corps—a dramatic reduction in spending. In my opinion, we should spend more, not less, on our nation's water infrastructure.

Today I will focus my questions on four main areas:

1. Making our nation's water infrastructure a priority and properly funding our inland waterways system;
2. Adequately funding our nation's ports and harbors;
3. Making sure the Corps has the resources it needs to respond to flooding and make repairs so they can continue to manage river levels, and;
4. Using a more common-sense approach to making decisions about which projects receive funding by looking at the "remaining benefit to cost ratio" of an ongoing project. Today, because of Office of Management and Budget rules, the Corps has to pretend a project is not already under construction when the Corps decides which projects will receive funding each year. This does not make any sense, and makes it harder to complete projects on time and on budget.

In 2012, Senator Graham, Senator Feinstein, and I said, "Let's ask what would a great country, the United States, want from its ports, locks, dams, and waterways in order to fully maximize them for our economic growth."

We asked everyone to focus first on what needed to be done and not get bogged down in the difficulties of how to pay for it. From these discussions, Congress took three important steps, focusing on properly funding our inland waterways system.

First, Congress passed a law that reduced the amount of money that comes from the Inland Waterways Trust Fund to replace Olmsted Lock, a project in Illinois and Kentucky that was soaking up almost all of the money that was available for inland waterway projects.

Second, we worked with the commercial waterways industry to establish a priority list for projects that needed to be funded, on which Chickamauga ranks near the top, in fourth place.

And third, we enacted a user fee increase that commercial barge owners asked to pay in order to provide additional funds to replace locks and dams across the country, including Chickamauga Lock.

These steps increased the amount of funding that was available for inland waterways projects from about \$85 million in fiscal year 2014 to \$105 million in fiscal year 2020. And Congress has followed through by appropriating all of the user fees that have been collected in the last five years. The user fees that are paid into the Inland Waterways Trust Fund by waterway users are matched with federal dollars, which allow the Corps of Engineers to make significant progress to address the backlog of work on our inland waterways.

But despite knowing the Inland Waterways Trust Fund would have \$105 million available for fiscal year 2020, the Administration's budget is only proposing to spend \$55.5 million—which leaves 47% of these funds sitting unspent in a Treasury account. Then we would not be spending the money for the intended purpose. And despite not spending the entire \$105 million in user fees from commercial barges, the administration's budget also includes a new user fee for inland waterways that would raise another \$1.8 billion over a 10-year window.