

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 7776  
OFFERED BY MR. GARAMENDI OF CALIFORNIA**

At the end of title I, add the following:

1 **SEC. 1 \_\_\_\_ . PILOT PROGRAM FOR NON-FEDERAL REPAIR**  
2 **AND RESTORATION OF CERTAIN FLOOD CON-**  
3 **TROL WORKS AND HURRICANE OR SHORE**  
4 **PROTECTION STRUCTURES AND PROJECTS.**

5 (a) ESTABLISHMENT.—The Secretary shall establish  
6 a pilot program to evaluate the benefits of allowing non-  
7 Federal interests to repair and restore eligible works that  
8 ordinarily would be repaired and restored by the Corps  
9 of Engineers using Federal funds, under section 5 of the  
10 Act of August 18, 1941 (33 U.S.C. 701n), in order to—

11 (1) reduce the backlog, and accelerate the re-  
12 pair and restoration, of eligible works;

13 (2) provide incentives to non-Federal interests  
14 to carry out the repair and restoration of eligible  
15 works by allowing any Federal and non-Federal  
16 funds that remain after a pilot project is complete  
17 to be used for the subsequent maintenance of the eli-  
18 gible works that was repaired and restored; and

1           (3) evaluate the technical, financial, and organi-  
2           zational benefits of allowing non-Federal interests to  
3           carry out the repair and restoration of eligible  
4           works.

5           (b) ADMINISTRATION.—

6           (1) NOTICE OF PROGRAM.—In carrying out the  
7           pilot program established under subsection (a), the  
8           Secretary shall, not later than 90 days after the date  
9           of enactment of this Act, and periodically thereafter  
10          in accordance with paragraph (3), publish a public  
11          notice containing—

12                   (A) a description of the pilot program;

13                   (B) a list of eligible works and a descrip-  
14                   tion of the necessary repairs and restoration at  
15                   each eligible works;

16                   (C) a statement inviting non-Federal inter-  
17                   ests to participate in the pilot program and to  
18                   carry out the repair and restoration of the eligi-  
19                   ble works;

20                   (D) a deadline for submitting applications  
21                   to participate in the pilot program.

22          (2) APPLICATIONS.—The Secretary shall re-  
23          quire that each application to participate in the pilot  
24          program—

1 (A) be submitted to the Division Com-  
2 mander of the Corps of Engineers Division in  
3 which the eligible works is located; and

4 (B) contain—

5 (i) a statement of the capability of the  
6 non-Federal interest submitting the appli-  
7 cation to repair and restore the applicable  
8 eligible works and to enter into an agree-  
9 ment under subsection (c); and

10 (ii) a proposed plan that describes  
11 how the repair and restoration of the ap-  
12 plicable eligible works will, at a minimum,  
13 restore the eligible works to the condition  
14 it was in before the damage that the Sec-  
15 retary determined made it eligible for re-  
16 pair and restoration under section 5 of the  
17 Act of August 18, 1941 (33 U.S.C. 701n)  
18 occurred, as identified in the notice pub-  
19 lished under paragraph (1);

20 (iii) a schedule for completing the re-  
21 pair and restoration that identifies key  
22 events and milestone dates, based on esti-  
23 mated funding levels; and

24 (iv) a letter of support from the non-  
25 Federal interest associated with the appli-

1 cable flood control works or hurricane or  
2 shore protection structure or project, if the  
3 applicant is not such non-Federal interest.

4 (3) ROLLING PROGRAM.—The Secretary shall  
5 issue in accordance with paragraph (1), on a regular  
6 and timely basis for the duration of the pilot pro-  
7 gram, such additional notices to the public and invi-  
8 tations to participate in the pilot program as are  
9 necessary to ensure that the list of eligible works is  
10 current.

11 (c) AGREEMENTS.—

12 (1) REQUIREMENTS.—Before a non-Federal in-  
13 terest initiates the repair and restoration of an eligi-  
14 ble works pursuant to this section, the Secretary and  
15 the non-Federal interest shall enter into a legally en-  
16 forceable agreement that—

17 (A) identifies the eligible works, or por-  
18 tions thereof, that will be repaired or restored;

19 (B) sets forth the estimated cost of the re-  
20 pair and restoration, based on a current Corps  
21 of Engineers estimate of the cost of the Corps  
22 of Engineers carrying out the repair and res-  
23 toration;

24 (C) authorizes the non-Federal interest to  
25 carry out the repair and restoration;

1 (D) specifies that, in carrying out the re-  
2 pair and restoration, the non-Federal interest  
3 may take measures and carry out activities to  
4 reduce the costs, or accelerate the delivery of  
5 the repair and restoration, of the eligible works,  
6 if such measures and activities do not violate  
7 applicable law, eliminate or alter procedures re-  
8 quired by Federal regulation, reduce the quality  
9 or performance of the eligible works over their  
10 useful life, or increase the probability or mag-  
11 nitude of loss of life;

12 (E) requires the Secretary to make a pay-  
13 ment to the non-Federal interest that is equal  
14 to 75 percent of the estimated cost of the repair  
15 and restoration set forth under subparagraph  
16 (B), using funds made available to the Sec-  
17 retary for the repair and restoration of eligible  
18 works under section 5 of the Act of August 18,  
19 1941 (33 U.S.C. 701n);

20 (F) requires the non-Federal interest to  
21 pay any sums above the payment made to the  
22 non-Federal interest under subparagraph (E)  
23 that are necessary to pay for the costs of com-  
24 pleting the repair and restoration;

1           (G) specifies that the non-Federal interest  
2           may use any sums that remain from the pay-  
3           ment made to the non-Federal interest under  
4           subparagraph (E) after the repair and restora-  
5           tion of the eligible works is complete for the  
6           subsequent maintenance of the eligible works  
7           that is desired by and of benefit to the non-  
8           Federal interest; and

9           (H) contains such other provisions that the  
10          Secretary and non-Federal interest agree are  
11          consistent with this section.

12          (2) NOTICE OF AGREEMENTS.—In each year in  
13          which the Secretary enters into an agreement under  
14          this section, the Secretary shall publish a notice con-  
15          taining a list of all such agreements.

16          (3) NUMBER OF AGREEMENTS.—The Secretary  
17          is authorized to enter into not more than 20 agree-  
18          ments under this section.

19          (d) TERMINATION.—The authority of the Secretary  
20          to enter into agreements under this section shall terminate  
21          on the earlier of—

22                (1) the date that is 5 years after the date of en-  
23                actment of this Act; or

24                (2) the date on which the Secretary enters into  
25                the twentieth agreement under this section.

1 (e) REPORT TO CONGRESS.—Not later than 1 year  
2 after the date on which the authority of the Secretary to  
3 enter into agreements under this section terminates under  
4 subsection (d), the Secretary shall submit to the Com-  
5 mittee on Environment and Public Works of the Senate  
6 and the Committee on Transportation and Infrastructure  
7 of the House of Representatives a report describing the  
8 number of agreements entered into under this section, any  
9 benefits resulting from the participation of non-Federal  
10 entities in the repair and restoration of eligible works  
11 under the pilot program established under this section,  
12 and the effectiveness of the pilot program in reducing the  
13 backlog, and accelerating the repair and restoration, of eli-  
14 gible works.

15 (f) DEFINITIONS.—In this section:

16 (1) ELIGIBLE WORKS.—The term “eligible  
17 works” means a flood control works that has been  
18 damaged by flood, or a hurricane or shore protection  
19 structure or project that has been damaged or de-  
20 stroyed by wind, wave, or water action of other than  
21 an ordinary nature, that the Secretary determines is  
22 eligible for repair and restoration, and ordinarily  
23 would be carried out using Federal funds, under sec-  
24 tion 5 of the Act of August 18, 1941 (33 U.S.C.  
25 701n).

1           (2) NON-FEDERAL INTEREST.—The term “non-  
2       Federal interest” has the meaning given that term  
3       in section 221(b) of the Flood Control Act of 1970  
4       (42 U.S.C. 1962d-5b(b)).

5           (3) REPAIR AND RESTORATION.—The term “re-  
6       pair and restoration” means all construction and re-  
7       lated activities necessary to repair and restore the  
8       eligible works, including engineering, design, permit-  
9       ting, and mitigation.

