

109TH CONGRESS  
1ST SESSION

# S. 721

To authorize the Secretary of the Army to carry out a program for ecosystem restoration for the Louisiana Coastal Area, Louisiana.

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IN THE SENATE OF THE UNITED STATES

APRIL 6, 2005

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

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## A BILL

To authorize the Secretary of the Army to carry out a program for ecosystem restoration for the Louisiana Coastal Area, Louisiana.

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. LOUISIANA COASTAL AREA ECOSYSTEM RES-**  
4       **TORATION, LOUISIANA.**

5       (a) IN GENERAL.—The Secretary may carry out a  
6       program for ecosystem restoration, Louisiana Coastal  
7       Area, Louisiana, substantially in accordance with the re-  
8       port of the Chief of Engineers, dated January 31, 2005.

9       (b) PRIORITIES.—

(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary shall give priority to—

(A) any portion of the program identified in the report described in subsection (a) as a critical restoration feature;

(B) any Mississippi River diversion project that—

(i) protects a major population area of the Pontchartrain, Pearl, Breton Sound, Barataria, or Terrebonne Basin; and

(ii) produces an environmental benefit to the coastal area of the State of Louisiana or the State of Mississippi; and

(C) any barrier island, or barrier shoreline, project that—

(i) is carried out in conjunction with a Mississippi River diversion project; and

(ii) protects a major population area.

(c) NON-FEDERAL SHARE.—

(1) CREDIT FOR INTEGRAL WORK.—The Secretary shall provide credit (including in-kind credit) toward the non-Federal share for the cost of any work carried out by the non-Federal interest on a project that is part of the program under subsection

1 (a) if the Secretary determines that the work is inte-  
2 gral to the project.

3 (2) CARRYOVER OF CREDITS.—A credit pro-  
4 vided under paragraph (1) may be carried over be-  
5 tween authorized projects in the Louisiana Coastal  
6 Area ecosystem restoration program.

7 (3) NONGOVERNMENTAL ORGANIZATIONS.—A  
8 nongovernmental organization shall be eligible to  
9 contribute all or a portion of the non-Federal share  
10 of the cost of a project under this section.

11 (d) COMPREHENSIVE PLAN.—

12 (1) IN GENERAL.—The Secretary, in coordina-  
13 tion with the Governor of the State of Louisiana,  
14 shall—

15 (A) develop a plan for protecting, pre-  
16 serving, and restoring the coastal Louisiana  
17 ecosystem; and

18 (B) not later than 1 year after the date of  
19 enactment of this Act, and every 5 years there-  
20 after, submit to Congress the plan, or an up-  
21 date of the plan.

22 (2) INCLUSIONS.—The comprehensive plan  
23 shall include a description of—

24 (A) the framework of a long-term program  
25 that provides for the comprehensive protection,

1 conservation, and restoration of the wetlands,  
2 estuaries (including the Barataria-Terrebonne  
3 estuary), barrier islands, shorelines, and related  
4 land and features of the coastal Louisiana eco-  
5 system, including protection of a critical re-  
6 source, habitat, or infrastructure from the ef-  
7 fects of a coastal storm, a hurricane, erosion, or  
8 subsidence;

9 (B) the means by which a new technology,  
10 or an improved technique, can be integrated  
11 into the program under subsection (a); and

12 (C) the role of other Federal agencies and  
13 programs in carrying out the program under  
14 subsection (a).

15 (3) CONSIDERATION.—In developing the com-  
16 prehensive plan, the Secretary shall consider the ad-  
17 visability of integrating into the program under sub-  
18 section (a)—

19 (A) a related Federal or State project car-  
20 ried out on the date on which the plan is devel-  
21 oped;

22 (B) an activity in the Louisiana Coastal  
23 Area; or

24 (C) any other project or activity identified  
25 in—

- 1 (i) the Mississippi River and Tribu-
- 2 taries program;
- 3 (ii) the Louisiana Coastal Wetlands
- 4 Conservation Plan;
- 5 (iii) the Louisiana Coastal Zone Man-
- 6 agement Plan; or
- 7 (iv) the plan of the State of Louisiana
- 8 entitled “Coast 2050: Toward a Sustain-
- 9 able Coastal Louisiana”.

10 (e) TASK FORCE.—

11 (1) ESTABLISHMENT.—There is established a

12 task force to be known as the “Coastal Louisiana

13 Ecosystem Protection and Restoration Task Force”

14 (referred to in this subsection as the “Task Force”).

15 (2) MEMBERSHIP.—The Task Force shall con-

16 sist of the following members (or, in the case of the

17 head of a Federal agency, a designee at the level of

18 Assistant Secretary or an equivalent level):

19 (A) The Secretary.

20 (B) The Secretary of the Interior.

21 (C) The Secretary of Commerce.

22 (D) The Administrator of the Environ-

23 mental Protection Agency.

24 (E) The Secretary of Agriculture.

25 (F) The Secretary of Transportation.

1 (G) The Secretary of Energy.

2 (H) The Secretary of Homeland Security.

3 (I) 3 representatives of the State of Lou-  
4 isiana appointed by the Governor of that State.

5 (3) DUTIES.—The Task Force shall make rec-  
6 ommendations to the Secretary regarding—

7 (A) policies, strategies, plans, programs,  
8 projects, and activities for addressing conserva-  
9 tion, protection, restoration, and maintenance  
10 of the coastal Louisiana ecosystem;

11 (B) financial participation by each agency  
12 represented on the Task Force in conserving,  
13 protecting, restoring, and maintaining the  
14 coastal Louisiana ecosystem, including rec-  
15 ommendations—

16 (i) that identify funds from current  
17 agency missions and budgets; and

18 (ii) for coordinating individual agency  
19 budget requests; and

20 (C) the comprehensive plan under sub-  
21 section (d).

22 (4) WORKING GROUPS.—The Task Force may  
23 establish such working groups as the Task Force de-  
24 termines to be necessary to assist the Task Force in  
25 carrying out this subsection.

1           (5) APPLICATION OF THE FEDERAL ADVISORY  
2           COMMITTEE ACT.—The Federal Advisory Committee  
3           Act (5 U.S.C. App.) shall not apply to the Task  
4           Force or any working group of the Task Force.

5           (f) MISSISSIPPI RIVER GULF OUTLET.—

6           (1) IN GENERAL.—Not later than 1 year after  
7           the date of enactment of this Act, the Secretary  
8           shall develop a plan for modifying the Mississippi  
9           River Gulf Outlet that addresses—

10                   (A) wetland losses attributable to the Mis-  
11                   sissippi River Gulf Outlet;

12                   (B) channel bank erosion;

13                   (C) hurricane storm surges;

14                   (D) saltwater intrusion;

15                   (E) navigation interests; and

16                   (F) environmental restoration.

17           (2) REPORT.—If the Secretary determines nec-  
18           essary, the Secretary, in conjunction with the Chief  
19           of Engineers, shall submit to Congress a report rec-  
20           ommending modifications to the Mississippi River  
21           Gulf Outlet, including measures to prevent the intru-  
22           sion of saltwater into the Outlet.

23           (g) SCIENCE AND TECHNOLOGY.—

1           (1) IN GENERAL.—The Secretary shall establish  
2       a coastal Louisiana ecosystem science and tech-  
3       nology program.

4           (2) PURPOSES.—The purposes of the program  
5       established by paragraph (1) shall be—

6               (A) to identify any uncertainty relating to  
7       the physical, chemical, geological, biological,  
8       and cultural baseline conditions in coastal Lou-  
9       isiana;

10              (B) to improve knowledge of the physical,  
11       chemical, geological, biological, and cultural  
12       baseline conditions in coastal Louisiana; and

13              (C) to identify and develop technologies,  
14       models, and methods to carry out this sub-  
15       section.

16           (3) WORKING GROUPS.—The Secretary may es-  
17       tablish such working groups as the Secretary deter-  
18       mines to be necessary to assist the Secretary in car-  
19       rying out this subsection.

20           (4) CONTRACTS AND COOPERATIVE AGREE-  
21       MENTS.—In carrying out this subsection, the Sec-  
22       retary may enter into a contract or cooperative  
23       agreement with an individual or entity (including a  
24       consortium of academic institutions in Louisiana  
25       and Mississippi) with scientific or engineering exper-



1       tise in the restoration of aquatic and marine eco-  
 2       systems for coastal restoration and enhancement  
 3       through science and technology.

4       (h) ANALYSIS OF BENEFITS.—

5           (1) IN GENERAL.—Notwithstanding section 209  
 6       of the Flood Control Act of 1970 (42 U.S.C. 1962–  
 7       2) or any other provision of law, in carrying out an  
 8       activity to conserve, protect, restore, or maintain the  
 9       coastal Louisiana ecosystem, the Secretary may de-  
 10      termine that the environmental benefits provided by  
 11      the program under this section outweigh the dis-  
 12      advantage of an activity under this section.

13          (2) DETERMINATION OF COST-EFFECTIVE-  
 14      NESS.—If the Secretary determines that an activity  
 15      under this section is cost-effective, no further eco-  
 16      nomic justification for the activity shall be required.

17      (i) APPORTIONMENT.—

18          (1) IN GENERAL.—Not later than 180 days  
 19      after the date of enactment of this Act, the Sec-  
 20      retary, in consultation with the non-Federal interest,  
 21      shall enter into a contract with the National Acad-  
 22      emy of Sciences under which the National Academy  
 23      of Sciences shall conduct a study.

1           (2) IDENTIFICATION OF CAUSES AND  
2 SOURCES.—The study under paragraph (1) shall, to  
3 the maximum extent practicable, identify—

4           (A) each cause of degradation of the Lou-  
5 isiana Coastal Area ecosystem that is attrib-  
6 utable to an action by the Secretary;

7           (B) an apportionment of the sources of  
8 such degradation;

9           (C) any potential reduction in the amount  
10 of Federal emergency response funds that  
11 would occur as a result of ecosystem restoration  
12 in the Louisiana Coastal Area; and

13           (D) the reduction in costs associated with  
14 protection and maintenance of infrastructure  
15 that is threatened or damaged as a result of  
16 coastal erosion in Louisiana that would occur as  
17 a result of ecosystem restoration in the Lou-  
18 isiana Coastal Area.

19       (j) REPORT.—Not later than July 1, 2006, the Sec-  
20 retary, in conjunction with the Chief of Engineers, shall  
21 submit to Congress a report describing the features in-  
22 cluded in table 3 of the report described in subsection (a).

23       (k) PROJECT MODIFICATIONS.—

24           (1) REVIEW.—The Secretary, in cooperation  
25 with any non-Federal interest, shall review each fed-

1 erally-authorized water resources project in the  
2 coastal Louisiana area in existence on the date of  
3 enactment of this Act to determine whether—

4 (A) each project is in accordance with the  
5 program under subsection (a); and

6 (B) the project could contribute to eco-  
7 system restoration under subsection (a) through  
8 modification of the operations or features of the  
9 project.

10 (2) PUBLIC NOTICE AND COMMENT.—Before  
11 modifying an operation or feature of a project under  
12 paragraph (1)(B), the Secretary shall provide an op-  
13 portunity for public notice and comment.

14 (3) REPORT.—

15 (A) IN GENERAL.—Before modifying an  
16 operation or feature of a project under para-  
17 graph (1)(B), the Secretary shall submit to the  
18 Committee on Environment and Public Works  
19 of the Senate and the Committee on Transpor-  
20 tation and Infrastructure of the House of Rep-  
21 resentatives a report describing the modifica-  
22 tion.

23 (B) INCLUSION.—A report under para-  
24 graph (2)(B) shall include such information re-

1           lating to the timeline and cost of a modification  
2           as the Secretary determines to be relevant.

3           (4) AUTHORIZATION OF APPROPRIATIONS.—

4           There is authorized to be appropriated to the Sec-  
5           retary to carry out modifications under this sub-  
6           section \$10,000,000.

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