AMENDMENT NO.________ Calendar No.______

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—112th Cong., 1st Sess.

S. 1400

To restore the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of Gulf Coast States, to create jobs and revive the economic health of communities adversely affected by the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, and for other purposes.

Referred to the Committee on ____________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mrs. BOXER (for herself, Mr. WHITEHOUSE, Mr. VITTER, and Mr. SESSIONS)

Viz:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2011".

SEC. 2. FINDINGS.

Congress finds that—

(1) as a result of decades of oil and gas development in the Gulf of Mexico, producing and non-producing States in the Gulf Coast region have borne substantial risks of environmental damage and economic harm, all of which culminated with the explosion on, and sinking of, the mobile offshore drilling unit *Deepwater Horizon*;

(2) the discharge of oil in the Gulf of Mexico that began following the explosion on, and sinking of, the mobile offshore drilling unit *Deepwater Horizon* has caused substantial environmental destruction and economic harm to the people and communities of the Gulf Coast region;

(3)(A) in the report entitled ''America's Gulf Coast—A Long Term Recovery Plan after the Deepwater Horizon Oil Spill'', the Secretary of the Navy stated, ''Together, the Gulf's tourism and commercial and recreational fishing industries contribute tens of billions of dollars to the U.S. economy. More than 90 percent of the nation's offshore crude oil and natural gas is produced in the Gulf, and the federal treasury receives roughly $4.5 billion dollars every year from offshore leases and royalties. And it is in the Gulf of Mexico that nearly one third of seafood production in the continental U.S. is harvested.

America needs a healthy and resilient Gulf Coast, one that can support the diverse economies, communities, and cultures of the region.'';

(B) to address the needs of the Gulf Coast region, the Secretary of the Navy stated, ''It is recommended that the President urge Congress to pass legislation that would dedicate a significant amount of any civil penalties recovered under the Clean Water Act from parties responsible for the Deepwater Horizon oil spill to those directly impacted by that spill.''; and

(C) to mitigate local challenges and help restore the resiliency of communities adversely affected by the spill, the Secretary of the Navy stated that the legislation described in subparagraph (B) should ''[b]uild economic development strategies around community needs, and take particular efforts to address the needs of disadvantaged, underserved, and resource constrained communities'';

(4) in a final report to the President, the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling—

(A) stated, ''Estimates of the cost of Gulf restoration, including but not limited to the Mississippi Delta, vary widely, but according to testimony before the Commission, full restoration of the Gulf will require $15 billion to $20 billion: a minimum of $500 million annually for 30 years.''; and

(B) like the Secretary of the Navy, recommended that, to meet the needs described in subparagraph (A), a substantial portion of applicable penalties under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) be dedicated to long-term restoration of the Gulf of Mexico;

(5) taking into account the risks borne by Gulf Coast States for decades of oil and gas development and the environmental degradation suffered by the Gulf Coast ecosystem, the amounts received by the United States as payment of administrative, civil, or criminal penalties in connection with the explosion on, and sinking of, the mobile offshore drilling unit *Deepwater Horizon* should be expended—

(A) to restore the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, barrier islands, dunes, coastal wetlands, and economy of the Gulf Coast; and

(B) to address the associated economic harm suffered by the people and communities of the region;

(6) the projects and programs authorized by this Act and the amendments made by this Act should be carried out pursuant to contracts awarded in a manner that provides a preference to individuals and entities that reside in, are headquartered in, or are principally engaged in business in a Gulf Coast State; and

(7) Federal, State, and local officials should seek—

(A) to leverage the financial resources made available under this Act; and

(B) to the maximum extent practicable, to ensure that projects funded pursuant to this Act complement efforts planned or in operation to revitalize the natural resources and economic health of the Gulf Coast region.

SEC. 3. GULF COAST RESTORATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the ''Gulf Coast Restoration Trust Fund'' (referred to in this section as the ''Trust Fund''), consisting of such amounts as are deposited in the Trust Fund under this Act or any other provision of law.

(b) TRANSFERS.—The Secretary of the Treasury shall deposit in the Trust Fund an amount equal to 80 percent of all administrative and civil penalties paid by responsible parties after the date of enactment of this Act in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon pursuant to a court order, negotiated settlement, or other instrument in accordance with section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321).

(c) EXPENDITURES.—Amounts in the Trust Fund, including interest earned on advances to the Trust Fund and proceeds from investment under subsection (d), shall—

(1) be available for expenditure, without further appropriation, solely for the purpose and eligible activities of this Act; and

(2) remain available until expended, without fiscal year limitation.

(d) INVESTMENT.—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from, any such investment shall be available for expenditure in accordance with this Act and the amendments made by this Act.

(e) ADMINISTRATION.—Not later than 180 days after the date of enactment of this Act, after providing notice and an opportunity for public comment, the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, shall establish such procedures as the Secretary determines to be necessary to deposit amounts in, and expend amounts from, the Trust Fund pursuant to this Act, including—

(1) procedures to assess whether the programs and activities carried out under this Act and the amendments made by this Act achieve compliance with applicable requirements, including procedures by which the Secretary of the Treasury may determine whether an expenditure by a Gulf Coast State or coastal political subdivision (as those terms are defined in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321)) pursuant to such a program or activity achieves compliance;

(2) auditing requirements to ensure that amounts in the Trust Fund are expended as intended; and

(3) procedures for identification and allocation of funds available to the Secretary under other pro-

visions of law that may be necessary to pay the administrative expenses directly attributable to the management of the Trust Fund.

SEC. 4. GULF COAST NATURAL RESOURCES RESTORATION AND ECONOMIC RECOVERY.

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (a)—

(A) in paragraph (25)(B), by striking ''and'' at the end;

(B) in paragraph (26)(D), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(27) the term 'Chairperson' means the Chairperson of the Council;

''(28) the term 'coastal political subdivision' means any local political jurisdiction that is immediately below the State level of government, including a county, parish, or borough, with a coastline that is contiguous with any portion of the United States Gulf of Mexico;

''(29) the term 'Comprehensive Plan' means the comprehensive plan developed by the Council pursuant to subsection (t);

"(30) the term 'Council' means the Gulf Coast Ecosystem Restoration Council established pursuant to subsection (t);

"(31) the term 'Deepwater Horizon oil spill' means the blowout and explosion of the mobile offshore drilling unit Deepwater Horizon that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment;

"(32) the term 'Gulf Coast ecosystem' means—

"(A) in the Gulf Coast States, the coastal zones (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453), except that, in this section, the term 'coastal zones' includes land within the coastal zones that is held in trust by, or the use of which is by law subject solely to the discretion of, the Federal Government or officers or agents of the Federal Government) that border the Gulf of Mexico;

"(B) any adjacent land, water, and watersheds, that are within 25 miles of the coastal zones described in subparagraph (A) of the Gulf Coast States; and

"(C) all Federal waters in the Gulf of Mexico;

"(33) the term 'Gulf Coast State' means any of the States of Alabama, Florida, Louisiana, Mississippi, and Texas; and

"(34) the term 'Trust Fund' means the Gulf Coast Restoration Trust Fund established pursuant to section 3 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2011.";

(2) in subsection (s), by inserting "except as provided in subsection (t)" before the period at the end; and

(3) by adding at the end the following:

"(t) GULF COAST RESTORATION AND RECOVERY.—

"(1) STATE ALLOCATION AND EXPENDITURES.—

"(A) IN GENERAL.—Of the total amounts made available in any fiscal year from the Trust Fund, 35 percent shall be available, in accordance with the requirements of this section, to the Gulf Coast States in equal shares for expenditure for ecological and economic restoration of the Gulf Coast ecosystem in accordance with this subsection.

"(B) USE OF FUNDS.—

"(i) ELIGIBLE ACTIVITIES.—Amounts provided to the Gulf States under this subsection may only be used to carry out 1 or more of the following activities:

"(I) Coastal restoration projects and activities, including conservation and coastal land acquisition.

"(II) Mitigation of damage to, and restoration of, fish, wildlife, or natural resources.

"(III) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring.

"(IV) Programs to promote tourism in a Gulf Coast State, including recreational fishing.

"(V) Programs to promote the consumption of seafood produced from the Gulf Coast ecosystem.

"(VI) Programs to promote education regarding the natural resources of the Gulf Coast ecosystem.

"(VII) Planning assistance.

"(VIII) Workforce development and job creation.

"(IX) Improvements to or upon State parks located in coastal areas affected by the Deepwater Horizon oil spill.

"(X) Mitigation of the ecological and economic impact of outer Continental Shelf activities and the impacts of the Deepwater Horizon oil spill or promotion of the long-term ecological or economic recovery of the Gulf Coast ecosystem through the funding of infrastructure projects.

"(XI) Coastal flood protection and infrastructure directly affected by coastal wetland losses, beach erosion, or the impacts of the Deepwater Horizon oil spill.

"(XII) Administrative costs of complying with this subsection.

"(ii) LIMITATION.—

"(I) IN GENERAL.—Of the amounts received by a Gulf State under this subsection not more than 3 percent may be used for administrative costs eligible under clause (i)(XII).

"(II) PROHIBITION ON USE FOR IMPORTED SEAFOOD.—None of the funds made available under this subsection shall be used for any program to support or promote imported seafood or any seafood product that is not harvested from the Gulf Coast ecosystem.

"(C) COASTAL POLITICAL SUBDIVISIONS.—

"(i) IN GENERAL.—In the case of a State where the coastal zone includes the entire State—

"(I) 75 percent of funding shall be provided to the 8 disproportionally affected counties impacted by the Deepwater Horizon Oil Spill; and

"(II) 25 percent shall be provided to nondisproportionately impacted counties within the State.

"(ii) LOUISIANA.—Of the total amounts made available to the State of Louisiana under this paragraph:

"(I) 70 percent shall be provided directly to the State in accordance with this subsection.

"(II) 30 percent shall be provided directly to parishes in the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the State of Louisiana according to the following weighted formula:

"(aa) 40 percent based on the weighted average of miles of the parish shoreline oiled.

"(bb) 40 percent based on the weighted average of the population of the parish.

"(cc) 20 percent based on the weighted average of the land mass of the parish.

"(iii) CONDITIONS.—

"(I) LAND USE PLAN.—As a condition of receiving amounts allocated under clause (ii), the chief executive of the eligible parish shall certify to the Governor of the State that the parish has completed a comprehensive land use plan.

"(II) OTHER CONDITIONS.—A coastal political subdivision receiving funding under this subsection shall meet all of the conditions in subparagraph (D).

"(D) CONDITIONS.—As a condition of receiving amounts from the Trust Fund, a Gulf Coast State, including the entities described in subparagraph (E), or a coastal political subdivision shall—

"(i) agree to meet such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund will be used in accordance with this subsection;

"(ii) certify in such form and in such manner as the Secretary of the Treasury determines necessary that the project or program for which the Gulf Coast State or coastal political subdivision is requesting amounts—

"(I) is designed to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, or economy of the Gulf Coast;

"(II) carries out 1 or more of the activities described in subparagraph (B)(i);

"(III) was selected based on meaningful input from the public, including broad-based participation from individuals, businesses, and nonprofit organizations; and

"(IV) in the case of a natural resource protection or restoration project, is based on the best available science;

"(iii) certify that the project or program and the awarding of a contract for the expenditure of amounts received under this subsection are consistent with the standard procurement rules and regulations governing a comparable project or program in that State, including all applicable competitive bidding and audit requirements; and

"(iv) develop and submit a multiyear implementation plan for use of those funds.

"(E) APPROVAL BY STATE ENTITY, TASK FORCE, OR AGENCY.—The following Gulf Coast State entities, task forces, or agencies shall carry out the duties of a Gulf Coast State pursuant to this paragraph:

"(i) ALABAMA.—

"(I) IN GENERAL.—In the State of Alabama, the Alabama Gulf Coast Recovery Council, which shall be comprised of only the following:

"(aa) The Governor of Alabama, who shall also serve as Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council.

"(bb) The Director of the Alabama State Port Authority, who shall also serve as Vice Chairperson and preside over the meetings of the Alabama Gulf

Coast Recovery Council in the absence of the Chairperson.

"(cc) The Chairman of the Baldwin County Commission.

"(dd) The President of the Mobile County Commission.

"(ee) The Mayor of the city of Bayou La Batre.

"(ff) The Mayor of the town of Dauphin Island.

"(gg) The Mayor of the city of Fairhope.

"(hh) The Mayor of the city of Gulf Shores.

"(ii) The Mayor of the city of Mobile.

"(jj) The Mayor of the city of Orange Beach.

"(II) VOTE.—Each member of the Alabama Gulf Coast Recovery Council shall be entitled to 1 vote.

"(III) MAJORITY VOTE.—All decisions of the Alabama Gulf Coast Recovery Council shall be made by majority vote.

"(ii) LOUISIANA.—In the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana.

"(iii) MISSISSIPPI.—In the State of Mississippi, the Mississippi Department of Environmental Quality.

"(F) COMPLIANCE WITH ELIGIBLE ACTIVITIES.—If the Secretary of the Treasury determines that an expenditure by a Gulf Coast State or coastal political subdivision of amounts made available under this subsection does not meet 1 of the activities described in subparagraph (B)(i), the Secretary shall make no additional amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until such time as an amount equal to the amount expended for the unauthorized use—

"(i) has been deposited by the Gulf Coast State or coastal political subdivision in the Trust Fund; or

"(ii) has been authorized by the Secretary of the Treasury for expenditure by the Gulf Coast State or coastal political subdivision for a project or program that meets the requirements of this subsection.

"(G) COMPLIANCE WITH CONDITIONS.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this subsection, including the conditions of subparagraph (D), where applicable, the Secretary of the Treasury shall make no amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until all conditions of this subsection are met.

"(H) PUBLIC INPUT.—In meeting any condition of this subsection, a Gulf Coast State may use an appropriate procedure for public consultation in that Gulf Coast State, including consulting with 1 or more established task forces or other entities, to develop recommendations for proposed projects and programs that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

"(I) PREVIOUSLY APPROVED PROJECTS AND PROGRAMS.—A Gulf Coast State or coastal political subdivision shall be considered to have met the conditions of subparagraph (D) for a specific project or program if, before the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2011—

"(i) the Gulf Coast State or coastal political subdivision has established conditions for carrying out projects and programs that are substantively the same as the conditions described in subparagraph (D); and

"(ii) the applicable project or program carries out 1 or more of the activities described in subparagraph (B)(ii).

"(J) CONSULTATION WITH COUNCIL.—In carrying out this subsection, each Gulf Coast State shall seek the input of the Chairperson of the Council to identify large-scale projects that may be jointly supported by that Gulf Coast State and by the Council pursuant to the Comprehensive Plan with amounts provided under this subsection.

"(K) NON-FEDERAL MATCHING FUNDS.—

“(i) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State from the Trust Fund to satisfy the non-Federal share of the cost of any project or program authorized by Federal law that meets the eligible use requirements under subparagraph (B)(i).

“(ii) EFFECT ON OTHER FUNDS.—The use of funds made available from the Trust Fund to satisfy the non-Federal share of the cost of a project or program that meets the requirements of clause (i) shall not affect the priority in which other Federal funds are allocated or awarded.

“(L) LOCAL PREFERENCE.—In awarding contracts to carry out a project or program under this subsection, a Gulf Coast State or coastal political subdivision may give a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in, a Gulf Coast State.

“(M) UNUSED FUNDS.—Any Funds not identified in an implementation plan by a State or coastal political subdivision in accordance with subparagraph (D)(iv) shall remain in the Trust Fund until such time as the State or coastal political subdivision to which the funds have been allocated develops and submits a plan identifying uses for those funds in accordance with subparagraph (D)(iv).

"(N) JUDICIAL REVIEW.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this subsection, including the conditions of subparagraph (D), the Gulf Coast State or coastal political subdivision may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking such review.

"(2) COUNCIL ESTABLISHMENT AND ALLOCATION.—

"(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, 60 percent shall be disbursed to the Council to carry out the Comprehensive Plan.

"(B) COUNCIL EXPENDITURES.—

"(i) IN GENERAL.—In accordance with this paragraph, the Council shall expend funds made available from the Trust Fund to undertake projects and programs that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

"(ii) ALLOCATION AND EXPENDITURE PROCEDURES.—The Secretary of the Treasury shall develop such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund to the Council to implement the Comprehensive Plan will be used in accordance with this paragraph.

"(iii) ADMINISTRATIVE EXPENSES.—Of the amounts received by the Council under this subsection, not more than 3 percent may be used for administrative expenses, including staff.

"(C) GULF COAST ECOSYSTEM RESTORATION COUNCIL.—

"(i) ESTABLISHMENT.—There is established as an independent entity in the Federal Government a council to be known as the 'Gulf Coast Ecosystem Restoration Council'.

"(ii) MEMBERSHIP.—The Council shall consist of the following members, or in the case of a Federal agency, a designee at the level of the Assistant Secretary or the equivalent:

"(I) The Chair of the Council on Environmental Quality.

"(II) The Secretary of the Interior.

"(III) The Secretary of the Army.

"(IV) The Secretary of Commerce.

"(V) The Administrator of the Environmental Protection Agency.

"(VI) The Secretary of Agriculture.

"(VII) The head of the department in which the Coast Guard is operating.

"(VIII) The Governor of the State of Alabama.

"(IX) The Governor of the State of Florida.

"(X) The Governor of the State of Louisiana.

"(XI) The Governor of the State of Mississippi.

"(XII) The Governor of the State of Texas.

"(iii) ALTERNATE.—A Governor appointed to the Council by the President may designate an alternate to represent the Governor on the Council and vote on behalf of the Governor.

"(iv) CHAIRPERSON.—From among the Federal agency members of the Council, the representatives of States on the Council shall select, and the President shall appoint, 1 Federal member to serve as Chairperson of the Council.

"(v) PRESIDENTIAL APPOINTMENT.—All Council members shall be appointed by the President.

"(vi) COUNCIL ACTIONS.—

"(I) In general.—Subject to subclause (IV), significant actions by the Council shall require the affirmative vote of the Federal Chairperson and a majority of the State members to be effective.

"(II) Inclusions.—Significant actions include but are not limited to—

"(aa) approval of a Comprehensive Plan and future revisions to a Comprehensive Plan;

"(bb) approval of State plans pursuant to paragraph (3)(B)(iii); and

"(cc) approval of reports to Congress pursuant to clause (vii)(X).

"(III) Quorum.—A quorum of State members shall be required to be present for the Council to take any significant action.

"(IV) Affirmative vote requirement deemed met.—For approval of State plans pursuant to paragraph (3)(B)(iv), the certification by a State member of the Council that the plan satisfies all requirements of clauses (i) and (ii) of paragraphs (3)(B), when joined by an affirmative vote of the Federal Chairperson of the Council, is deemed to satisfy the requirements for affirmative votes under subclause (I).

"(V) PUBLIC TRANSPARENCY.—Appropriate actions of the Council, including votes on significant actions and associated deliberations, shall be made available to the public.

"(vii) DUTIES OF COUNCIL.—The Council shall—

"(I) develop the Comprehensive Plan, and future revisions to the Comprehensive Plan;

"(II) identify as soon as practicable the projects that—

"(aa) have been authorized prior to the date of enactment of this subsection but not yet commenced; and "(bb) if implemented quickly, would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, barrier islands, dunes, and coastal wetlands of the Gulf Coast ecosystem;

"(III) coordinate the development of consistent policies, strategies, plans, and activities by Federal agencies, State and local governments, and private sector entities for addressing the restoration and protection of the Gulf Coast ecosystem;

"(IV) establish such other advisory committee or committees as may be necessary to assist the Council, including a scientific advisory committee and a committee to advise the Council on public policy issues;

"(V) coordinate scientific and other research associated with restoration of the Gulf Coast ecosystem, including research, observation, and monitoring carried out pursuant to section 5 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2011;

"(VI) seek to ensure that all policies, strategies, plans, and activities for addressing the restoration of the Gulf Coast ecosystem are based on the best available physical, ecological, and economic data;

"(VII) make recommendations to address the particular needs of especially economically and socially vulnerable populations;

"(VIII) develop standard terms to include in contracts for projects and programs awarded pursuant to the Comprehensive Plan that provide a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in, a Gulf Coast State;

"(IX) prepare an integrated financial plan and recommendations for coordinated budget requests for the amounts proposed to be expended by the Federal agencies represented on the Council for projects and programs in the Gulf Coast States;

"(X) submit to Congress an annual report that—

"(aa) summarizes the policies, strategies, plans, and activities for addressing the restoration and protection of the Gulf Coast ecosystem;

"(bb) describes the projects and programs being implemented to restore and protect the Gulf Coast ecosystem; and

"(cc) makes such recommendations to Congress for modifications of existing laws as the Council determines necessary to implement the Comprehensive Plan; and

"(XI) submit to Congress a final report on the date on which all funds made available to the Council are expended.

"(viii) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Council, or any other advisory committee established under this subsection, shall not be considered an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.).

"(D) COMPREHENSIVE PLAN.—

"(i) PROPOSED PLAN.—

"(I) IN GENERAL.—Not later than 180 days after the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2011, the Chairperson, on behalf of the Council, shall publish a proposed plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

"(II) CONTENTS.—The proposed plan described in subclause (I) shall include and incorporate the findings and information prepared by the President's Gulf Coast Restoration Task Force.

"(ii) PUBLICATION.—

"(I) INITIAL PLAN.—Not later than 1 year after date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2011 and after notice and opportunity for public comment, the Chairperson, on behalf of the Council and after approval by the Council, shall publish in the Federal Register the initial Comprehensive Plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

"(II) COOPERATION WITH GULF COAST RESTORATION TASK FORCE.—

The Council shall develop the initial Comprehensive Plan in close coordination with the President's Gulf Coast Restoration Task Force.

"(III) CONSIDERATIONS.—In developing the initial Comprehensive Plan and subsequent updates, the Council shall consider all relevant findings, reports, or research prepared or funded by a center of excellence or the Gulf Fisheries and Ecosystem Endowment established pursuant to the Gulf Coast Ecosystem Restoration Science, Monitoring, and Technology Program under section 5 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2011.

"(IV) CONTENTS.—The initial Comprehensive Plan shall include—

"(aa) such provisions as are necessary to fully incorporate in the Comprehensive Plan the strategy, projects, and programs recommended by the President's Gulf Coast Restoration Task Force;

"(bb) a list of any project or program authorized prior to the date of enactment of this subsection but not yet commenced, the completion of which would further the purposes and goals of this subsection and of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2011;

"(cc) a description of the manner in which amounts from the Trust Fund projected to be made available to the Council for the succeeding 10 years will be allocated; and

"(dd) subject to available funding in accordance with clause (iii), a prioritized list of specific projects and programs to be funded and carried out during the 3-year period immediately following the date of publication of the initial Comprehensive Plan, including a table that illustrates the distribution of projects and programs by Gulf Coast State.

"(V) PLAN UPDATES.—The Council shall update—

"(aa) the Comprehensive Plan every 5 years in a manner comparable to the manner established in this subsection for each 5-year period for which amounts are expected to be made available to the Gulf Coast States from the Trust Fund; and

"(bb) the 3-year list of projects and programs described in subclause (IV)(dd) annually.

"(iii) RESTORATION PRIORITIES.—Except for projects and programs described in subclause (IV)(bb), in selecting projects and programs to include on the 3-year list described in subclause (IV)(dd), based on the best available science, the Council shall give highest priority to projects that address 1 or more of the following criteria:

"(I) Projects that are projected to make the greatest contribution to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem, without regard to geographic location.

"(II) Large-scale projects and programs that are projected to substantially contribute to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

"(III) Projects contained in existing Gulf Coast State comprehensive plans for the restoration and protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

"(IV) Projects that restore long-term resiliency of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands most impacted by the Deepwater Horizon oil spill.

"(E) IMPLEMENTATION.—

"(i) IN GENERAL.—The Council, acting through the member agencies and Gulf Coast States, shall expend funds made available from the Trust Fund to carry out projects and programs adopted in the Comprehensive Plan.

"(ii) ADMINISTRATIVE RESPONSIBILITY.—

"(I) IN GENERAL.—Primary authority and responsibility for each project and program included in the Comprehensive Plan shall be assigned by the Council to a Gulf Coast State represented on the Council or a Federal agency.

"(II) TRANSFER OF AMOUNTS.—Amounts necessary to carry out each project or program included in the

Comprehensive Plan shall be transferred by the Secretary of the Treasury from the Trust Fund to that Federal agency or Gulf Coast State as the project or program is implemented, subject to such conditions as the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, established pursuant to section 3 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2011.

"(iii) COST SHARING.—

"(I) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State or coastal political subdivision from the Trust Fund to satisfy the non-Federal share of the cost of carrying a project or program that—

"(aa) is authorized by other Federal law; and "(bb) meets the criteria of subparagraph (D).

"(II) INCLUSION IN COMPREHENSIVE PLAN.—A project or program described in subclause (I) that meets the criteria for inclusion in the Comprehensive Plan described in subparagraph (D) shall be selected and adopted by the Council as part of the Comprehensive Plan in the manner described in subparagraph (D).

"(F) COORDINATION.—The Council and the Federal members of the Council may develop Memorandums of Understanding establishing integrated funding and implementation plans among the member agencies and authorities.

"(G) TERMINATION.—The Council shall terminate on the date on which the report described in subparagraph (C)(vii)(XI) is submitted to Congress.

"(3) OIL SPILL RESTORATION IMPACT ALLOCATION.—

"(A) IN GENERAL.—Except as provided in paragraph (4), of the total amount made available to the Council under paragraph (2) in any fiscal year from the Trust Fund, 50 percent shall be disbursed by the Council as follows:

"(i) FORMULA.—Subject to subparagraph (B), for each Gulf Coast State, the amount disbursed under this paragraph shall be based on a formula established by the Council by regulation that is based on a weighted average of the following criteria:

"(I) 40 percent based on the proportionate number of miles of shoreline in each Gulf Coast State that experienced oiling as of April 10, 2011, compared to the total number of miles of shoreline that experienced oiling as a result of the Deepwater Horizon oil spill.

"(II) 40 percent based on the inverse proportion of the average distance from the Deepwater Horizon oil rig to the nearest and farthest point of the shoreline that experienced oiling of each Gulf Coast State.

"(III) 20 percent based on the average population in the 2010 decennial census of coastal counties bordering the Gulf of Mexico within each Gulf Coast State.

"(ii) MINIMUM ALLOCATION.—The amount disbursed to a Gulf Coast State for each fiscal year under clause (i) shall be at least 5 percent of the total amounts made available under this paragraph.

"(B) APPROVAL OF PROJECTS AND PROGRAMS.—

"(i) IN GENERAL.—The Council shall disburse amounts to the respective Gulf Coast States in accordance with the formula developed under subparagraph (A) for projects, programs, and activities that will improve the ecosystems or economy of the Gulf Coast, subject to the condition that each Gulf Coast State submits a plan for the expenditure of amounts disbursed under this paragraph which meet the following criteria:

"(I) All projects, programs, and activities included in that plan are eligible activities pursuant to paragraph (1)(B)(i).

"(II) The projects, programs, and activities included in that plan contribute to the overall economic and ecological recovery of the Gulf Coast.

"(III) The plan takes into consideration the Comprehensive Plan and is consistent with its goals and objectives, as described in paragraph (2)(B)(i).

"(ii) FUNDING.—

"(I) IN GENERAL.—Except as provided in subclause (II), the plan described in clause (i) may use not more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (X) and (XI) of paragraph (1)(B)(i).

"(II) EXCEPTION.—The plan described in clause (i) may propose to use more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (X) and (XI) of paragraph (1)(B)(i) if the plan certifies that—

“(aa) ecosystem restoration needs in the State will be addressed by the projects in the proposed plan; and

“(bb) additional investment in infrastructure is required to mitigate the impacts of the Deepwater Horizon Oil Spill to the ecosystem or economy.

“(iii) DEVELOPMENT.—The plan described in clause (i) shall be developed by—

“(I) in the State of Alabama, the Alabama Gulf Coast Recovery Council established under paragraph (1)(E)(i);

“(II) in the State of Florida, a consortia of local political subdivisions that includes at least 1 representative of each disproportionally affected county;

“(III) in the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana;

"(IV) in the State of Mississippi, the Office of the Governor or an appointee of the Office of the Governor; and

"(V) in the State of Texas, the Office of the Governor or an appointee of the Office of the Governor.

"(iv) APPROVAL.—Not later than 60 days after the date on which a plan is submitted under clause (i), the Council shall approve or disapprove the plan based on the conditions of clause (i).

"(C) DISAPPROVAL.—If the Council disapproves a plan pursuant to subparagraph (B)(iv), the Council shall—

"(i) provide the reasons for disapproval in writing; and

"(ii) consult with the State to address any identified deficiencies with the State plan.

"(D) FAILURE TO SUBMIT ADEQUATE PLAN.—If a State fails to submit an adequate plan under this subsection, any funds made available under this subsection shall remain in the Trust Fund until such date as a plan is submitted and approved pursuant to this subsection.

"(E) JUDICIAL REVIEW.—If the Council fails to approve or take action within 60 days on a plan described in subparagraph (B)(iv), the State may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking such review.

"(4) AUTHORIZATION OF INTEREST TRANSFERS.—

"(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, an amount equal to the interest earned by the Trust Fund and proceeds from investments made by the Trust Fund in the preceding fiscal year—

"(i) 50 percent shall be transferred to the National Endowment for Oceans in subparagraph (B); and

"(ii) 50 percent shall be transferred to the Gulf of Mexico Research Endowment in subparagraph (C).

"(B) NATIONAL ENDOWMENT FOR THE OCEANS.—

"(i) ESTABLISHMENT.—

"(I) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the 'National Endowment for the Oceans', consisting of such amounts as may be appropriated or credited to the National Endowment for the Oceans.

"(II) INVESTMENT.—Amounts in the National Endowment for the Oceans shall be invested in accordance with section 9602 of the Internal Revenue Code of 1986, and any interest on, and proceeds from, any such investment shall be available for expenditure in accordance with this subparagraph.

"(ii) TRUSTEE.—The trustee for the National Endowment for the Oceans shall be the Secretary of Commerce.

"(iii) ALLOCATION OF FUNDS.—

"(I) IN GENERAL.—Each fiscal year, the Secretary shall allocate, at a minimum, an amount equal to the interest earned by the National Endowment for the Oceans in the preceding fiscal year, and may distribute an amount equal to up to 10 percent of the total amounts in the National Endowment for the Oceans—

"(aa) to allocate funding to coastal states (as defined in section 304 of the Marine Resources and Engineering Development Act of 1966 (16 U.S.C. 1453)) and affected Indian tribes;

"(bb) to make grants to regional ocean and coastal planning bodies; and

"(cc) to develop and implement a National Grant Program for Oceans and Coastal Waters.

"(II) PROGRAM ADJUSTMENTS.—Each fiscal year where the amount described in subparagraph (A)(i) does not exceed $100,000,000, the Secretary may elect to fund only the grant program established in subclause (I)(cc).

"(iv) ELIGIBLE ACTIVITIES.—Funds deposited in the National Endowment for the Oceans may be allocated by the Secretary only to fund grants for programs and activities intended to restore, protect, maintain, or understand living marine resources and their habitats and resources in ocean and coastal waters (as defined in section 304 of the Marine Resources and Engineering Development Act of 1966 (16 U.S.C. 1453)), including baseline scientific research, ocean observing, and other programs and activities carried out in coordination with Federal and State departments or agencies, that are consistent with Federal environmental laws and that avoid environmental degradation.

"(v) APPLICATION.—To be eligible to receive a grant under clause (iii)(I), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

"(vi) FUNDING FOR COASTAL STATES.—The Secretary shall allocate funding among States as follows:

"(I) 50 percent of the funds shall be allocated equally among coastal States.

"(II) 25 percent of the funds shall be allocated based on tidal shoreline miles.

"(III) 25 percent of the funds shall be allocated based on the coastal population density of a coastal State.

"(IV) No State shall be allocated more than 10 percent of the total amount of funds available for allocation among coastal States for any fiscal year.

"(V) No territory shall be allocated more than 1 percent of the total amount of funds available for allocation among coastal States for any fiscal year.

"(C) GULF OF MEXICO RESEARCH ENDOWMENT.—

"(i) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the 'Gulf of Mexico Research Endowment', to be administered by the Secretary of Commerce, solely for use in providing long-term funding in accordance with section 5 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2011.

"(ii) INVESTMENT.—Amounts in the Gulf of Mexico Research Endowment shall be invested in accordance with section 9602 of the Internal Revenue Code of 1986, and, after adjustment for inflation so as to maintain the value of the principal, any interest on, and proceeds from, any such investment shall be available for expenditure and shall be allocated in equal portions to the Gulf Coast Ecosystem Restoration Science, Monitoring, and Technology Program and Fisheries Endowment established in section 5 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2011.''.

SEC. 5. GULF COAST ECOSYSTEM RESTORATION SCIENCE, OBSERVATION, MONITORING, AND TECHNOLOGY PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the National Oceanic and Atmospheric Administration.

(2) FISHERIES AND ECOSYSTEM ENDOWMENT.—The term ''Fisheries and Ecosystem Endowment'' means the endowment established by subsection (d).

(3) PROGRAM.—The term ''Program'' means the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program established by subsection (b).

(b) ESTABLISHMENT OF PROGRAM.—There is established within the National Oceanic and Atmospheric Administration a program to be known as the ''Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program'', to be carried out by the Administrator.

(c) CENTERS OF EXCELLENCE.—

(1) IN GENERAL.—In carrying out the Program, the Administrator, in consultation with other Federal agencies with expertise in the discipline of a center of excellence, shall make grants in accordance with paragraph (2) to establish and operate 5 centers of excellence, 1 of which shall be located in each of the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

(2) GRANTS.—

(A) IN GENERAL.—The Administrator shall use the amounts made available to carry out this section to award competitive grants to nongovernmental entities and consortia in the Gulf Coast region (including public and private institutions of higher education) for the establishment of centers of excellence as described in paragraph (1).

(B) APPLICATION.—To be eligible to receive a grant under this paragraph, an entity or consortium described in subparagraph (A) shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator determines to be appropriate.

(C) PRIORITY.—In awarding grants under this paragraph, the Administrator shall give priority to entities and consortia that demonstrate the ability to establish the broadest cross-section of participants with interest and expertise in any discipline described in paragraph (3) on which the proposal of the center of excellence will be focused.

(3) DISCIPLINES.—Each center of excellence shall focus on science, technology, and monitoring in at least 1 of the following disciplines:

(A) Coastal and deltaic sustainability, restoration and protection; including solutions and technology that allow citizens to live safely and sustainably in a coastal delta.

(B) Coastal fisheries and wildlife ecosystem research and monitoring.

(C) Offshore energy development, including research and technology to improve the sustainable and safe development of energy resources.

(D) Sustainable and resilient growth, economic and commercial development in the Gulf Coast.

(E) Comprehensive observation, monitoring, and mapping of the Gulf of Mexico.

(4) COORDINATION WITH OTHER PROGRAMS.—The Administrator shall develop a plan for the coordination of projects and activities between the Program and other existing Federal and State science and technology programs in the States of Alabama, Florida, Louisiana, Mississippi, and Texas, as well as between the centers of excellence.

(d) ESTABLISHMENT OF FISHERIES AND ECOSYSTEM ENDOWMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Council shall establish a fishery and ecosystem endowment to ensure, to the maximum extent practicable, the long-term sustainability of the ecosystem, fish stocks, fish habitat and the recreational, commercial, and charter fishing industry in the Gulf of Mexico.

(2) EXPENDITURE OF FUNDS.—For each fiscal year, amounts made available to carry out this subsection may be expended for, with respect to the Gulf of Mexico—

(A) marine and estuarine research;

(B) marine and estuarine ecosystem monitoring and ocean observation;

(C) data collection and stock assessments;

(D) pilot programs for—

(i) fishery independent data; and

(ii) reduction of exploitation of spawning aggregations; and

(E) cooperative research.

(3) ADMINISTRATION AND IMPLEMENTATION.—The Fisheries and Ecosystem Endowment shall be administered by the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Director of the United States Fish and Wildlife Service, with guidance provided by the Regional Gulf of Mexico Fishery Management Council.

(4) SPECIES INCLUDED.—The Fisheries and Ecosystem Endowment will include all marine, estuarine, aquaculture, and fish and wildlife species in State and Federal waters of the Gulf of Mexico.

(5) RESEARCH PRIORITIES.—In distributing funding under this subsection, priority shall be given to integrated, long-term projects that—

(A) build on, or are coordinated with, related research activities; and

(B) address current or anticipated marine ecosystem, fishery, or wildlife management information needs.

(6) DUPLICATION AND COORDINATION.—In carrying out this subsection, the Administrator shall seek to avoid duplication of other research and monitoring activities and coordinate with existing research and monitoring programs, including the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601 et seq.).

(e) FUNDING.—

(1) IN GENERAL.—Except as provided in subsection (t)(4) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), of the total amount made available for each fiscal year for the Gulf Coast Restoration Trust Fund established under section 3, 5 percent shall be allocated in equal portions to the Program and Fisheries and Ecosystem Endowment established by this section.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts received by the National Oceanic and Atmospheric Administration to carry out this section, not more than 3 percent may be used for administrative expenses.

SEC. 6. EFFECT.

(a) IN GENERAL.—Nothing in this Act or any amendment made by this Act—

(1) supersedes or otherwise affects any provision of Federal law, including, in particular, laws providing recovery for injury to natural resources under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) and laws for the protection of public health and the environment; or

(2) applies to any fine collected under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) for any incident other than the Deepwater Horizon oil spill.

(b) USE OF FUNDS.—Funds made available under this Act may be used only for eligible activities specifically authorized by this Act.