Joint Staff Substitute Amendment to S.783
The *Helium Stewardship Act of 2013*

The substitute amendment to S.783 is a bipartisan amendment that includes several technical clarifications as well as a handful of more substantive changes reflecting two priorities for the legislation: ensuring stable helium supplies and increasing returns to taxpayers. The Congressional Budget Office estimates that over the next decade the revised Federal Helium Program proposed in the substitute amendment will generate $495 million. The substitute amendment contains provisions that both generate a portion of this revenue and direct the programmatic expenditure of it. All of the modifications made by the substitute amendment to S.783 are summarized below:

- Phase D: A new "Phase D" was included, which directs the Secretary to dispose of all Federal Helium Reserve assets by January 1, 2023. The exact timing of these actions will be informed by the required Federal Helium Strategy [Sec 19].

- Supply Security: Helium sales under "Phase A" can be extended if the sale of helium under "Phase B" is delayed or suspended.

- New Refining Capacity: Language was added to reaffirm the Secretary's authority to consider any new application for access to the Federal Helium Pipeline [Sec 5(f)].

- Helium Delivery Scheduling: Language was included to ensure the timely delivery of helium for persons that prevail in an auction [Sec 5(e)(2)].

- Helium-3 Study: The existing helium-3 study was broadened to include research options beyond utilization of the Federal Helium Reserve [Sec 18].

- Fees: Clarifying language was included to specify that all fees charged by the Secretary should, at a minimum, reimburse the Secretary for the full cost of services provided, including any capital investments and maintenance [Sec 5(b)].

- Capital Investments: Language was included to subject all capital investments to a Secretarial determination that they are both necessary and cost-effective [Sec 6(e)(1)].

- NASA: The NASA Administrator was included in the Federal Helium Strategy [Sec 19].

Additionally, the following programmatic expenditures were included in the joint staff substitute amendment:

FEDERAL DEBT REDUCTION

Section 5 will dedicate at least $51 million to debt reduction.

Background

In addition to making progress on several challenges that demand attention from the federal government, the joint staff amendment to S. 783 devotes $51 million dollars to a priority among priorities – debt reduction. This represents more than 10 percent of the revenues raised by continued sales from the Federal Helium Reserve, and is the Senate Energy and Natural Resources Committee's largest contribution to deficit reduction thus far in the 113th Congress. By divesting all assets associated with the Federal Helium Reserve, the joint staff amendment also accomplishes a long-standing goal of fully removing the government from the helium business, thereby ensuring that it will not contribute to the federal deficit in the future.

SECURE RURAL SCHOOLS

Section 10(a) will authorize a one-year extension of the Secure Rural Schools and Community Self-Determination Act (SRS). Payments to counties are to be made at a 5% reduction from the level of payments made in 2013. The approximate cost for this one-year extension is $263 million.

Background

In FY2012, over 700 counties in 41 states received some level of federal payment from the U.S. Forest Service (USFS) or Bureau of Land Management (BLM) programs that provide a steady source of revenue to mitigate the continued reductions in payments states would receive from the revenue-sharing associated with significantly declining Federal timber harvests.

Throughout the last century, many counties across nearly all states have been compensated for the impacts associated with the presence and tax-exempt status of Federal lands.

Since 1908, when Congress enacted the Twenty-Five Percent Fund Act, the USFS has shared 25 percent of the gross receipts from national forests with the states. The payments were made to states for use on roads and schools in the counties in which National Forests are located. Since 1937, the BLM under the O&C Lands Act, has made yearly payments equal to 50 percent of gross receipts from timber harvests on public lands. The BLM payments go directly to the O&C counties for any local government purposes. In the late 1980s and 90s there were steep declines and fluctuations in these revenue-sharing payments. This was largely due, especially in Western states, to a significant decline in timber harvest activities. Disbursements through these programs dropped significantly by the end of the 1990s.

In 2000, SRS provided the option of decoupling the payments from receipts by authorizing stabilized payments to states for a period of five years, replacing an earlier transition program that mitigated lost payments to counties in three states within the Northwest Forest Plan area. SRS expired in 2006, but has since had several reauthorizations. In 2008, Congress enacted legislation to modify the formula for allocating these additional payments. Under the new formula, in addition to considering historic payment levels, payments are now also considered relative to economic needs and the amount of Federal land in the county, with proportionately higher payments going to counties with lower per capita income and to counties with higher percentages of Federal land.

The SRS program provides payments under three titles of the Act. Title I provides payments to states and counties for the same uses as under the original receipt-sharing laws. Title II created and funded Resource Advisory Committees (RACs), which direct the spending from Title II for natural resource projects approved by the RACs to occur on Federal lands. RACs have been viewed in many states as a successful model of facilitating collaboration in natural resources projects. Title III provides payments to counties for search and rescue reimbursements, fire preparedness and planning, and other emergency services. An extension of SRS, which expired at the end of fiscal year 2012 — the last payments were made in January for USFS lands and February for BLM lands — is very critical to rural counties across the country. Title I Payments have been a lifeline to many counties' school and road budgets. The expiration of the SRS program creates budget uncertainty for local governments and schools.

ABANDONED WELL REMEDIATION

Section 10(b) will provide $50 million to remediate abandoned oil and gas wells on current or former National Petroleum Reserve lands.

Background

The Bureau of Land Management (BLM) manages more than 245 million acres of public lands and is responsible for onshore subsurface estate development on 700 million acres. The lands BLM manages include lands that are in or were part of the National Petroleum Reserves throughout the Nation and located in California, Wyoming, Alaska, Colorado, and Utah. There are many challenges associated with the management of public lands including the remediation of abandoned oil and gas wells, which include legacy wells that were drilled by the Federal government and orphan wells that the Federal government is now responsible for. Many of these abandoned wells have not been properly remediated and additional work is needed for capping, site cleanup and remediation.

There is no line item for inventory and remediation of abandoned wells that remain on current or former National Petroleum Reserve lands. BLM's FY2014 budget includes $2.5 million for the remediation of legacy wells in Alaska and an unidentified amount of funding for orphan well remediation in the lower 48 States.

NATIONAL PARKS SERVICE MAINTANENCE BACKLOG

Section 10(c) will provide direct funding to address deferred National Park Service (NPS) maintenance and requires those federal funds to be matched, on a dollar-for-dollar basis, by non-Federal sources. This cost-sharing requirement will generate a greater impact on the maintenance backlog and contribute significantly to the goal of reducing it over time.

Background

The NPS manages 491 units, and is responsible for taking care of some of the most beautiful and culturally significant places in the country. The NPS is responsible for preserving and protecting these places so that future generations can experience and enjoy in the same condition that we are experiencing them today. With over 282 million visitors in 2012, many have started to suffer from age and heavy use.

The NPS currently has a deferred maintenance backlog of $11.5 billion. Of that amount, $5.2 billion is for deferred maintenance on paved roads throughout the system; $2.5 billion is for bridges and tunnels; and the remaining $3.7 billion is for buildings, housing, campgrounds, trails, wastewater systems, water systems, and unpaved roads. These additional projects will create jobs and provide secondary benefits to local economies.

The availability of additional funds would allow BLM to conduct a focused program to remediate abandoned wells nationwide. BLM has already formulated a strategy for Alaska legacy well remediation and has plans for orphan well remediation in the lower 48 States. BLM will be able to enhance their capacity and capability to plan and design for, as well as remediate wells throughout the Nation if funds are made available.

The environmental impacts of these wells are significant. Cleanup is a priority for BLM, to prevent environmental degradation and ensure communities are protected.

ABANDONED MINE LANDS PROGRAM

Section 10(d) will restore $60 million in payments to states certified under the Abandoned Mine Lands (AML) program for FY2014.

Background

Under the AML program, the Office of Surface Mining, Reclamation and Enforcement (OSM) levies a fee on coal production. About half of this fee is used to pay for priorities established under Federal law. These priorities include reclamation of abandoned coal mines, and health care and pension benefits for orphan miners. The other half of the fee is returned to the state where it was collected to address priorities such as reclamation of abandoned coal mines.

Under the AML program, states that have reclaimed their highest priority coal mines may be certified by OSM. States that have not reclaimed their highest priority coal mines may not be certified by OSM.

In 2012, the Conference Committee to H.R. 4348 (the transportation bill) imposed a $15 million cap on how much certified states could receive each year under the AML program. This cap was imposed without debate, without hearings before the Senate and House committees of jurisdiction, and without consulting the Federal or state representatives of impacted communities. The cap has deprived these communities of hundreds of millions of dollars that they would have received.

This provision will allow certified states to recover almost half of the losses that they would otherwise suffer in FY2014 on account of H.R. 4348.

SODA ASH

Section 10(e) will reduce the royalty rate for soda ash production on federal lands to 4% of the value of the soda ash for two years from the date of enactment. The approximate cost for this provision is $15 million.

Background

Soda ash is an important compound used in the manufacturing of chemicals, glass, pulp and paper, soaps, and many other products. It can be manufactured synthetically from one of several chemicals or found naturally. According to the U.S. Geological Survey, the United States possesses the largest global deposits of soda ash and is the second largest producer of natural soda ash in the world. The leading producer of soda ash is China, which became the world’s largest producer in 2003 after over a century of U.S. leadership in production. In addition to governmental support for its domestic soda ash industry, China has reduced its value-added tax on soda ash from 17% to 8% to aid exports.

Currently, sodium leases (those for soda ash) on Federal lands cover over 100,000 acres in Wyoming, California, Colorado, and New Mexico and contribute nearly $1 billion dollars annually to the U.S. balance of trade and $20 million in federal royalties.

In 2006, in order to address the growth of Chinese soda ash production and keep U.S. production cost competitive against Chinese exports, Congress passed the Soda Ash Royalty Reduction Act (P.L. 109-338). The 2006 Act reduced the royalty rate for any Federal leases associated with the production and sale of sodium compounds from between 6-8% to a minimum rate of 2% for five years after enactment (2006-2011). According to the Department of the Interior this led to a significant amount of production shifting from state leases onto Federal leases, increases in overall production on Federal lands, and total sales revenues more than doubling over the four-year period relative to the preceding four years. This royalty relief has since expired. This provision would establish a 4% royalty rate for soda ash mined on Federal lands for two years.