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REPORT
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BUREAU OF RECLAMATION TRANSPARENCY ACT

JULY 31, 2014.—Ordered to be printed

Ms. LANDRIEU, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 1800]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1800) to require the Secretary of the Interior to submit to Congress a report on the efforts of the Bureau of Reclamation to manage its infrastructure assets, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bureau of Reclamation Transparency Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the water resources infrastructure of the Bureau of Reclamation provides important benefits related to irrigated agriculture, municipal and industrial water, hydropower, flood control, fish and wildlife, and recreation in the 17 Reclamation States;

(2) as of 2013, the combined replacement value of the infrastructure assets of the Bureau of Reclamation was $94,500,000,000;

(3) the majority of the water resources infrastructure facilities of the Bureau of Reclamation are at least 60 years old;

(4) the Bureau of Reclamation has previously undertaken efforts to better manage the assets of the Bureau of Reclamation, including an annual review of asset maintenance activities of the Bureau of Reclamation known as the "Asset Management Plan"; and

(5) actionable information on infrastructure conditions at the asset level, including information on maintenance needs at individual assets due to aging infrastructure, is needed for Congress to conduct oversight of Reclamation facilities and meet the needs of the public.

SEC. 3. DEFINITIONS.

In this Act:

ASSET.—

(A) IN GENERAL—The term "asset" means any of the following assets that are used to achieve the mission of the Bureau of Reclamation to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the people of the United States:

(i) Capitalized facilities, buildings, structures, project features, power production equipment, recreation facilities, or quarters.

(ii) Capitalized and noncapitalized heavy equipment and other installed equipment.

(B) INCLUSIONS.—The term "asset" includes assets described in subparagraph (A) that are considered to be mission critical.

(2) ASSET MANAGEMENT REPORT.—The term "Asset Management Report" means—

(A) the annual plan prepared by the Bureau of Reclamation known as the "Asset Management Plan"; and

(B) any publicly available information relating to the plan described in subparagraph (A) that summarizes the efforts of the Bureau of Reclamation to evaluate and manage infrastructure assets of the Bureau of Reclamation.

(3) MAJOR REPAIR AND REHABILITATION NEED.—The term "major repair and rehabilitation need" means major nonrecurring maintenance at a Reclamation facility, including maintenance related to the safety of dams, extraordinary maintenance of dams, deferred major maintenance activities, and all 7 other significant repairs and extraordinary maintenance.

(4) RECLAMATION FACILITY.—The term "Reclamation facility" means each of the infrastructure assets that are owned by the Bureau of Reclamation at a Reclamation project.

(5) RECLAMATION PROJECT.—The term "Reclamation project" means a project that is owned by the Bureau of Reclamation, including all reserved works and transferred works owned by the Bureau of Reclamation.

(6) RESERVED WORKS.—The term "reserved works" means buildings, structures, facilities, or equipment that are owned by the Bureau of Reclamation for which operations and maintenance are performed by employees of the Bureau of Reclamation or through a contract entered into by the Bureau of Reclamation, regardless of the source of funding for the operations and maintenance.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) TRANSFERRED WORKS.—The term "transferred works" means a Reclamation facility at which operations and maintenance of the facility is carried out by a non-Federal entity under the provisions of a formal operations and maintenance transfer contract or other legal agreement with the Bureau of Reclamation.

SEC. 4. ASSET MANAGEMENT REPORT ENHANCEMENTS FOR RESERVED WORKS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress an Asset Management Report that—

(1) describes the efforts of the Bureau of Reclamation—

(A) to maintain in a reliable manner all reserved works at Reclamation facilities; and

(B) to standardize and streamline data reporting and processes across regions and areas for the purpose of maintaining reserved works at Reclamation facilities; and

(2) expands on the information otherwise provided in an Asset Management Report, in accordance with subsection (b).

(b) INFRASTRUCTURE MAINTENANCE NEEDS ASSESSMENT.—

(1) IN GENERAL.—The Asset Management Report submitted under subsection (a) shall include—

(A) a detailed assessment of major repair and rehabilitation needs for all reserved works at all Reclamation projects; and

(B) to the extent practicable, an itemized list of major repair and rehabilitation needs of individual Reclamation facilities at each Reclamation project.

(2) INCLUSIONS.—To the extent practicable, the itemized list of major repair and rehabilitation needs under paragraph (1)(B) shall include—

(A) a budget level cost estimate of the appropriations needed to complete each item; and

(B) an assignment of a categorical rating for each item, consistent with paragraph (3).

(3) RATING REQUIREMENTS.—

(A) IN GENERAL.—The system for assigning ratings under paragraph (2)(B) shall be—

(i) consistent with existing uniform categorization systems to inform the annual budget process and agency requirements; and

(ii) subject to the guidance and instructions issued under subparagraph (B).

(B) GUIDANCE.—As soon as practicable after the date of enactment of this Act, the Secretary shall issue guidance that describes the applicability of the rating system applicable under paragraph (2)(B) to Reclamation facilities.

(4) PUBLIC AVAILABILITY.—Except as provided in paragraph (5), the Secretary shall make publically available, including on the Internet, the Asset Management Report required under subsection (a).

(5) CONFIDENTIALITY.—Subject to the discretion of the Secretary, the Secretary may exclude from the public version of the Asset Management Report made available under paragraph (4) any information that the Secretary identifies as sensitive or classified, but shall make available to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a version of the report containing the sensitive or classified information.

(c) UPDATES.—Not later than 2 years after the date on which the Asset Management Report is submitted under subsection (a) and biennially thereafter, the Secretary shall update the Asset Management Report, subject to the requirements of section 5(b)(2).

(d) CONSULTATION.—The Secretary shall consult with the Secretary of the Army (acting through the Chief of Engineers) to the extent that the consultation would assist the Secretary in preparing the Asset Management Report under subsection (a) and updates to the Asset Management Report under subsection (c).

SEC. 5. ASSET MANAGEMENT REPORT ENHANCEMENTS FOR TRANSFERRED WORKS.

(a) IN GENERAL.—The Secretary shall coordinate with the non-Federal entities responsible for the operation and maintenance of transferred works in developing reporting requirements for Asset Management Reports with respect to the condition of, and planned maintenance for, transferred works that are similar to the reporting requirements described in section 4(b)

(b) GUIDANCE.—

(1) IN GENERAL.—After considering input from water and power contractors of the Bureau of Reclamation, the Secretary shall develop and implement a rating system for transferred works that incorporates, to the maximum extent practicable, the rating system for reserved works developed under section 4(b)(3).

(2) UPDATES.—The ratings system developed under paragraph (1) shall be included in the updated Asset Management Reports under section 4(c).

PURPOSE

The purpose of S. 1800 is to require the Secretary of the Interior to submit to Congress a report on the efforts of the Bureau of Reclamation to manage its infrastructure assets.

BACKGROUND AND NEED

Founded in 1902, the Bureau of Reclamation provides vital services for irrigators, hydropower, dams, recreation, and canals in the seventeen western states. Reclamation's inventory includes 476 dams and dikes, creating 337 reservoirs with a total storage capacity of 245 million acre-per-feet of water. Much of Reclamation's infrastructure was constructed over 50 years ago and the department has faced challenges maintaining this aging infrastructure.

Reclamation has prepared an annual "Asset Management Plan," which describes current business practices and performance metrics in the past, but does not provide information at the project level. S. 1800 seeks to expand on the information provided by the Asset Management Plan by providing a detailed assessment of major repair and rehabilitation needs at the project level at all Reclamation sites. In order to better understand the state of Reclama-

tion's infrastructure, S. 1800 requires the Bureau to provide a report with: (1) an itemized list of major repair and rehabilitation needs at each Bureau of Reclamation facility; (2) cost estimate of the expenditures needed to address those repairs; and (3) categorical safety rating, using the Bureau's own existing categorical system, of the importance of addressing each item.

LEGISLATIVE HISTORY

S. 1800 was introduced by Senators Barrasso and Schatz on December 11, 2013. A hearing was held by the Subcommittee on Water and Power on February 27, 2014 (S. Hrg. 113–284). At its business meeting on June 18, 2014, the Senate Energy and Natural Resources Committee ordered S. 1800 favorably reported with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on June 18, 2014, by a voice vote of a quorum present, recommends that the Senate pass S. 1800, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 1800, the Committee adopted an amendment in the nature of a substitute. The amendment adds several definitions including "asset", "major repair and rehabilitation need", "reserved works", and "transferred works". The amendment separates the Asset Management Report into two parts; one for reserved works and one for transferred works, which is addressed in a new section 5. In section 4, the amendment directs the Secretary of the Interior to issue guidance.

The amendment is explained in detail in the section-by-section analysis below.

SECTION-BY-SECTION ANALYSIS

Section 1 provides a short title.

Section 2 contains Congressional findings about the need for a report addressing the Bureau of Reclamation's aging infrastructure.

Section 3 includes definitions of terms.

Section 4 directs the Secretary to submit a report to Congress describing the efforts of the Bureau of Reclamation to manage Reclamation facilities considered reserved works which includes facilities and structures that are owned by the Bureau of Reclamation. The report will also help to standardize and streamline data reporting processes and expands on the information otherwise provided in Asset Management Reports, including a detailed assessment of major repair and rehabilitation needs, with a cost estimate for completion of each item and a categorical rating. Section 4 includes a confidentiality clause giving the Secretary of the Interior discretion to exclude sensitive or classified information from the report. Finally, the Secretary shall consult with the Secretary of the Army in preparing the Asset Management Report.

Section 5 directs the Secretary of the Interior to coordinate with non-Federal entities responsible for the operation and maintenance of transferred works in developing reporting requirements for Asset

Management Reports. In addition, the Secretary shall develop and implement a rating system for transferred works that incorporates the rating system for reserved works.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 1800—Bureau of Reclamation Transparency Act

S. 1800 would direct the Bureau of Reclamation to assess the maintenance needs of its facilities and submit a report to the designated Congressional committees every two years. Under current law, the bureau gathers and publishes similar information in various reports throughout the year. Under the bill, the bureau would be required to coordinate the timing and analysis of that information, consolidate it, and include some new analysis specified by the bill.

Based on information from the Bureau of Reclamation, CBO estimates that implementing the legislation would cost about $2 million over the 2015–2019 period. Enacting S. 1800 would not affect revenues or direct spending; therefore, pay-as-you-go procedures do not apply.

S. 1800 would require the bureau to develop a ranking system to prioritize the rehabilitation needs of facilities that it operates and to work with nonfederal partners that have taken over the operation of certain other facilities to develop a similar system for those facilities. Under current law, the bureau gathers data on its facilities, analyzes the data, and makes the results of its analysis available to the Congress and the public through its budget documents and various other reports throughout the year. Under the bill, the bureau would need to consolidate those results into one report every two years and include the ranking information and the estimated costs of necessary rehabilitation projects.

S. 1800 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no cost on state, local, or tribal governments. Any costs incurred by public entities to comply with the reporting requirements of this legislation would result from participating in a voluntary federal program.

The CBO staff contact for this estimate is Aurora Swanson. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1800.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1800, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1800, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Reclamation at the February 27, 2014, Subcommittee on Water and Power hearing on S. 1800 follows:

STATEMENT OF ROBERT QUINT, SENIOR ADVISOR, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Chairman Schatz and members of the Subcommittee, I am Bob Quint, Senior Advisor at the Bureau of Reclamation (Reclamation). Jam pleased to provide the views of the Department of the Interior (Department) on S. 1800, the Bureau of Reclamation Transparency Act. As currently written, the Department does not support S. 1800 but would be pleased to work with the bill sponsors on refinements to the legislation to address the concerns described below.

Under Section 4 of S. 1800, the Secretary of the Interior would be required to submit biennial reports to Congress on 'the efforts of the Bureau of Reclamation to manage all Reclamation facilities,' including efforts to standardize and streamline data reporting and processes for managing Reclamation facilities. S. 1800 directs that the reports provide itemized lists of "major repair and rehabilitation needs" at all Reclamation facilities, showing estimated costs, and ranked via a categorical rating system to be developed through new regulations pursuant to Section 4(b)(3)(B) of the bill. Sensitive or classified information could be excluded from a required public version of the report, but that information would be required in the versions delivered to Congress. The Department has several concerns with this legislation as introduced, and believes that the preparation and publication of the reports in this bill would constitute a duplication of other existing efforts which will not improve the body of information available on Reclamation's infrastructure, nor result in more effective application of available resources to address facility maintenance. Having said that, the Department is aware of the desire in Congress for more information on the status of Reclamation's infrastructure, and in accordance with the Administration's Open Data Policy and Executive Order, the Department is committed to openness and transparency of data, including Reclamation data on facility management. To that end we would appreciate the opportunity to work with the sponsors on potential amendments to the bill that would provide Congress and the public additional information regarding Reclamation's infrastructure though augmentation of other existing reporting efforts.

Reclamation's annual budget requests include the best yearly representations of the appropriated funds needed for maintenance at Reclamation facilities. Reclamation's budget documents, delivered to Congress annually and posted online, are developed over a multi-step 18-month process that begins at the field office level where managers consider the condition of the facilities under their jurisdiction, safety considerations associated with facilities' condition, and—very importantly—the ability of operating partners to fund the work identified pursuant to the terms of their contract and requirements of Reclamation Law. Investments in major rehabilitations and replacements are analyzed and prioritized at the field, regional, and bureau levels based on criteria such as: Engineering Need; Risks and Consequences of Failure; Efficiency Opportunities; Financial Feasibility; and availability of Non-Federal Cost Share.

During this process, Reclamation categorizes the information that will go into its budget requests using its Programmatic Budget Structure (PBS). The PBS uses two of its five primary categories to show the budget request for Operations and Maintenance (O&M) activities: I. Facility Operations, and 2. Facility Maintenance and Rehabilitation. It should be noted that in addition to the appropriated funds in these two budget categories, a generally equal amount of O&M activities are paid for directly by water and power users with their own funds or project revenues.

The Facility Operations category includes items and activities that are necessary to operate Reclamation facilities to produce authorized project benefits for water supplies, power, flood control, fish and wildlife, and recreation. This category includes not only facility operations by Reclamation at reserved works, but also Reclamation's oversight of the operations of facilities performed by water user entities at transferred works. Facility Operations includes all routine or preventive maintenance activities. Routine maintenance is defined as recurring daily, weekly, monthly, or annually, and most tasks performed by Reclamation maintenance staff are included in this category. Also included in this category are routine safety and occupational health items, including those for workplace safety inspection and hazard abatement. The amount budgeted under this category for each facility is the funding necessary to perform routine O&M activities. On an annual basis, each region, along with centralized program management staff, determines the appropriate budget level to support staffing and other resources necessary at each facility for continued operations to deliver authorized project benefits.

The second category, Facility Maintenance and Rehabilitation, addresses the needs over and above the resources in Facility Operations, and corresponds roughly to the concept of major rehabilitations and replacements. The Facility Maintenance and Rehabilitation category includes major and non-routine replacements and extraordinary

maintenance of existing infrastructure. This category also includes activities to review and conduct condition assessments (facility O&M, dam safety and site security inspections), as well as funding necessary for the correction of dam safety deficiencies (dam safety modifications), the implementation of security upgrades, and building seismic safety retrofits. Consequently, most of the budgeted items under this category are related to site-specific facility needs.

After the field offices identify prioritized major rehabilitation and replacement activities in their jurisdiction that require appropriated funds, they are evaluated at the regional level where these are compared to the needs and priorities of other activities and facilities in that region. There are five regions within Reclamation. The regions' PBS allotments for Facility Maintenance and Rehabilitation each year are then evaluated at the next level of internal review, with Reclamation's Budget Review Committee (BRC) process. A given year's BRC is working in advance of a budget request two years into the future, and is comprised of senior management from across the agency, providing the maximum breadth of relevant experience and program knowledge. The region presents its priorities to the BRC, which evaluates the major rehabilitation and replacement needs and priorities against those of other regions in order to ensure that Facility Maintenance and Rehabilitation activities reflect Reclamation's greatest overall need and agency priorities. No urgent maintenance issues necessary to the safe operation of a facility are deferred in the budgeting or facility review processes. The end result is a budget request that has been prioritized and vetted across the organization, concurrent with input from the Department and Reclamation leadership.

To better understand upcoming needs, and for the purpose of reporting asset condition at a specific point in time to the Federal Real Property Profile to meet requirements of the Executive order 13327, "Federal Real Property Management", in a separate effort which informs the annual budget process, Reclamation develops and annually updates estimates of major rehabilitation and replacement (MR&R) needs, including deferred maintenance, for its infrastructure looking out five years. As a result, these "MR&R needs" represent an outlook of Reclamation's best estimate of identified extraordinary maintenance, repairs, rehabilitation, and replacement needs at a point in time looking forward five years, regardless of funding source, for all assets. The estimated total in 2011 amounted to $2.6 billion over five years (fiscal years 2012–2016).[1] It is important to note that a substantial portion of projected needs to address the rehabilitation of aging infrastructure (roughly $1.2 billion of the $2.6 billion estimate) will be financed directly by our water and power customers. Cost

[1] www.usbr.gov/Assetmanagement/Asset%20Inventory/AssetManagementPlanFY2011FinalWithSignaturePageOnly.pdf

estimates associated with these identified needs range from "preliminary" to "appraisal/feasibility" level. Thus, these estimates should not be collectively assumed to be at one particular uniform level of detail. Variability in the MR&R estimates from year to year may be the result of additional information received from the estimating source (i.e., Reclamation field offices and non-federal operating entities), changes in field conditions, further evaluations conducted, and work priorities, thus impacting the inclusion or deletion of specific identified needs within a particular year, or from year to year.

As stated in prior testimony before this Subcommittee, one of the main challenges Reclamation faces in securing funding for the identified near-term needs as well as longer-term MR&R needs is the varying economic strength of our operating partners. Given the requirement under Reclamation Law for the repayment of maintenance costs either in the year incurred or over time, Reclamation must work in collaboration with our water and power partners that must repay these investments. For some of these partners, the cost-share requirements associated with MR&R work are simply beyond the financial capabilities of their beneficiaries. Like any organization tasked with constructing, operating, and maintaining a wide portfolio of assets, Reclamation has to prioritize its actions to maximize the benefits derived from its investment of both federal and non-federal funds. Over the past 10 years, funds requested for Facility Operations and Facility Maintenance and Rehabilitation have kept pace with or grown relative to Reclamation's overall Water and Related Resources budget (graphic attached). Given the substantial economic and financial interest of Reclamation's non-federal partners, the development of cost estimates for maintenance requirements on reserved and transferred works is both collaborative and dynamic. Reclamation must also balance its asset management responsibilities with other aspects of its mission to manage water and related resources in the West. We acknowledge there are tradeoffs associated with decisions to fund one identified need versus another, but Reclamation's annual budget request reflects our best effort to balance those constantly evolving needs associated with all elements of our mission.

The requirements of S. 1800 would duplicate and draw resources away from the processes described above, and the bill makes no allowance for the valuable input from operating partners that is central to Reclamation's asset management program. Based on arrangements originating with Section 6 of the Reclamation Act of 1902, over two-thirds of Reclamation's facilities are managed by non-federal project beneficiaries. These operating entities provide valuable input to the formulation of Reclamation's annual asset management activities. Reclamation believes the requirements of S. 1800 will complicate Reclamation's and our operating entities' budget processes, since the reporting requirements would make no allowance for operating

partners' budgeting and financing processes associated with most of the tasks that would be identified. Reclamation also believes that providing a new layer of reports separate and apart from the annual budget request process would create unnecessary difficulties, since budget requests for subsequent years would not be consistent with the maintenance snapshot provided by the reports under S. 1800. If possible, we would like to propose amendments to S. 1800 which would still provide additional information on the status of Reclamation's infrastructure, but allow for the bill's reporting requirements to better integrate with Reclamation's existing budget formulation process and schedule and fully consider the needs and interests of our water and power contractors.

In conclusion, the Department of the Interior is aware of and appreciates the concerns expressed by some Members of Congress about the accessibility of data on Reclamation's infrastructure. In accordance with the Administration's Open Data Policy and Executive Order, we are working to improve the availability and accessibility of data on Reclamation's infrastructure and would be happy to keep the committee informed of our progress in this area. In recent years, Reclamation has made substantial progress in developing and improving estimates of MR&R needs for both reserved and transferred works, and has provided testimony at hearings of the Senate Energy and Natural Resources Committee on this topic, as well as responding in writing to several questions for the record. It is also worth noting that the Federal Government is making important strides in improving the accuracy, efficiency and level of data available on the federal real property portfolio. The Office of Management and Budget (OMB) established the Real Property Advisory Committee (RPAC) in 2011 to work across agencies to determine real property best practices, opportunities for short and long-term cost savings, and realigning real property inventories to agency mission and service delivery. We believe these processes should be allowed to work or be accounted for in the requirements of this bill before S. 1800 or similar legislation is enacted.

This concludes my written statement. I am pleased to answer questions at the appropriate time.

ATTACHMENT

Table 1 – Enacted Funding

Bureau of Reclamation
Overall Water & Related Resources Enacted Amount (in millions)
Facility Operations (A40) and Facility Maintenance & Rehabilitation (A50) Enacted Amounts (in millions)
2003 – 2013

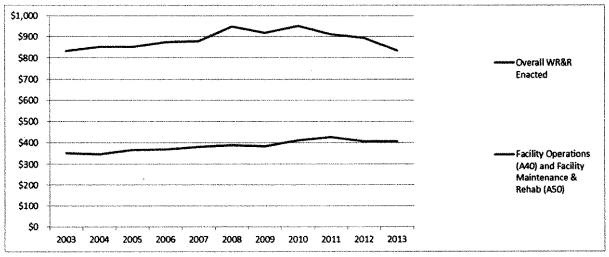
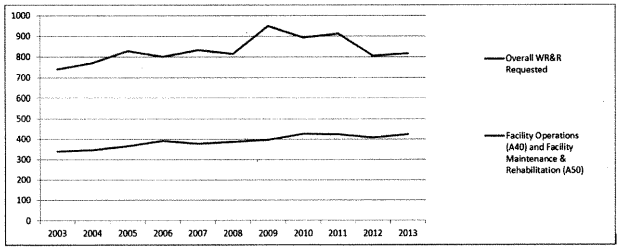


Table 2 – President's Budget

Bureau of Reclamation
Overall Water & Related Resources Requested Amounts (in millions)
Facility Operations (A40) and Facility Maintenance & Rehabilitation (A50) Requested Amounts (in millions)
2003 – 2013



NOTE: Figures not adjusted for inflation in either table.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 1800 as ordered reported.

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