A BILL

To allow a State or local government to construct levees on certain properties otherwise designated as open space lands.

1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2. SECTION 1. LEVEES.

3. (a) DEFINITIONS.—In this section—

4. (1) the term “Administrator” means the Administrator of the Federal Emergency Management Agency; and
(2) the term “covered hazard mitigation land” means land—

(A) acquired and deed restricted under section 404(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)) before, on, or after the date of enactment of this Act; and

(B) that is located—

(i) in North Dakota; and

(ii) in a community that—

(I) is participating in the National Flood Insurance Program on the date on which a State, local, or tribal government submits an application requesting to construct a permanent flood risk reduction levee under subsection (b); and

(II) certifies to the Administrator and the Chief of Engineers that the community will continue to participate in the National Flood Insurance Program.

(b) Authority.—Notwithstanding clause (i) or (ii) of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C.
5170c(b)(2)(B)), the Administrator shall approve the con-
struction of a permanent flood risk reduction levee by a
State, local, or tribal government on covered hazard miti-
gation land if the Administrator and the Chief of Engi-
neers determine, through a process established by the Ad-
ministrator and Chief of Engineers and funded entirely
by the State, local, or tribal government seeking to con-
struct the proposed levee, that—

(1) construction of the proposed permanent
flood risk reduction levee would more effectively
mitigate against flooding risk than an open flood-
plain or other flood risk reduction measures;

(2) the proposed permanent flood risk reduction
levee complies with Federal, State, and local require-
ments, including mitigation of adverse impacts and
implementation of floodplain management require-
ments, which shall include an evaluation of whether
the construction, operation, and maintenance of the
proposed levee would continue to meet best available
industry standards and practices, would be the most
cost-effective measure to protect against the as-
sessed flood risk and minimizes future costs to the
federal government;

(3) the State, local, or tribal government seek-
ing to construct the proposed levee has provided an
adequate maintenance plan that documents the procedures the State, local, or tribal government will use to ensure that the stability, height, and overall integrity of the proposed levee and the structure and systems of the proposed levee are maintained, including—

(A) specifying the maintenance activities to be performed;

(B) specifying the frequency with which maintenance activities will be performed;

(C) specifying the person responsible for performing each maintenance activity (by name or title);

(D) detailing the plan for financing the maintenance of the levee; and

(E) documenting the ability of the State, local, or tribal government to finance the maintenance of the levee.

(c) MAINTENANCE CERTIFICATION.—

(1) IN GENERAL.—A State, local, or tribal government that constructs a permanent flood risk reduction levee under subsection (b) shall submit to the Administrator and the Chief of Engineers an annual certification indicating whether the State, local,
or tribal government is in compliance with the maintenance plan provided under subsection (b)(3).

(2) Review.—The Chief of Engineers shall review a certification submitted under paragraph (1) and determine whether the State, local, or tribal government has complied with the maintenance plan.