

# Update on REPI

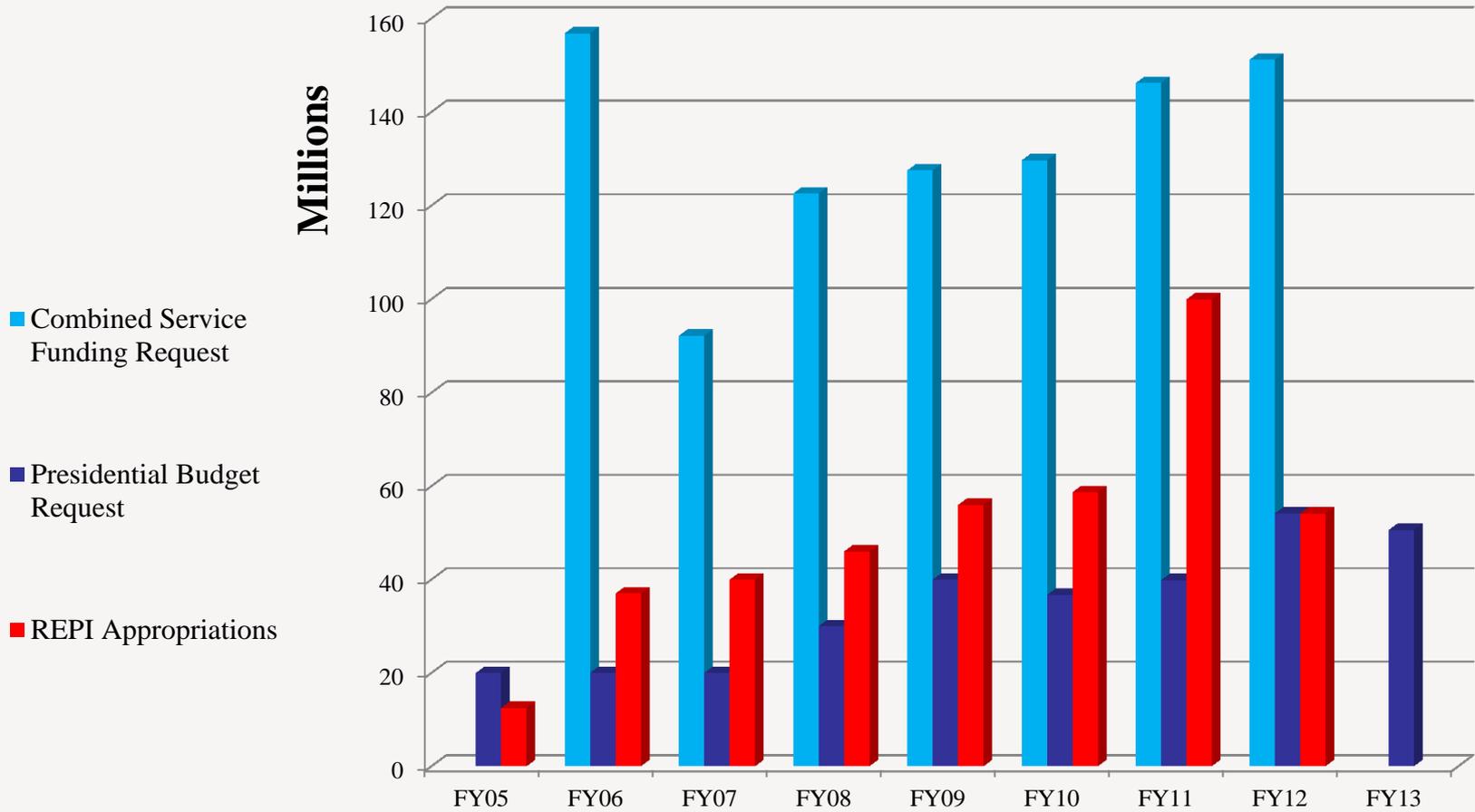
Recent Amendments, Funding,  
Related Statutes, and Pending  
Legislative Provisions

- REPI statute provides great flexibility re terms of agreements
- Flexibility somewhat constrained by OSD and Service policies, but those policies can and have been waived or modified in particular projects when determined to be in DoD's interest
- REPI statute frequently amended based on lessons learned – including last year

- Amended numerous times since enactment to broaden authority based on lessons learned
  - Broadened scope beyond lands in the immediate vicinity of DoD installations to include ecologically related lands and actions to protect DoD airspace
  - Authorized funding of habitat management on REPI-protected lands
  - Authorized use of funds from other federal programs as part of partner contribution
  - Authorized multiple REPI partners under a single agreement

- New amendments adopted in the FY 12 NDAA:
  - Clarified authority to fund monitoring and enforcement of easements by partners
  - Clarified authority to fund long term habitat management and restoration on REPI-protected lands and for partners to place those funds in interest-bearing accounts
  - Authorized DoD to waive “reverter” requirement to facilitate transfer of REPI-protected lands to state agencies for long-term management
  - Removed the “reverter” requirement when REPI-protected lands are transferred to other federal agencies

# REPI FUNDING



- Also known as section 103a of the Sikes Act
- Basic original focus was on management of DoD lands (INRMPS, etc)
- Authorizes cooperative agreements with states and others (including NGOs) and interagency agreements with other federal agencies
- Like the REPI statute, section 103a has also been frequently amended

- Recent amendments to section 103a
  - Extended authority to include interagency agreements between DoD and any other federal agency
  - Authorized DoD funding of maintenance, restoration and management of habitat on ANY non-DoD lands, including other federal lands - no need for DoD to have property rights or interests in that property
  - Funding for such work on non-DoD lands must be for the purpose of lessening or avoiding restrictions on DoD operations – primarily work on habitat for DoD species of concern, but could be used for other issues

- 10 USC 2689 – the “exchange authority”
  - Authorizes exchange of excess DoD property for new buffer areas, even if not in the same state as the excess property – made permanent in the FY 12 NDAA
- 10 USC 2684b
  - Authorizes DoD to participate in wetland banking and “in lieu fee” programs
- 10 USC 2684c
  - Authorizes DoD to participate in habitat banking (also known as conservation banking)

# Proposed Legislation

- A proposed provision for the FY 2013 NDAA would authorize funds provided by DoD under REPI or the Sikes Act to be used as match or cost share in the conservation programs administered by USDA, Interior, or Commerce – the mirror image of the existing authority under REPI
- A parallel provision for the 2012 Farm Bill would do the same, but just for USDA programs – both being pursued
- Both provisions being worked on the Hill and with the agencies by LTA, TNC, TPL and others
- Provisions supported by the National Council of State Legislatures and the National Association of Counties

# Proposed Legislation

- TNC has proposed a further amendment to section 103a of the Sikes Act to authorize DoD to fund an endowment for management of habitat on non-DoD lands
  - Proposed for inclusion in the FY 13 NDAA
  - Parallels the similar amendment to the REPI statute in the FY 12 NDAA
  - Must be for the purpose of avoiding or reducing restrictions on DoD operations
  - Would not apply to work on non-DoD federal lands

# Conclusion

- The REPI statute has been and continues to be amended to respond to lessons learned, to create better partnerships and outcomes, and to move towards landscape scale efforts
- Amendments to related statutes such as the Sikes Act are being proposed and enacted for the same purposes
- DoD has a number of related authorities that can be combined with REPI and the Sikes Act to produce even more beneficial outcomes
- If you have ideas for future legislation to improve the partnership with DoD and to better integrate federal conservation programs, let us know