

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1347 CS Land Management
SPONSOR(S): Williams
TIED BILLS: **IDEN./SIM. BILLS:** SB 2102

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Environmental Regulation Committee	7 Y, 0 N, w/CS	Perkins	Kliner
2) Agriculture & Environment Appropriations Committee			
3) State Resources Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill, in part:

- Creates the “Babcock Ranch Preserve Act” and establishes the Babcock Ranch Preserve to protect and preserve the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the Babcock Ranch Preserve and to provide for the multiple use and sustained yield of the renewable surface resources within the Babcock Ranch Preserve.
- Authorizes the creation of a not-for-profit corporation known as “Babcock Ranch, Inc. The bill provides that Babcock Ranch, Inc., shall assume management of the Babcock Ranch Preserve with input from the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services. The Babcock Ranch, Inc., shall manage the land resources including but not limited to the following:
 - Administration and operation of the Babcock Ranch Preserve as a working ranch
 - Preservation and development of the land and renewable surface resources of the Babcock Ranch Preserve
 - Interpretation of the Babcock Ranch Preserve and its history on behalf of the public
 - Management, public use, and occupancy of facilities and lands within the Babcock Ranch Preserve
 - Maintenance, rehabilitation, repair, and improvement within the Babcock Ranch Preserve
 - Develop programs and activities relating to the management of the preserve as a working ranch

Upon a determination by the Board of Trustees of the Internal Improvement Trust Fund, no later than 60 days before the termination of the preliminary management agreement, the bill stipulates that Babcock Ranch, Inc., shall assume all authority to manage the Babcock Ranch Preserve. The preliminary management agreement term is for a five-year period and provides for an automatic extension of an additional five-year period. The bill provides that upon the dissolution of Babcock Ranch, Inc., for any reason, the management responsibilities shall revert to the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services.

- Provides that the Babcock Ranch, Inc., shall be governed by a nine-member governing board whose members will be appointed no later than 90 days after the initial acquisition of the Babcock Ranch by the state.
- Requires Babcock Ranch, Inc., to establish various business operation requirements relating to:
 - a) Finances
 - b) Reports
 - c) Legal
 - d) Development of comprehensive business plan

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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The fiscal impact on this bill is indeterminate.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill creates a not-for-profit corporation known as “Babcock Ranch, Inc.,” to ultimately manage the Babcock Ranch Preserve. The bill provides for consulting duties by the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services.

Safeguard Individual Liberty: The bill creates a not-for-profit corporation known as “Babcock Ranch, Inc.,” to ultimately manage the Babcock Ranch Preserve. The bill preserves the working ranch currently in operation at the Babcock Ranch.

B. EFFECT OF PROPOSED CHANGES:

Babcock Ranch

The area known as the “Babcock Crescent B Ranch” (Babcock Ranch) covers an area of 143 square miles and is comprised of 81,499 acres in Charlotte County and 9,862 acres in Lee County. The Babcock Ranch is a Florida Forever Group A project which was added to the acquisition list in 2001. The Babcock Ranch is home to the Florida panther, Florida black bear and other threatened and endangered wildlife. The ranch includes large, well managed areas of pine and scrubby flatwoods along with a highly functional freshwater swamp system known as Telegraph Swamp. The acquisition of the Babcock Ranch would complete a massive natural land corridor from Lake Okeechobee to the Gulf of Mexico.

Currently, the Babcock Ranch includes tenant farms for watermelon and tomatoes on about 4,000 acres, 1,000 acres of sod farming, 2,000 acres of permitted mining activities, and 20,000 acres of improved pasture land. Public access to 6,000 acres covering six miles is provided through guided eco-tours by Babcock Wilderness Adventures, Inc. Hunting activities are authorized on 61,000 acres through 22 private annual hunting leases covering an average of 5,000 acres per lease. Prescribed burning activities are conducted on approximately 25,000 acres and 72,000 acres are in native vegetation and are grazed rotationally.

On November 22, 2005, the Board of Trustees of the Internal Improvement Trust Fund approved the Agreement for Sale and Purchase for the state to acquire approximately 74,000 acres of the Babcock Ranch for a total price of \$350 million. As part of the acquisition agreement, Babcock Ranch Management, LLC, has agreed to manage all land to be purchased by the State in accordance with the state’s land management plan that will be developed after the initial acquisition in July 2006. The preliminary management agreement will preserve and sustain the quality of the property as conservation land, as a working ranch, and silviculture operation which shall include in part:

- Cattle ranching, timber management and harvesting, Florida native plant nursery, apiary (bee) operations, sod farm, or any form of agriculture in present use on the property
- Eco-tourism, natural resource based recreation such as hiking, hunting, and fishing
- Horticultural debris disposal business
- Tenant farming which is to be phased out over time

The preliminary management agreement provides that the manager of the ranch is entitled to all revenues from operations from the ranch. During the first five-year management period, the manager must reinvest not less than 50 percent of all net revenues, from which employee salaries and benefits may not be deducted, in the management, maintenance and improvement of the property. If the preliminary management agreement is extended for a second five-year period, the reinvestment percentage increases by 10 percent each year until it reaches 90 percent. This preliminary management agreement will be for a five-year period and provides for an automatic extension of an additional five year period.

Due to the complexity of balancing a working ranch, outdoor recreation and wildlife management, the state is proposing that a not-for-profit agency be established to manage the ranch. Pending approval and creation by the Legislature, the non-profit agency would have a board of directors with a diverse range of expertise in land management, ranch operations, wildlife management and outdoor recreation. Following the fulfillment of Babcock Ranch Management, LLC, obligations, the not-for-profit agency would assume full responsibility for managing the land and ranch.

Effect of Proposed Change

The bill creates section 259.1053, F.S., to be cited as the "Babcock Ranch Preserve Act." The bill provides that the Babcock Ranch must be protected for current and future generations by continued operation as a working ranch under a unique management regime that protects the land and resource values of the property and surrounding ecosystems while allowing the ranch to become financially self-sustaining.

Babcock Ranch Preserve

The bill provides definitions relating to the act and upon the acquisition of the Babcock Ranch by the Board of Trustees of the Internal Improvement Trust Fund, there is established the "Babcock Ranch Preserve." The Babcock Ranch acquisition is a conservation acquisition under the Florida Forever program with a goal of sustaining the ecological and economic integrity of the property being acquired while allowing the business of the ranch to operate and prosper. The Babcock Ranch Preserve is established to protect and preserve the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the preserve and to provide for the multiple use and sustained yield of the renewable surface resources within the preserve. The bill provides that except for the enumerated duties of the Commissioner of Agriculture and the enumerated duties of the Florida Fish and Wildlife Conservation Commission provided in s. 9, Art. IV, of the State Constitution, the Babcock Ranch Preserve shall be managed by Babcock Ranch, Inc.

Babcock Ranch, Inc.

The bill states that the management regime will best be provided through the creation of a nonprofit public-private entity that is capable of developing and implementing environmentally sensitive, cost effective, and creative methods to manage and operate a working ranch. The bill creates a not-for-profit corporation known as "Babcock Ranch, Inc.," that will be registered, incorporated, organized, and operated in this state and not be a unit or entity of state government. Babcock Ranch, Inc., is organized on a nonstock basis. The purpose of Babcock Ranch, Inc., is to provide the following:

- Management and administrative services for the Babcock Ranch Preserve
- Establish and implement management policies
- Cooperate with state agencies to further the purposes for which the Babcock Ranch Preserve was created
- Establish the administrative and accounting procedures for the operation of the Babcock Ranch, Inc.

The bill provides that the Babcock Ranch, Inc., is subject to the provisions of chapter 119, F.S., relating to public records and those provisions of chapter 286, F.S., relating to public meetings and records for any meetings of Babcock Ranch, Inc. The dissolution of Babcock Ranch, Inc., may only occur by an act of the Legislature.

The bill authorizes Babcock Ranch, Inc., the ability to appoint and utilize advisory committees to assist in the particular function for which the committee was established. The bill provides that Babcock Ranch, Inc., and its officers and employees shall participate in the management of the Babcock Ranch Preserve in an "advisory capacity only" until the management agreement executed by Babcock Ranch Management, LLC, and the Board of Trustees of the Internal Improvement Trust Fund, Florida Fish and Wildlife Conservation Commission, and Department of Agriculture and Consumer Services, and Lee County is terminated or expires. The bill requires on or before the date on which title to the Babcock Ranch is vested in the state, Babcock Ranch Management, LLC, is to provide Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services their management plan and business plan in place for the operation of the ranch as of November 22, 2005, the date on which the Board of Trustees of the Internal Improvement Trust Fund approved the acquisition.

Upon a determination by the Board of Trustees of the Internal Improvement Trust Fund, no later than 60 days before the termination of the preliminary management agreement, the bill stipulates that Babcock Ranch, Inc., shall assume all authority to manage the Babcock Ranch Preserve as a working ranch.

The bill provides that Babcock Ranch Inc. shall assume management of the Babcock Ranch Preserve with input from Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services. The Babcock Ranch, Inc., shall manage the land resources including but not limited to the following:

- Administration and operation of the Babcock Ranch Preserve as a working ranch
- Preservation and development of the land and renewable surface resources of the Babcock Ranch Preserve
- Interpretation of the Babcock Ranch Preserve and its history on behalf of the public
- Management, public use, and occupancy of facilities and lands within the Babcock Ranch Preserve
- Maintenance, rehabilitation, repair, and improvement within the Babcock Ranch Preserve
- Develop programs and activities relating to the management of the preserve as a working ranch

The bill requires Babcock Ranch, Inc., to develop reasonable procedures for entering into lease agreements and other agreements for the use and occupancy of the facilities of the Babcock Ranch Preserve and their negotiation thereof. State laws and rules governing the procurement of commodities and services by state agencies shall apply to Babcock Ranch, Inc., The bill requires the Babcock Ranch, Inc., to provide equal employment opportunities for all persons regardless of race, color, religion, gender, national origin, age, handicap, or marital status.

The bill provides that Babcock Ranch, Inc., may not:

- Purchase, take, receive, lease, take by gift, devise, or bequest, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with real property, or any interest therein, wherever situated.
- Sell, convey, mortgage, pledge, lease, exchange, transfer, or dispose of any real property.
- Purchase, take, receive, subscribe for, or otherwise dispose of, or otherwise use and deal in and with, shares and other interests in other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals, or direct or indirect obligations of the United States, or any governmental entity.
- Lend money for its purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds lent or invested.
- Merge with other corporations or other business entities.
- Enter into any contract, lease, or other agreement related to the use of ground or surface waters on or through property without the consent of the Board of Trustees of the Internal Improvement

Trust Fund, and permits that may be required by the Department of Environmental Protection or appropriate water management district.

- Grant any easements. Any easements granted within the Babcock Ranch Preserve must be executed by the Board of Trustees of the Internal Improvement Trust Fund. Any easements granted within the Babcock Ranch Preserve titled in the name of a local government must be granted by the governing body of that local government.
- Enter into any contract, lease, or other agreement related to the use and occupancy of the Babcock Ranch Preserve for a period of greater than 10 years.

The bill provides that nothing in the act is construed to interfere with or prevent the ability of Babcock Ranch, Inc., to implement agricultural practices authorized by agricultural land use designations established in the local comprehensive plans of either Charlotte County or Lee County as those plans apply to the Babcock Ranch Preserve. The Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services are directed to establish a range of resource protection values for the Babcock Ranch Preserve, and the Babcock Ranch, Inc., shall establish operational parameters to conduct the business of the ranch within the range of values. Further, the Babcock Ranch, Inc., shall establish a range of operational values to conduct the business of the ranch, and the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services providing ground support to the ranch outside of each agency's jurisdictional responsibilities shall establish management parameters within that range of values.

The bill authorizes Babcock Ranch, Inc., to assess independent reasonable fees for admission to utilize the Babcock Ranch Preserve to offset the costs of operating the Babcock Ranch Preserve as a working ranch.

The bill provides that upon the dissolution of Babcock Ranch, Inc., for any reason, the management responsibilities shall revert to the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services unless otherwise provided by the Legislature.

Board of Directors

The bill provides that the Babcock Ranch, Inc., shall be governed by a nine-member governing board whose members will be appointed no later than 90 days after the initial acquisition of the Babcock Ranch by the state. The table below illustrates the composition of the board of directors:

Babcock Board of Directors Member Appointment	Qualification Criteria	Term Limits
Board of Trustees of the Internal Improvement Trust Fund (Four members)	<ul style="list-style-type: none"> • No appointee shall be an employee of any governmental entity. • One appointee must have expertise in domestic livestock management, production, and marketing, including range management and livestock business management • One appointee must have expertise in the management of game and nongame wildlife fish populations, including hunting, fishing, and other recreational activities • One appointee must have expertise in the sustainable management of forest lands for commodity purposes • One appointee must have expertise in financial management, budget and program analysis, and small business operations 	<ul style="list-style-type: none"> • Four initial members (4-yrs.)
Executive Director, Fish and Wildlife Conservation Commission (One member)	One member who has expertise in hunting, fishing, nongame species management or wildlife habitat management, restoration, and conservation.	One initial member (2 –yrs.)
Commissioner of Agriculture	One member with expertise in agricultural operations or forestry management	One initial member (2 –yrs.)

Babcock Florida Company (One member)	One member who has expertise in the activities and management of the Babcock Ranch as of the date of acquisition by the state. The member shall serve only until the termination of the preliminary management agreement. Upon termination of the preliminary management agreement, the person serving as the head of the property owner's association, if any, required to be created under the acquisition agreement shall serve as a member.	One initial member (2 –yrs.)
Charlotte County Board of County Commissioners (One member)	One member who shall be a resident of Charlotte County and who shall be active in an organization concerned with the activities of the ranch.	One initial member (2 –yrs.)
Lee County Board of County Commissioners (One member)	One member who shall be a resident of Lee County and who shall have expertise in land conservation and management. This appointee shall serve as a member as long as the county participates in the state management plan.	One initial member (2 –yrs.)
Note Relating To Term Limits: Each member appointed after the initial appointments be appointed to a 4-year term. Any vacancy among the trustees shall be filled in the same manner as the original appointment and any trustee appointed to fill a vacancy shall be appointed for the remainder of that term. No trustee may serve more than 8 years in consecutive terms.		
Meeting Requirements: At least three times per year at the call of the chair in Charlotte or Lee County in sessions open to the public.		
Chair and Vice Chair Election and Duties: Members shall annually elect a chair and vice chair from among their membership and may by a vote of five of the nine members, remove a member from the position of chair or vice chair prior to the expiration of the position. The chair shall ensure that records are kept of the proceedings of the board and is the custodian of certain official documents. Officers and employees of Babcock Ranch, Inc. are not employees of the state but are private employees. At the request of the trustee's, the state may provide state employees for the purpose of assist the trustees to implement the requirements of this bill. Any state employee assisting for more than 30 days shall be provided on a reimbursable basis. Reimbursement to the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be made from the Babcock Ranch, Inc. operating fund and not from any funds appropriated by the Legislature.		
Board Member Removal: Each member is accountable for the proper performance of the duties of office, and each member owes a fiduciary duty to the people of the state to ensure funds are disbursed and used as prescribed by law and contract. Any official appointing member may remove that member pursuant to certain criteria in the bill.		
Board Member Compensation: Members serve without compensation, but are entitled to receive per diem and travel expenses as provided by section. 112.061, F.S., while in the performance of their duties.		
Board Member Powers and Duties: The board of directors shall adopt articles of incorporation and bylaws necessary to govern its activities which must be approved by the Board of Trustees of the Internal Improvement Trust Fund prior to filing with the Department of State. The board of directors shall review and approve any management plan for the management of lands in the preserve prior to submission of that plan to the Board of Trustees of the Internal Improvement Trust Fund for approval and implementation. The board of directors will have all necessary and proper powers for the exercise of the authorities vested in Babcock Ranch, Inc., including, but not limited to, the power to solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other public or private entities. All funds received by Babcock Ranch, Inc., shall be deposited into an authorized operating fund unless otherwise directed by the Legislature. The board of directors may with the written approval of the Fish and Wildlife Conservation Commission and in consultation with the Department of Agriculture and Consumer Services, designate hunting, fishing, and trapping zones and establish additional periods when hunting, fishing, or trapping are not permitted for reasons of public safety, administration, and the protection and enhancement of nongame habitat and nongame species.		

The bill states that the Board Member may not:

- Be an officer, a director, or a shareholder in any entity that contracts with or receives funds from the Babcock Ranch, Inc., or its subsidiaries with the exception of the Babcock Florida Company appointee.
- Vote in any official capacity upon any measure that would inure to their private gain or loss; that would inure to the special private gain or loss of any principal by who the member is retained or to the parent organization or subsidiary of a principal by which the member is retained; or that the member would inure to the special private gain or loss of a relative or business associate of the member. Prior to any vote being taken, the member shall publicly state the nature of the member's interest in the matter from which the member is abstaining from voting and no later than 15 days after the vote occurs, disclose the nature of the member's interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting.
- Vote by proxy.
- Increase the number of its members.

Babcock Ranch, Inc., Financial Matters

The bill provides for the board of directors to establish and manage an operating fund, with a cash balance reserve that is equal to not more than 25 percent of its annual operating expenses, for the unique cash-flow needs associated with facilitating the fiscal management of Babcock Ranch, Inc. The bill stipulates that upon dissolution of Babcock Ranch, Inc., any remaining cash balances of funds shall revert back to the General Revenue Fund or to other state funds consistent with any appropriated funding.

The bill requires the board of directors to prepare an annual budget with the goal of achieving a financially self-sustaining operation within 15 full fiscal years after the initial acquisition of the Babcock Ranch by the state. The Department of Agriculture and Consumer Services is directed to provide assistance relating to the annual budget request for appropriations and may not deny a request or refuse to include in its annual legislative budget submission a request for appropriations from Babcock Ranch, Inc.

The bill stipulates that all moneys received from donations or from the management of the Babcock Ranch Preserve shall be retained by Babcock Ranch, Inc., in the operating fund and shall be available for the various operational expenses. Moneys received by Babcock Ranch, Inc., from the management of the Babcock Ranch Preserve are not subject to distribution to the state unless stipulated otherwise in this bill. The bill requires Babcock Ranch, Inc., to optimize the generation of income based on existing market conditions to the extent activities do not unreasonably diminish the long-term environmental, agricultural, scenic, and natural values of the Babcock Ranch Preserve, or the multiple-use and sustained-yield capability of the land.

Babcock Ranch, Inc. Reporting Requirements

The bill requires the board of directors to provide for an annual financial audit by an independent certified public accountant. The audit report is required to be submitted no later than three months after the end of the fiscal year to the Auditor General, the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive and fiscal committees of the Legislature. The bill authorizes certain other governmental entities to receive from the Babcock Ranch, Inc. or from the independent auditor any records relative to the operation of Babcock Ranch, Inc.

The bill requires by January 15 of each year, Babcock Ranch, Inc., to submit a comprehensive and detailed report of its operations, activities, and accomplishments for the prior year along with goals for that current year to the Board of Trustees of the Internal Improvement Trust Fund, the President of the Senate, the Speaker of the House of Representatives, the Department of Agriculture and Consumer Services, and the Florida Fish and Wildlife Conservation Commission.

Babcock Ranch, Inc. Legal and Insurance Related Matters

The bill requires all parties in contract and that hold a lease with Babcock Ranch, Inc. to procure insurance of an amount reasonable or customary to insure against any loss in connection with such properties or with activities authorized in such leases or contracts.

The bill grants Babcock Ranch, Inc., the exclusive right to utilize its corporate name and any seal, emblem, or insignia adopted by the board of directors along with providing certain prohibitions of such use.

Development of Comprehensive Business Plan for Babcock Preserve

The bill requires Babcock Ranch, Inc., not less than two years before it assumes management responsibilities for Babcock Ranch Preserve, to seek input from the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services in order to develop a comprehensive business plan for the Babcock Preserve. The comprehensive business plan must provide for the following:

- Management and operation as a working ranch

- Protection and preservation of the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the Babcock Ranch Preserve.
- Promotion of high-quality hunting experiences for the public, with emphasis on deer, turkey, and other game species.
- Multiple use and sustained yield of renewable surface resources within the Babcock Ranch preserve.
- Public use of and access to the Babcock Ranch Preserve.
- Renewable resource use and management alternatives that benefit local communities and enhance the coordination of management objectives with those on surrounding lands. The use of renewable resources and management alternatives should provide a cost savings to Babcock Ranch, Inc.

The bill provides that any final decision to adopt or amend the comprehensive business plan or any activity related to the management of the land shall be made in sessions that are open to the public for comment.

The bill provides that the comprehensive business plan for the management and operation of the Babcock Ranch Preserve as a working ranch and amendments to the business plan may only be developed with input from the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services and may only be implemented by Babcock Ranch, Inc., upon the expiration of the preliminary management agreement with Babcock Ranch Management, LLC.

C. SECTION DIRECTORY:

Section 1. Creates section 259.1053, F.S., relating to the management of the Babcock Ranch Preserve.

Section 2. Provides the act will take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: The overall fiscal impact of this bill is indeterminate. The Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services estimate interim land management funding to be \$1.9 million while recurring funding needs have not been calculated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides that the Babcock Ranch must be protected for current and future generations by continued operation as a working ranch under a unique management regime that protects the land and

resource values of the property and surrounding ecosystems while allowing the ranch to become financially self-sustaining.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY:

No additional rule making authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Environmental Regulation Committee favorable adopted a "Strike A;" amendment to HB 1347. The analysis has been revised to reflect this amendment.