

Calendar No. 372

114TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 114-211

GREAT LAKES RESTORATION INITIATIVE ACT OF 2015

FEBRUARY 24, 2016.—Ordered to be printed

Mr. INHOFE, from the Committee on Environment and Public Works, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 1024]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 1024) to authorize the Great Lakes Restoration Initiative, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

The Great Lakes ecosystem is the largest system of fresh surface water in the world. A recent Government Accountability Office (GAO) report stated the Great Lakes watershed covers approximately 300,000 square miles encompassing Michigan and parts of Illinois, Indiana, Minnesota, New York, Ohio, Pennsylvania, Wisconsin, and the Canadian province of Ontario.

The Great Lakes contains around 90 percent of the surface fresh water of the United States and 20 percent of the surface fresh water of the world. Further, nearly 7 percent of U.S. agricultural production comes from the Great Lakes Basin. An estimated 40 million people depend on the Great Lakes ecosystem for drinking water and jobs, as well as recreational activities.

There are a number of federal programs that support restoration of the Great Lakes. However, lack of coordination reduced the effi-

ciency and effectiveness of these efforts. In 2004, a Great Lakes Interagency Task Force was created to help address this issue. In 2010, the Great Lakes Restoration Initiative was launched using the appropriations process to further enhance interagency coordination. Under this initiative, appropriations are made to the Environmental Protection Agency, which may then transfer a portion of those funds to other agencies, including the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration, and Natural Resources Conservation Service, among others, to carry out projects and programs under their own authorities. EPA uses the portion of the annual GLRI appropriation that it retains to carry out projects and programs under its own authorities.

Since 2010, federal funds have been appropriated in this coordinated fashion to support Great Lakes restoration programs and projects, including \$300 million in each of fiscal years 2015 and 2016. To ensure this coordination continues, S. 1024 authorizes the Great Lakes Restoration Initiative at a level funding level of \$300 million a year for fiscal years 2017 through 2021.

OBJECTIVES OF THE LEGISLATION

The goal of the S. 1024 is to provide funding for programs and projects for Great Lakes protection and restoration.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section designates the bill as the “Great Lakes Restoration Initiative Act of 2016”.

Section 2. Great Lakes Restoration Initiative

This section amends section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) by striking paragraph (7) and replacing it with new paragraph (7).

Subparagraph (A) would establish, within the Environmental Protection Agency (EPA), the Great Lakes Restoration Initiative “Initiative”) to carry out programs and projects for Great Lakes protection and restoration.

Subparagraph (B) directs the Initiative to prioritize programs and projects to address priority areas, such as (1) the remediation of toxic substances and areas of concern; (2) the prevention and control of invasive species and their impacts; (3) the protection and restoration of near-shore health and the prevention and mitigation of nonpoint source pollution; (4) habitat and wildlife protection and restoration; and (5) accountability, monitoring, evaluation, communication, and partnerships.

Subparagraph (C) directs federal agencies to collaborate to select programs and projects for funding, and specifies selection considerations.

Subparagraph (D)(i) authorizes, subject to subparagraph (G)(ii), the use of funds for Federal projects and carried out by Federal agencies in coordination with state, tribal, and municipal governments, institutions of higher education, and other organizations. Subparagraph (D)(ii) authorizes the transfer of funds to other Federal agencies to carry out activities to support the Initiative and

the Great Lakes Water Quality Agreement, and authorizes grants to governmental entities, nonprofit organizations, institutions, and individuals for planning, research, monitoring, outreach, and implementation of projects in furtherance of the Initiative and the Great Lakes Water Quality Agreement. The committee notes that the authorities to transfer funds, enter into interagency agreements, and make grants for implementation projects in subparagraph (D)(ii) is the same authority that has been provided to EPA in annual appropriations bills. Accordingly, each of these authorities would not be considered a newly created, expanded or amended authority under subparagraph (G)(ii).

Subparagraph (E) specifies that projects are to be on multiple levels, and limits use of funds for projects, other than green infrastructure projects, that receive funding from a Clean Water or Safe Drinking Water revolving loan fund.

Subparagraph (F) requires federal agencies to maintain the base level of funding for the Great Lakes activities.

Subparagraph (G)(ii) clarifies that new paragraph (7) does not create, expand, or amend the authority of the Administrator to implement programs or projects under section 118 of the Clean Water Act, the Initiative Action Plan, or the Great Lakes Water Quality Agreement. Further, paragraph 7 does not provide any new regulatory authority.

LEGISLATIVE HISTORY

Senators Kirk and Portman introduced S. 1024 on April 21, 2015. The bill was referred to the Committee on Environment and Public Works.

Section 426 of Division G of the Consolidated Appropriations Act, 2016, P.L. 114–113, amended paragraph (7) of section 118 of the Clean Water Act to authorize the GLRI for one year.

On January 20, 2016, the Committee reported S. 1024 favorably with an amendment in the nature of a substitute. Upon enactment, the amendments made by S. 1024 will replace the amendments made in the Omnibus appropriations bill.

HEARINGS

The Committee did not hold a hearing on S. 1024.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 1024 on January 20, 2016. The bill was ordered favorably reported by voice vote. No rollcall votes were taken.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee finds that S. 1024 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the Committee notes that the Congressional

Budget Office found that S. 1024 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), and would impose no costs on state, local, or tribal governments.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 10, 2016.

Hon. JIM INHOFE,
*Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1024, the Great Lakes Restoration Initiative Act of 2016.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jon Sperl.

Sincerely,

KEITH HALL.

Enclosure.

S. 1024—Great Lakes Restoration Initiative Act of 2016

Summary: S. 1024 would authorize the appropriation of \$1.5 billion over the 2017–2021 period for the Environmental Protection Agency (EPA) to support the Great Lakes Restoration Initiative, a program that funds projects targeting invasive aquatic species and nonpoint source pollution. The program received an appropriation of \$300 million for fiscal year 2016.

CBO estimates that implementing S. 1024 would cost \$1.35 billion over the next five years, assuming appropriation of the authorized amounts.

Enacting S. 1024 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 1024 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 1024 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal government: The estimated budgetary impact of S. 1024 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017–2021
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	300	300	300	300	300	1,500
Estimated Outlays	195	255	300	300	300	1,350

Basis of estimate: For this estimate, CBO assumes that S. 1024 will be enacted near the end of fiscal year 2016, that the specified amounts will be appropriated in each year starting in 2017, and that outlays will follow historical spending patterns for the program.

Pay-As-You-Go considerations: None.

Increase in long-term deficit and direct spending: CBO estimates that enacting S. 1024 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: S. 1024 contains no intergovernmental or private-sector mandates as defined in UMRA and would benefit state, local, and tribal governments, as well as public institutions of higher education, by authorizing grants for environmental projects. Any costs incurred by those entities, including matching contributions, would be incurred voluntarily.

Estimate prepared by: Federal costs: Jon Sperl; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: Theresa A. Gullo, Assistant Director for Budget Analysis.

ADDITIONAL VIEWS

We support the goal of S. 1024, the Great Lakes Restoration Initiative Act of 2015, which is to reauthorize Great Lakes Restoration Initiative (GLRI). However, we regret that this legislation locks in an authorized funding level that does not allow for any growth or acceleration of projects to protect the environmental quality of the Great Lakes region. The funding levels in S. 1024 are significantly below levels appropriated by the Congress in the recent past.

The Great Lakes account for 90 percent of the United States and 20 percent of the world's surface freshwater. However, the Great Lakes continue to face threats ranging from Asian carp and other invasive species to harmful algal blooms that threaten clean drinking water sources for 30 million Americans and harm the tourism and recreational industries that are critical to the region's economy.

Funding provided by the GLRI has allowed the Environmental Protection Agency to work in coordination with other Federal agencies and fund more than 2,500 projects that improve water quality, prevent invasive species, and restore important habitats and native species.

It is estimated that restoring the Great Lakes will result in \$80–\$100 billion in economic benefits across the Great Lakes region. Providing a more robust federal investment in the GLRI would allow more projects to be completed faster to fully address the 24 areas of concern that exist across 5 states, including New York, Ohio, Michigan, Indiana and Wisconsin.

According to the EPA, it may take decades to resolve the environmental problems and associated human health risks across the Great Lakes. Recent events in Flint, Michigan have demonstrated the importance of cleaning up degraded waterbodies, which serve as drinking water sources for millions. Increasing our federal investment in the GLRI is necessary to ensure that communities across the Great Lakes region have access to clean water, a healthy environment, and the potential for economic growth and revitalization.

BARBARA BOXER.
KIRSTEN GILLIBRAND.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in **[black brackets]**, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

* * * * *

Federal Water Pollution Control Act

* * * * *

SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

(1) * * *

* * * * *

SEC. 118. GREAT LAKES.

(a) FINDINGS, PURPOSE, AND DEFINITIONS.—

(1) FINDINGS.—The Congress finds that—

(A) * * *

* * * * *

(c) GREAT LAKES MANAGEMENT.—

(1) FUNCTIONS.—The Program Office shall—

(A) * * *

* * * * *

[(7) GREAT LAKES RESTORATION INITIATIVE.—

[(A) ESTABLISHMENT.—There is established in the Agency a Great Lakes Restoration Initiative (referred to in this paragraph as the “Initiative”) to carry out programs and projects for Great Lakes protection and restoration.

[(B) FOCUS AREAS.—The Initiative shall prioritize programs and projects carried out in coordination with non-Federal partners and programs and projects that address priority areas each fiscal year, including—

[(i) the remediation of toxic substances and areas of concern;

[(ii) the prevention and control of invasive species and the impacts of invasive species;

[(iii) the protection and restoration of nearshore health and the prevention and mitigation of nonpoint source pollution;

[(iv) habitat and wildlife protection and restoration, including wetlands restoration and preservation; and

[(v) accountability, monitoring, evaluation, communication, and partnership activities.

[(C) PROJECTS.—Under the Initiative, the Agency shall collaborate with Federal partners, including the Great Lakes Interagency Task Force, to select the best combination of programs and projects for Great Lakes protection and restoration using appropriate principles and criteria, including whether a program or project provides—

[(i) the ability to achieve strategic and measurable environmental outcomes that implement the Great Lakes Action Plan and the Great Lakes Water Quality Agreement;

[(ii) the feasibility of—

[(I) prompt implementation;

[(II) timely achievement of results; and

[(III) resource leveraging; and

[(iii) the opportunity to improve interagency and inter-organizational coordination and collaboration to reduce duplication and streamline efforts.

[(D) IMPLEMENTATION OF PROJECTS.—

[(i) IN GENERAL.—Subject to subparagraph (G)(ii), funds made available to carry out the Initiative shall be used to strategically implement—

[(I) Federal projects; and

[(II) projects carried out in coordination with States, Indian tribes, municipalities, institutions of higher education, and other organizations.

[(ii) TRANSFER OF FUNDS.—With amounts made available for the Initiative each fiscal year, the Administrator may—

[(I) transfer not more than the total amount appropriated under subparagraph (G)(i) for the fiscal year to the head of any Federal department or agency, with the concurrence of the department or agency head, to carry out activities to support the Initiative and the Great Lakes Water Quality Agreement; and

[(II) enter into an interagency agreement with the head of any Federal department or agency to carry out activities described in subclause (I).

[(E) SCOPE.—

[(i) IN GENERAL.—Projects shall be carried out under the Initiative on multiple levels, including—

[(I) Great Lakes-wide; and

[(II) Great Lakes basin-wide.

[(ii) LIMITATION.—No funds made available to carry out the Initiative may be used for any water infrastructure activity (other than a green infrastructure project that improves habitat and other ecosystem functions in the Great Lakes) for which amounts are made available from—

[(I) a State water pollution control revolving fund established under title VI; or

[(II) a State drinking water revolving loan fund established under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12).

[(F) ACTIVITIES BY OTHER FEDERAL AGENCIES.—Each relevant Federal department or agency shall, to the maximum extent practicable—

[(i) maintain the base level of funding for the Great Lakes activities of that department or agency without regard to funding under the Initiative; and

[(ii) identify new activities and projects to support the environmental goals of the Initiative.

[(G) FUNDING.—There are authorized to be appropriated to carry out this paragraph for fiscal year 2016, \$300,000,000.]

(7) GREAT LAKES RESTORATION INITIATIVE.—

(A) ESTABLISHMENT.—*There is established in the Agency a Great Lakes Restoration Initiative (referred to in this paragraph as the ‘Initiative’) to carry out programs and projects for Great Lakes protection and restoration.*

(B) FOCUS AREAS.—*Each fiscal year under a 5-year Initiative Action Plan, the Initiative shall prioritize programs and projects, carried out in coordination with non-Federal partners, that address priority areas, such as—*

(i) the remediation of toxic substances and areas of concern;

(ii) the prevention and control of invasive species and the impacts of invasive species;

(iii) the protection and restoration of nearshore health and the prevention and mitigation of nonpoint source pollution;

(iv) habitat and wildlife protection and restoration, including wetlands restoration and preservation; and

(v) accountability, monitoring, evaluation, communication, and partnership activities.

(C) PROJECTS.—*Under the Initiative, the Agency shall collaborate with Federal partners, including the Great Lakes Interagency Task Force, to select the best combination of programs and projects for Great Lakes protection and restoration using appropriate principles and criteria, including whether a program or project provides—*

(i) the ability to achieve strategic and measurable environmental outcomes that implement the Great Lakes Action Plan and the Great Lakes Water Quality Agreement;

(ii) the feasibility of—

(I) prompt implementation;

(II) timely achievement of results; and

(III) resource leveraging; and

(iii) the opportunity to improve interagency and inter-organizational coordination and collaboration to reduce duplication and streamline efforts.

(D) IMPLEMENTATION OF PROJECTS.—

(i) IN GENERAL.—Subject to subparagraph (G)(ii), funds made available to carry out the Initiative shall be used to strategically implement—

(I) Federal projects; and

(II) projects carried out in coordination with States, Indian tribes, municipalities, institutions of higher education, and other organizations.

(ii) TRANSFER OF FUNDS.—With amounts made available for the Initiative each fiscal year, the Administrator may—

(I) transfer not more than \$300,000,000 to the head of any Federal department or agency, with the concurrence of the department or agency head, to carry out activities to support the Initiative and the Great Lakes Water Quality Agreement;

(II) enter into an interagency agreement with the head of any Federal department or agency to carry out activities described in subclause (I); and

(III) make grants to governmental entities, non-profit organizations, institutions, and individuals for planning, research, monitoring, outreach, and implementation of projects in furtherance of the Initiative and the Great Lakes Water Quality Agreement.

(E) SCOPE.—

(i) IN GENERAL.—Projects shall be carried out under the Initiative on multiple levels, including—

(I) Great Lakes-wide; and

(II) Great Lakes basin-wide.

(ii) LIMITATION.—No funds made available to carry out the Initiative may be used for any water infrastructure activity (other than a green infrastructure project that improves habitat and other ecosystem functions in the Great Lakes) for which amounts are made available from—

(I) a State water pollution control revolving fund established under title VI; or

(II) a State drinking water revolving loan fund established under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

(F) ACTIVITIES BY OTHER FEDERAL AGENCIES.—Each relevant Federal department or agency shall, to the maximum extent practicable—

(i) maintain the base level of funding for the Great Lakes activities of that department or agency without regard to funding under the Initiative; and

(ii) identify new activities and projects to support the environmental goals of the Initiative and the Great Lakes Water Quality Agreement.

(G) FUNDING.—

(i) IN GENERAL.—There is authorized to be appropriated to carry out this paragraph \$300,000,000 for each of fiscal years 2017 through 2021.

(ii) LIMITATION.—Nothing in this paragraph creates, expands, or amends the authority of the Administrator to implement programs or projects under—

(I) this section;

(II) the Initiative Action Plan; or

(III) the Great Lakes Water Quality Agreement.