

TO AUTHORIZE THE INTERNATIONAL BOUNDARY AND WATER COMMISSION TO ACCEPT FUNDS FOR ACTIVITIES RELATING TO WASTEWATER TREATMENT AND FLOOD CONTROL WORKS, AND FOR OTHER PURPOSES

NOVEMBER 26, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GRAVES of Missouri, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5903]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 5903) to authorize the International Boundary and Water Commission to accept funds for activities relating to wastewater treatment and flood control works, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

| | Page |
|---|------|
| Purpose of Legislation | 2 |
| Background and Need for Legislation | 2 |
| Hearings | 3 |
| Legislative History and Consideration | 3 |
| Committee Votes | 4 |
| Committee Oversight Findings and Recommendations | 4 |
| New Budget Authority and Tax Expenditures | 4 |
| Congressional Budget Office Cost Estimate | 4 |
| Performance Goals and Objectives | 5 |
| Duplication of Federal Programs | 6 |
| Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ... | 6 |
| Federal Mandates Statement | 6 |
| Preemption Clarification | 6 |
| Advisory Committee Statement | 6 |
| Applicability to Legislative Branch | 6 |
| Section-by-Section Analysis of the Legislation | 6 |
| Changes in Existing Law Made by the Bill, as Reported | 7 |

The amendment is as follows:
 Strike all after the enacting clause and insert the following:

SECTION 1. INTERNATIONAL BOUNDARY AND WATER COMMISSION AUTHORITY.

(a) **AUTHORIZATION.**—The Commission is authorized to accept funds from a Federal or non-Federal entity, including through a grant or funding agreement, to study, design, construct, operate, or maintain wastewater treatment works, water conservation projects, or flood control works, and related structures, consistent with the functions of the Commission.

(b) **DEPOSIT.**—Any funds accepted by the Commission under this section shall be deposited into the account in the Treasury of the United States entitled “International Boundary and Water Commission, United States and Mexico” and shall be available until expended to carry out the activities described in subsection (a).

(c) **LIMIT ON REIMBURSEMENT.**—The Commission may not provide credit towards the non-Federal share of the cost of a project, or reimbursement, to non-Federal entities for funds accepted under this section in an amount that exceeds a total of \$5,000,000 in any fiscal year.

(d) **REPORT.**—Not later than the last day of each fiscal year, the Commission shall submit to the Committee on Foreign Relations of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the funds accepted under this section that includes a description of—

- (1) the activities carried out with such funds; and
- (2) costs associated with such activities.

(e) **COMMISSION DEFINED.**—In this section, the term “Commission” means the United States Section of the International Boundary and Water Commission, United States and Mexico.

PURPOSE OF LEGISLATION

The purpose of H.R. 5903, as amended, is to authorize the International Boundary and Water Commission to accept funds for activities relating to wastewater treatment and flood control works, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The International Boundary and Water Commission (IBWC or Commission) was established in 1889 and is an international body composed of the United States Section and the Mexican Section. The IBWC is responsible for applying the boundary and water treaties between the United States and Mexico. As part of this responsibility, the IBWC undertakes a variety of infrastructure projects to implement existing treaties and international agreements, as well as to resolve new or emerging boundary or water problems.

The United States Section of the IBWC currently operates and maintains roughly 100 hydrologic gaging stations, 500 miles of levees, 20,000 acres of floodplains, four diversion dams, two international storage dams and associated hydroelectric power plants, more than 500 hydraulic structures, two international wastewater treatment plants, and half of all boundary monuments and markers on the land boundary and at ports of entry.¹ Additionally, the IBWC conducts and reviews environmental impact studies, water quality monitoring, hydraulic studies, and develops design plans for construction and renovation of water infrastructure projects.

H.R. 5903, as amended, authorizes the IBWC to accept funds from other federal agencies and non-federal partners to study, design, construct, operate, and maintain water resource infrastructure. This legislation builds on the United States-Mexico-Canada Agreement Implementation Act (P.L. 116–113), which directed the United States Environmental Protection Agency (EPA) to work with the IBWC to address international transboundary water flows originating in Mexico and appropriated \$300 million to EPA for the

¹IBWC, *U.S. IBWC Organizational Structure*, (Dec. 18, 2023), available at <https://www.ibwc.gov/organization/>.

purpose of constructing and maintaining water infrastructure. This authority was later amended in the *Consolidated Appropriations Act, 2023* (P.L. 117–328) to authorize the transfer of this funding from EPA to the IBWC to carry out this work.

H.R. 5903, as amended, also aligns the IBWC’s authorities with other Federal agencies that are authorized to receive funding from non-Federal entities. For example, the United States Army Corps of Engineers (Corps) is eligible to receive funding from non-Federal partners for the study, design, construction, and operation and maintenance of infrastructure projects.²

The Commissioner of the United States Section of the IBWC, Maria-Elena Giner, testified before the Subcommittee on Water and Environment of the Committee on Transportation and Infrastructure on July 13, 2023. Commissioner Giner stated that the IBWC has a \$473 million deferred maintenance backlog and that the ability to accept additional funding would allow the Commission to better manage its infrastructure assets, as well as partner with other agencies on critical infrastructure projects.³ This legislation will help the Commission address deferred maintenance and new water infrastructure needs.

HEARINGS

For the purposes of rule XIII, clause 3(c)(6)(A) of the 118th Congress—

On July 13, 2023, the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure held a hearing entitled, “*Review of Fiscal Year 2024 Budget Request: Agency Perspectives (Part II)*.” The hearing gave Members the opportunity to review the Fiscal Year 2024 budget request, as well as the Administration’s program priorities within the jurisdiction of the Subcommittee. The Subcommittee received testimony from the Honorable Radhika Fox, Assistant Administrator, Office of Water, EPA; Dr. Maria-Elena Giner, Commissioner, IWBC, United States Section; Mr. Louis Aspey, Associate Chief, Natural Resources Conservation Service, United States Department of Agriculture; Dr. Aaron Bernstein, Director, Agency for Toxic Substances and Disease Registry; and Ms. Nicole R. LeBoeuf, Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration.

LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 5903, “*To authorize the International Boundary and Water Commission to accept funds for activities relating to wastewater treatment and flood control works, and for other purposes*”, was introduced in the United States House of Representatives of October 6, 2023, by Ranking Member Napolitano of California, with Mr. Rouzer of North Carolina as an original cosponsor, and referred to the Committee on Transportation and Infrastructure. Within the Committee on Transportation and Infrastructure, H.R. 5903 was

²DEPT OF THE ARMY, UNITED STATES ARMY CORPS OF ENGINEERS, *Directors Policy Memorandum FY2020*, (Dec. 19, 2019), available at <https://usace.contentdm.oclc.org/digital/api/collection/p16021coll11/id/4421/download>.

³*Review of Fiscal Year 2024 Budget Request: Agency Perspectives (Part II) Before the Subcomm. on Water Resources and Environment of the H. Comm. on Transp. And Infrastructure*, 118th Cong. (July 13, 2023) (statement of IBWC Commissioner Maria-Elena Giner).

referred to the Subcommittee on Water Resources and Environment. The Subcommittee on Water Resources and Environment was discharged from further consideration of H.R. 5903 on November 15, 2023.

The Committee considered H.R. 5903 on November 15, 2023, and ordered the measure to be reported to the House with a favorable recommendation, with amendment, by voice vote.

The following amendment was offered:

An Amendment in the Nature of a Substitute to H.R. 5903, offered by Ranking Member Larsen of Washington on behalf of Ranking Member Napolitano of California, (ANS B) was AGREED TO, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

There were no recorded votes on H.R. 5903.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974* and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Chairman of the Committee shall cause such estimate and statement to be printed in the *Congressional Record* upon its receipt by the Committee.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the enclosed cost estimate for H.R. 5903 from the Director of the Congressional Budget Office:

| H.R. 5903, a bill to authorize the International Boundary and Water Commission to accept funds for activities relating to wastewater treatment and flood control works, and for other purposes | | | |
|---|-------------|---|------------------|
| As ordered reported by the House Committee on Transportation and Infrastructure on November 15, 2023 | | | |
| By Fiscal Year, Millions of Dollars | <u>2024</u> | <u>2024-2029</u> | <u>2024-2034</u> |
| Direct Spending (Outlays) | * | * | * |
| Revenues | <u>0</u> | <u>0</u> | <u>0</u> |
| Increase or Decrease (-) in the Deficit | * | * | * |
| Spending Subject to Appropriation (Outlays) | * | * | not estimated |
| Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035? | No | Statutory pay-as-you-go procedures apply? | Yes |
| | | Mandate Effects | |
| Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035? | No | Contains intergovernmental mandate? | No |
| | | Contains private-sector mandate? | No |
| * = between -\$500,000 and \$500,000. | | | |

H.R. 5903 would authorize the U.S. International Boundary and Water Commission to accept and spend contributions from federal and nonfederal entities to carry out wastewater treatment, water conservation, and flood control projects. The bill would require the commission to report annually on how any collections were used.

Any contributions from nonfederal entities would be recorded in the budget as offsetting receipts, that is, as reductions in direct spending. CBO expects the amount the commission would collect each year from federal and nonfederal sources would vary depending on the needs, priorities, and financial resources of the contributing entities. Based on historical spending patterns of similar activities, CBO estimates that any collections would be spent soon after they are received. Thus, under the bill, the net effect on direct spending would be negligible in each year and over the 2024–2034 period.

Based on the costs of similar requirements, CBO estimates that the annual report would cost less than \$500,000 over the 2024–2029 period. Any related spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Kelly Durand. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to authorize the International Boundary and Water Commission to accept funds for activities relating to wastewater treatment and flood control works, and for other purposes.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 590, as amended, establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED
TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the *Unfunded Mandates Reform Act* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

Section 423 of the *Congressional Budget Act of 1974* requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 5903 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the definition of Section 5(b) of the appendix to Title 5, United States Code, are created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act* (Public Law 104-1).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. International Boundary and Water Commission Authority

This section authorizes the United States Section of the International and Boundary Water Commission to accept funds from a Federal or non-Federal entity, including through a grant or funding agreement, to study, design, construct, operate, or maintain wastewater treatment works, water conservation projects, or flood control works, and related structures.

This section requires an annual report to the House Committee on Transportation and Infrastructure and the Senate Committee on Foreign Relations outlining the funds that have been accepted under this authority and the activities carried out with such funds. It also caps the amount of funding that is eligible for credit or reimbursement to a total of \$5 million annually.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported by the Committee, H.R. 5903, as amended, makes no changes in existing law.

