

GREAT LAKES RESTORATION INITIATIVE ACT OF 2016

MARCH 23, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 223]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 223) to authorize the Great Lakes Restoration Initiative, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose of the Legislation	4
Background and Need for the Legislation	4
Hearings	8
Legislative History and Consideration	10
Committee Votes	11
Committee Oversight Findings	11
New Budget Authority and Tax Expenditures	11
Congressional Budget Office Cost Estimate	11
Performance Goals and Objectives	12
Advisory of Earmarks	13
Duplication of Federal Programs	13
Disclosure of Directed Rulemakings	13
Federal Mandate Statement	13
Preemption Clarification	13
Advisory Committee Statement	13
Applicability of Legislative Branch	13
Section-by-Section Analysis of Legislation	14
Changes in Existing Law Made by the Bill, as Reported	14

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Great Lakes Restoration Initiative Act of 2016”.

SEC. 2. GREAT LAKES RESTORATION INITIATIVE.

Section 118(c)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(7)) is amended—

(1) by striking subparagraphs (B) and (C) and inserting the following:

“(B) **FOCUS AREAS.**—In carrying out the Initiative, the Administrator shall prioritize programs and projects, to be carried out in coordination with non-Federal partners, that address the priority areas described in the Initiative Action Plan, 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.**—

“(i) **IN GENERAL.**—In carrying out the Initiative, the Administrator shall collaborate with other Federal partners, including the Great Lakes Interagency Task Force established by Executive Order 13340 (69 Fed. Reg. 29043), 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 Initiative Action Plan and the Great Lakes Water Quality Agreement;

“(II) the feasibility of—

“(aa) prompt implementation;

“(bb) timely achievement of results; and

“(cc) resource leveraging; and

“(III) the opportunity to improve interagency, intergovernmental, and inter-organizational coordination and collaboration to reduce duplication and streamline efforts.

“(ii) **OUTREACH.**—In selecting the best combination of programs and projects for Great Lakes protection and restoration under clause (i), the Administrator shall consult with the Great Lakes States and Indian tribes and solicit input from other non-Federal stakeholders.

“(iii) **HARMFUL ALGAL BLOOM COORDINATOR.**—The Administrator shall designate a point person from an appropriate Federal partner to coordinate, with Federal partners and Great Lakes States, Indian tribes, and other non-Federal stakeholders, projects and activities under the Initiative involving harmful algal blooms in the Great Lakes.”;

(2) in subparagraph (D)—

(A) by striking clause (i) and inserting the following:

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

“(I) Federal projects;

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

“(III) operations and activities of the Program Office, including remediation of sediment contamination in areas of concern.”;

(B) in clause (ii)(I), by striking “(G)(i)” and inserting “(J)(i)”; and

(C) by inserting after clause (ii) the following:

“(iii) **AGREEMENTS WITH NON-FEDERAL ENTITIES.**—

“(I) **IN GENERAL.**—The Administrator, or the head of any other Federal department or agency receiving funds under clause (ii)(I), may make a grant to, or otherwise enter into an agreement with, a qualified non-Federal entity, as determined by the Administrator or the applicable head of the other Federal department or agency receiving funds, for planning, research, monitoring, outreach, or implementation of a project selected under subparagraph (C), to

support the Initiative Action Plan or the Great Lakes Water Quality Agreement.

- “(II) QUALIFIED NON-FEDERAL ENTITY.—For purposes of this clause, a qualified non-Federal entity may include a governmental entity, nonprofit organization, institution, or individual.”; and
(3) by striking subparagraphs (E) through (G) and inserting the following:

“(E) SCOPE.—

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

“(I) locally;

“(II) Great Lakes-wide; or

“(III) 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 financial assistance is received—

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

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

“(III) pursuant to the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901 et seq.).

“(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) REVISION OF INITIATIVE ACTION PLAN.—

“(i) IN GENERAL.—Not less often than once every 5 years, the Administrator, in conjunction with the Great Lakes Interagency Task Force, shall review, and revise as appropriate, the Initiative Action Plan to guide the activities of the Initiative in addressing the restoration and protection of the Great Lakes system.

“(ii) OUTREACH.—In reviewing and revising the Initiative Action Plan under clause (i), the Administrator shall consult with the Great Lakes States and Indian tribes and solicit input from other non-Federal stakeholders.

“(H) MONITORING AND REPORTING.—The Administrator shall—

“(i) establish and maintain a process for monitoring and periodically reporting to the public on the progress made in implementing the Initiative Action Plan;

“(ii) make information about each project carried out under the Initiative Action Plan available on a public website; and

“(iii) provide to the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works a yearly detailed description of the progress of the Initiative and amounts transferred to participating Federal departments and agencies under subparagraph (D)(ii).

“(I) INITIATIVE ACTION PLAN DEFINED.—In this paragraph, the term ‘Initiative Action Plan’ means the comprehensive, multi-year action plan for the restoration of the Great Lakes, first developed pursuant to the Joint Explanatory Statement of the Conference Report accompanying the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 (Public Law 111–88).

“(J) 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.”.

PURPOSE OF THE LEGISLATION

H.R. 223 amends section 118(c) of the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) to reauthorize the Great Lakes Restoration Initiative (GLRI) within the Environmental Protection Agency (EPA).

BACKGROUND AND NEED FOR THE LEGISLATION

Millions of people in the United States and Canada depend on the Great Lakes—the largest system of freshwater in the world—as a source of drinking water, recreation, and economic livelihood. The Great Lakes Basin has been vulnerable to the effects of toxic and other pollutants as a result of industrial, agricultural, and residential development.

The Great Lakes Basin includes parts of the states of Minnesota, Wisconsin, Illinois, Indiana, Ohio, Pennsylvania, and New York, all of the State of Michigan, and part of Ontario, Canada. Over 33 million people live in the Great Lakes Basin, representing one tenth of the U.S. population and one quarter of the Canadian population. The Great Lakes hold 18 percent of the world's fresh water supply and 90 percent of the United States' fresh water supply.

Over the past 200 years, the Great Lakes region has undergone significant development. Some of the industries in the region include mining, steel, machine tools, and automobile manufacturing. Agriculture is also a significant component of the regional economy. The Great Lakes system provides convenient waterways for the movement of goods, is the source of drinking water for millions of people, supplies process and cooling water for industrial uses, and is used to generate hydroelectric power.

In addition, the Great Lakes provide significant recreational benefits, including sightseeing, fishing, boating, and swimming. According to a study authorized by Congress and carried out by the United States Army Corps of Engineers (Corps) in partnership with the Great Lakes Commission, one-third of all U.S.-registered recreational boats are in the Great Lakes, resulting in \$34.6 billion annually in economic activity and 244,000 jobs. Nearly \$18 billion in fishing, hunting, and wildlife watching occurs annually in the Great Lakes region, according to the U.S. Fish and Wildlife Service.

Industrialization and development have had a significant impact on the Great Lakes ecosystem. The Great Lakes are particularly vulnerable to contamination because outflow rates from most of the Lakes are very slow: Lake Superior retains water for 173 years, Lake Michigan for 62 years, and Lake Huron for 31 years. Lake Erie, the shallowest of the Lakes, has the shortest water retention, at 2.7 years. Lakes with low outflow rates do not flush pollutants quickly. As a result, some pollutants discharged into the Great Lakes settle into the sediments at the bottom of the Lakes.

Non-indigenous species and excessive nutrients from a variety of sources have greatly impacted the Great Lakes ecosystem. More than 180 invasive aquatic species have become established in the Great Lakes, some of which have caused extensive ecological and economic damage. In the 1950s, the sea lamprey was introduced unintentionally into the Lakes and decimating trout fisheries. In the 1960s, excessive growth of algae in portions of the Lakes led

to a decline in oxygen levels and excessive nutrient loadings were identified as the primary cause of this problem. More recently, in 2014, Toledo, Ohio implemented a drinking water ban that affected 500,000 people due to a harmful algal bloom caused in part by excessive nutrients in Lake Erie. Decades of industrial activity in the region left a legacy of polychlorinated biphenyl (PCB) and other contamination in sediments that make up the beds of many of the rivers and harbors in the Great Lakes. While efforts have been made to address these problems, they remain serious concerns.

In 2004, Executive Order 13340 was issued, creating the Great Lakes Interagency Task Force (Task Force). Chaired by the Administrator of the EPA, the Task Force is made up of senior officials from EPA, nine federal departments (the Departments of Agriculture, Commerce, Defense, Health and Human Services, Homeland Security, Housing and Urban Development, the Interior, State, and Transportation), and the Council on Environmental Quality. The Task Force was established to address nationally significant environmental and natural resource issues involving the Great Lakes. In addition to the Task Force, the Great Lakes Regional Working Group (Regional Working Group) was also established and is composed of the appropriate regional administrator or director with programmatic responsibility for the Great Lakes system for each agency represented on the Task Force.

In 2010, the Great Lakes Restoration Initiative (GLRI) was established by the Executive Branch to provide additional resources toward critical long-term goals for the Great Lakes ecosystem, and its progress is overseen by the Task Force. Task Force agencies conduct work themselves or through agreements with state, local, or tribal government entities, nongovernmental organizations, academic institutions, or other entities.

During the first phase of the GLRI Action Plan, for Fiscal Years 2010 through 2014, GLRI resources supplemented agency budgets to fund over 2,000 projects to improve water quality, protect and restore native habitat and species, prevent and control invasive species and address other Great Lakes environmental problems. GLRI resources have also been used to double the acreage enrolled in agricultural conservation programs in watersheds where stormwater runoff containing nutrients contributes to harmful algal blooms in western Lake Erie, Saginaw Bay, and Green Bay. Five Task Force agencies (the EPA, Fish and Wildlife Service, National Oceanic and Atmospheric Administration (NOAA), Natural Resources Conservation Service (NRCS), and the Corps) received 85 percent of GLRI funds made available in Fiscal Years 2010 through 2014.

The EPA transfers GLRI funds to other federal agencies in support of the program. These funds are intended to supplement—not supplant—other agency funding. Each Task Force agency then uses the funds to carry out GLRI work itself, or awards funds to recipients through financial agreements, such as grants or contracts.

The second phase of the GLRI Action Plan is for Fiscal Years 2015 through 2019 and consists of five major focus areas: (1) Toxic Substances and Areas of Concern, (2) Invasive Species, (3) Near-shore Health and Nonpoint Source Pollution, (4) Habitat and Wildlife Protection and Restoration, and (5) Accountability, Education, Monitoring, Evaluation, Communication and Partnerships (Founda-

tions for Future Restoration Actions). Each of the five focus areas has specific objectives, commitments, and measures of progress that are clearly identified within the Action Plan.

The Toxic Substances and Areas of Concern Focus Area has the objectives of remediating, restoring, and delisting Areas Of Concern (AOCs) and increasing knowledge about contaminants in the fish and wildlife of the Great Lakes. AOCs are locations that have experienced environmental degradation that results in an impairment of the area's ability to support aquatic life. The objectives of the Invasive Species Focus Area are to prevent new introductions of invasive species, control established invasive species, and develop invasive species control technologies and refine management techniques. The Nonpoint Source Pollution Impacts on Nearshore Health Focus Area aims to reduce nutrient loads from agricultural watersheds and reduce untreated runoff from urban watersheds, while the Habitats and Species Focus Area aims to protect, restore, and enhance habitats to help sustain healthy populations of native species and maintain, restore, and enhance populations of native species. The Foundations for Future Restoration Actions Focus Area was not previously addressed in the first GLRI Action Plan. The objectives of this new focus area are to ensure climate resiliency of GLRI-funded projects, educate the next generation about the Great Lakes ecosystem, and implement a science-based adaptive management approach for GLRI.

The President's budget for fiscal year 2017 requested \$250 million for GLRI activities, \$50 million less than the enacted fiscal year 2016 level of \$300 million. Since fiscal year 2014, appropriations for the program have remained consistent at \$300 million annually.

In 2013, the Government Accountability Office (GAO) reviewed and reported on the implementation of the GLRI and methods to assess GLRI progress, among other things. GAO concluded that EPA and the Task Force agencies have made strides but face significant challenges in ensuring the future success of the GLRI. Among other things, GAO found that information in the Great Lakes Accountability System (GLAS), the GLRI's system for monitoring and reporting on GLRI progress, may not be complete and may prevent EPA from producing sufficiently comprehensive or useful assessments of GLRI progress; although, as noted below, GAO's concerns with the database were largely addressed by updates to EPA's replacement of the GLAS information system in 2015. GAO also found that quantifying overall Great Lakes restoration is difficult and that it is often impossible to link specific environmental changes to specific projects or programs.

In July 2015, GAO released a second report on the GLRI, reviewing the manner in which GLRI funds have been used since the program's initiation. The report examined the (1) amount of federal funds made available for the GLRI and expended for projects, (2) process the Task Force used to identify GLRI work and funding, and (3) information available about GLRI project activities and results.

According to GAO's 2015 report, in Fiscal Years 2010 through 2014, Congress provided \$1.68 billion for the GLRI. As of January 2015, \$1.15 billion had been expended on 2,123 projects—approximately 68 percent of available funds. The Task Force agencies have

not expended all of the funds made available for the GLRI for several reasons, chief among them being that many projects take several years to complete. GLRI funds are typically available for obligation for the fiscal year the appropriation was made, and the following fiscal year. After these two fiscal years of availability, GLRI funds can be used for an additional seven years in order to adjust these obligations in the event that circumstances, such as extreme weather, cause a project to be completed later than planned.

In addition to GLRI funds, federal agencies can receive budget authority to obligate and expend funds that contribute to the overall restoration of the Great Lakes. Federal agencies have expended other funds on Great Lakes restoration activities such as reducing atmospheric deposition and controlling the generation, transportation, storage, and disposal of hazardous wastes. GAO found that, while EPA has data on the amounts of GLRI funds allocated, obligated, and expended, data on other funds received, obligated, and expended by federal agencies for Great Lakes restoration activities are not easily available for comparison. Budget crosscut reports prepared by the Office of Management and Budget have not identified federal agencies' obligations and expenditures for Great Lakes restoration activities, as required by recent appropriations laws. Information on obligations and expenditures on other Great Lakes restoration activities could be valuable to Congressional decision makers even several years later. Without this information it is not possible for decision makers to view GLRI funding in the context of the funding of *overall* Great Lakes restoration activities, because information on such activities would only be available from each agency, making less information readily available for Congressional oversight.

The GAO's 2015 report examined 19 projects funded through the GLRI and carried out by government agencies, nongovernmental organizations, and academic institutions to identify the activities GLRI funds were spent on and the results that were achieved.

The projects examined range from environmental education initiatives to habitat assessment, modeling, and restoration, to soil erosion and sediment control, to green infrastructure plans. At the time of the review, 16 of the 19 projects had been completed and three projects were ongoing.

GAO reported that the projects studied contributed to Great Lakes restoration efforts in a variety of ways, including—but not limited to—improving the ability of ecosystems to act as buffers to watersheds by reducing runoff, using climate simulations to explain how nutrients enter the Great Lakes, developing trapping technologies and protocols for invasive species in Great Lakes tributaries, reducing the loss of sediments and nutrients, engaging teachers in comprehensive environmental education training, and building a commitment to stewardship among residents of the Great Lakes Basin.

GAO also found that some of the monitoring and reporting data in the GLAS database was inaccurate, in part because EPA did not provide clear guidance on entering certain information and GLAS did not have data quality controls. GLAS limited users to reporting progress using a single measure, while GLRI projects may directly address multiple measures. This prevented EPA from collecting

and reporting complete progress information on each of the measures addressed by GLRI projects.

GAO recommended in its 2015 report that EPA determine if it should continue using GLAS or acquire a different system and ensure that the agency develops guidance for entering data and establishes data quality control activities. EPA took action to address these recommendations as GAO completed its work on the report. In May 2015, EPA replaced GLAS with the Environmental Accomplishments in the Great Lakes (EAGL) information system. The new system was accompanied by guidance on information entry and plans to establish data control activities for ensuring reliability of the new system. GAO reviewed the actions taken by EPA and determined that the recommendations had been addressed. As a result, GAO removed the recommendations from the final report. GAO had no additional recommendations in the final report.

According to an August 2015 letter from the board of directors of the Great Lakes Commission (Commission) to the Administrator of the EPA, Gina McCarthy, one of the main challenges being faced by the GLRI is insufficient coordination and consultation with the states. The Commission believes that a symptom of this issue is limited funding to the states from the GLRI to support the increasing volume of Great Lakes work that has become the responsibility of the states. In addition, the Commission indicates that there are some concerns that available GLRI funds are not always given to projects that appropriately address the objectives of the GLRI Focus Areas.

According to the Commission, the states are more than just stakeholders—they have sovereign authorities and regulatory responsibilities for the Great Lakes. The states are called on to support, coordinate, permit and sometimes manage GLRI projects underway within their jurisdiction, even when they are not directly receiving funds to implement these activities.

Some initial suggestions put forward by the Commission to alleviate these concerns related to the federal-state partnership include more regular, collective consultation between the states and federal agencies; participation of state representatives on the Regional Working Group or creation of a state subgroup; and annual state-specific meetings with federal agencies to identify and coordinate investments within their jurisdiction, as currently done to support state programs to address the AOCs.

Restoration will be a long-term effort and, in the meantime, environmental and public health problems persist in the Great Lakes ecosystem.

HEARINGS

On September 30, 2015, the House Committee on Transportation and Infrastructure held an oversight hearing on the “The Great Lakes Restoration Initiative: A Review of the Progress and Challenges in Restoring the Great Lakes.” The Committee received testimony from the EPA, GAO, Natural Resources Conservation Service, Great Lakes Commission, Great Lakes Metro Chambers Coalition, Great Lakes Coalition, and the Director of the Ohio Agribusiness Association to review the Great Lakes Restoration Initiative and improved Great Lakes water quality.

On February 9, 2010, the House Committee on Transportation and Infrastructure held an oversight hearing on “Asian Carp and the Great Lakes.” The Committee received testimony from the United States Army Corps of Engineers, various states’ Departments of Natural Resources, the Great Lakes Fishery Commission, Alliance for the Great Lakes and American Waterways Operators examining the ecological and economic threat to the Great Lakes posed by invasive, non-native Asian carp species, and federal and state efforts to prevent the carp to spread into Lake Michigan.

On May 21, 2008, the House Committee on Transportation and Infrastructure held an oversight hearing on “Reauthorization of the Great Lakes Legacy Act.” The Committee received testimony from the EPA as well as multiple Great Lakes organizations to examine proposals to extend and revise the program under the Great Lakes Legacy Act of 2002, authorizing EPA grants to state and local governments, Indian tribes and regional agencies for remediation, prevention, and long-term monitoring of toxic contamination of sediments in the Great Lakes.

On May 12, 2008, the House Committee on Transportation and Infrastructure held an oversight hearing in Port Huron, Michigan, on “Impacts of Nutrients on Water Quality in the Great Lakes.” The Committee received testimony from NOAA’s Physical Research Scientist and various educators from colleges and universities surrounding the Great Lakes area to examine the impact of nutrients on water quality in the Great Lakes.

On April 18, 2008, the House Committee on Transportation and Infrastructure held an oversight hearing on “Lake Levels in the Great Lakes.” The Committee received testimony from the Wisconsin Department of Natural Resources, Wisconsin State Senators, Great Lakes Commission, United States Army Corps of Engineers and Wisconsin Department of Natural Resources, examining the status, possible causes, and ecological and economic impact of low water levels in the Great Lakes.

On January 23, 2008 the House Committee on Transportation and Infrastructure held an oversight hearing on “Progress Toward Improving Water Quality in the Great Lakes.” The Committee received testimony from four members of Congress, GAO, EPA, NOAA, Fish and Wildlife Service and NRCS examining the status of federal efforts to protect and restore the Great Lakes ecosystem in light of continuing problems with water pollution and other environmental threats to the Great Lakes.

On March 7, 2007, the House Committee on Transportation and Infrastructure held an oversight hearing on “Impact of Aquatic Invasive Species on the Great Lakes.” The Committee received testimony from the EPA and Multiple Great Lakes agencies as well as a professor from the Department of Marine Biology at the University of Notre Dame, examining adverse impacts of invasive, non-native aquatic species on the Great Lakes and the Great Lakes region.

On September 13, 2006, the House Committee on Transportation and Infrastructure held an oversight hearing on “Great Lakes Regional Collaboration Strategy: Can It Be Implemented to Restore and Protect the Great Lakes?” The Committee received testimony from the Great Lakes and St. Lawrence Cities Initiative, EPA, United States Army Corps of Engineers, Fish and Wildlife Service

and Council of Great Lakes Governors regarding examining federal, state, local and private entity efforts to implement a Great Lakes Regional Collaboration strategy to protect and restore the Great Lakes ecosystem.

On June 7, 2004, the House Committee on Transportation and Infrastructure held a roundtable in Chicago, Illinois on “Great Lakes Water Quality and Restoration Efforts.” The Committee received testimony from the EPA, the United States Army Corps of Engineers, the Mayor of Chicago, and Members of Congress on the importance of the Great Lakes and ongoing efforts to protect and restore the Great Lakes.

On May 20 and May 21, 2004, the House Committee on Transportation and Infrastructure held an oversight hearing on “Great Lakes Water Quality and Restoration Efforts.” The Committee received testimony from the EPA, United States Army Corps of Engineers, NOAA, Department of Agriculture, Fish and Wildlife Service, two members of Congress, and the GAO regarding the federal and state efforts to protect and restore the Great Lakes ecosystem in light of continuing water pollution problems and environmental threats to the Great Lakes.

A legislative hearing was not held on H.R. 223.

LEGISLATIVE HISTORY AND CONSIDERATION

On January 8, 2015, Representative David Joyce of Ohio introduced H.R. 223, a bill to authorize the Great Lakes Restoration Initiative.

On December 18, 2015, the President signed H.R. 2029, the Consolidated Appropriations Act for fiscal year 2016 into law. That bill included language authorizing the Great Lakes Restoration Initiative for fiscal year 2016 (Division G, Title IV, Section 462 of Public Law 114–113.)

On March 2, 2016, the Committee on Transportation and Infrastructure met in open session to consider H.R. 223, and ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

Subcommittee on Water Resources and Environment Chairman Bob Gibbs offered an amendment in Committee. The amendment made technical and clarifying changes to the bill to more closely conform the bill to the current practices being carried out by the federal agencies as it relates to the Great Lakes Restoration Initiative, and incorporated some of the GAO’s recommendations for the program. Additionally, the amendment contained a provision to enhance the EPA’s role in preventing harmful algal blooms in the Great Lakes, based on H.R. 1923, a bill to require the Administrator of the EPA to appoint a coordinator for issues relating to harmful algal blooms in the Great Lakes, and for other purposes. Finally, the amendment changed the authorization of appropriations to reflect the enactment of Public Law 114–113, and extended the authorization of appropriations through fiscal year 2021. The amendment was adopted by voice vote with a quorum present.

In the 113th Congress, a virtually identical bill (H.R. 5764) passed the House of Representatives under suspension of the rules 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 record votes taken in connection with consideration of H.R. 223, or ordering the bill reported. A motion to order H.R. 223 as amended reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

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

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

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. 223, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 21, 2016.

Hon. BILL SHUSTER,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 223, 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.

H.R. 223—Great Lakes Restoration Initiative Act of 2016

H.R. 223 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 H.R. 223 would cost \$1.35 billion over the next five years, assuming appropriation of the authorized amounts. Remaining amounts would be spent after 2021.

Because enacting H.R. 223 would not affect direct spending or revenues, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 223 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 223 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 H.R. 223 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 H.R. 223 will be enacted near the end of fiscal year 2016, the specified amounts will be appropriated in each year starting in 2017, and 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 H.R. 223 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: H.R. 223 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.

Previous CBO estimate: On CBO February 10, 2016, CBO transmitted a cost estimate for S. 1024, the Great Lakes Restoration Initiative Act of 2016, as ordered reported by the Senate Committee on Environment and Public Works on January 20, 2016. Both pieces of legislation would authorize the same level of funding and CBO's estimate of the cost to implement either piece of legislation is the same.

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: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

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 Great Lakes Restoration Initiative.

ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 223, 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.

DISCLOSURE OF DIRECTED RULEMAKINGS

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee estimates that enacting H.R. 223, as amended, does not specifically direct the completion of any specific rule makings within the meaning of section 551 of title 5, United States Code.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

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 states that H.R. 223, as amended, does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE 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. Short title

This Act may be cited as the “Great Lakes Restoration Initiative Act of 2016”.

Section 2. Great Lakes Restoration Initiative

This section reauthorizes the Great Lakes Restoration Initiative under Section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)). This section restates the five main focus areas of the program related to the remediation of toxic substances, the prevention and control of invasive species and the impacts of invasive species, the protection and restoration of nearshore health and the prevention and mitigation of nonpoint source pollution, habitat and wildlife protection and restoration, and accountability, monitoring, evaluation, communication, and partnership activities.

This section reauthorizes the Environmental Protection Agency, in conjunction with its federal, state, and local partners, to carry out projects to promote the activities related to the five main focus areas.

This section also amends section 118(c)(7) to provide the Administrator of the Environmental Protection Agency with direction conducting outreach with the Great Lakes states and tribes and other non-federal stakeholders, monitoring and reporting, and designating a point person from an appropriate federal partner to coordinate, with federal partners and Great Lakes states, tribes, and other non-federal stakeholders, projects and activities under the Initiative involving harmful algal blooms in the Great Lakes.

Finally, this section authorizes \$300 million for each of the fiscal years 2017 through 2021 to the Environmental Protection Agency to carry out activities to support the Great Lakes Restoration Initiative, the Initiative’s Action Plan, and the Great Lakes Water Quality Agreement.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by H.R. 223, as amended, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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, and existing law in which no change is proposed is shown in roman):

SECTION 118 OF THE FEDERAL WATER POLLUTION CONTROL ACT**SEC. 118. GREAT LAKES.**

(a) FINDINGS, PURPOSE, AND DEFINITIONS.—

(1) FINDINGS.—The Congress finds that—

(A) the Great Lakes are a valuable national resource, continuously serving the people of the United States and other nations as an important source of food, fresh water, recreation, beauty, and enjoyment;

(B) the United States should seek to attain the goals embodied in the Great Lakes Water Quality Agreement of 1978, as amended by the Water Quality Agreement of 1987 and any other agreements and amendments, with particular emphasis on goals related to toxic pollutants; and

(C) the Environmental Protection Agency should take the lead in the effort to meet those goals, working with other Federal agencies and State and local authorities.

(2) PURPOSE.—It is the purpose of this section to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978, as amended by the Water Quality Agreement of 1987 and any other agreements and amendments, through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such agreement.

(3) DEFINITIONS.—For purposes of this section, the term—

(A) “Agency” means the Environmental Protection Agency;

(B) “Great Lakes” means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Mary’s River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border);

(C) “Great Lakes System” means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes;

(D) “Program Office” means the Great Lakes National Program Office established by this section;

(E) “Research Office” means the Great Lakes Research Office established by subsection (d);

(F) “area of concern” means a geographic area located within the Great Lakes, in which beneficial uses are impaired and which has been officially designated as such under Annex 2 of the Great Lakes Water Quality Agreement;

(G) “Great Lakes States” means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

(H) “Great Lakes Water Quality Agreement” means the bilateral agreement, between the United States and Canada which was signed in 1978 and amended by the Protocol of 1987;

(I) “Lakewide Management Plan” means a written document which embodies a systematic and comprehensive ecosystem approach to restoring and protecting the beneficial uses of the open waters of each of the Great Lakes, in accordance with article VI and Annex 2 of the Great Lakes Water Quality Agreement;

(J) “Remedial Action Plan” means a written document which embodies a systematic and comprehensive ecosystem approach to restoring and protecting the beneficial uses of areas of concern, in accordance with article VI and Annex 2 of the Great Lakes Water Quality Agreement;

(K) “site characterization” means a process for monitoring and evaluating the nature and extent of sediment contamination in accordance with the Environmental Protection Agency’s guidance for the assessment of contaminated sediment in an area of concern located wholly or partially within the United States; and

(L) “potentially responsible party” means an individual or entity that may be liable under any Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Great Lakes.

(b) GREAT LAKES NATIONAL PROGRAM OFFICE.—The Great Lakes National Program Office (previously established by the Administrator) is hereby established within the Agency. The Program Office shall be headed by a Director who, by reason of management experience and technical expertise relating to the Great Lakes, is highly qualified to direct the development of programs and plans on a variety of Great Lakes issues. The Great Lakes National Program Office shall be located in a Great Lakes State.

(c) GREAT LAKES MANAGEMENT.—

(1) FUNCTIONS.—The Program Office shall—

(A) in cooperation with appropriate Federal, State, tribal, and international agencies, and in accordance with section 101(e) of this Act, develop and implement specific action plans to carry out the responsibilities of the United States under the Great Lakes Water Quality Agreement of 1978, as amended by the Water Quality Agreement of 1987 and any other agreements and amendments; ;

(B) establish a Great Lakes system-wide surveillance network to monitor the water quality of the Great Lakes, with specific emphasis on the monitoring of toxic pollutants;

(C) serve as the liaison with, and provide information to, the Canadian members of the International Joint Commission and the Canadian counterpart to the Agency;

(D) coordinate actions of the Agency (including actions by headquarters and regional offices thereof) aimed at improving Great Lakes water quality; and

(E) coordinate actions of the Agency with the actions of other Federal agencies and State and local authorities, so as to ensure the input of those agencies and authorities in developing water quality strategies and obtain the support of those agencies and authorities in achieving the objectives of such agreement.

(2) GREAT LAKES WATER QUALITY GUIDANCE.—

(A) By June 30, 1991, the Administrator, after consultation with the Program Office, shall publish in the Federal Register for public notice and comment proposed water quality guidance for the Great Lakes System. Such guidance shall conform with the objectives and provisions of the Great Lakes Water Quality Agreement, shall be no

less restrictive than the provisions of this Act and national water quality criteria and guidance, shall specify numerical limits on pollutants in ambient Great Lakes waters to protect human health, aquatic life, and wildlife, and shall provide guidance to the Great Lakes States on minimum water quality standards, antidegradation policies, and implementation procedures for the Great Lakes System.

(B) By June 30, 1992, the Administrator, in consultation with the Program Office, shall publish in the Federal Register, pursuant to this section and the Administrator's authority under this chapter, final water quality guidance for the Great Lakes System.

(C) Within two years after such Great Lakes guidance is published, the Great Lakes States shall adopt water quality standards, antidegradation policies, and implementation procedures for waters within the Great Lakes System which are consistent with such guidance. If a Great Lakes State fails to adopt such standards, policies, and procedures, the Administrator shall promulgate them not later than the end of such two-year period. When reviewing any Great Lakes State's water quality plan, the agency shall consider the extent to which the State has complied with the Great Lakes guidance issued pursuant to this section.

(3) REMEDIAL ACTION PLANS.—

(A) For each area of concern for which the United States has agreed to draft a Remedial Action Plan, the Program Office shall ensure that the Great Lakes State in which such area of concern is located—

(i) submits a Remedial Action Plan to the Program Office by June 30, 1991;

(ii) submits such Remedial Action Plan to the International Joint Commission by January 1, 1992; and

(iii) includes such Remedial Action Plans within the State's water quality plan by January 1, 1993.

(B) For each area of concern for which Canada has agreed to draft a Remedial Action Plan, the Program Office shall, pursuant to subparagraph (c)(1)(C) of this section, work with Canada to assure the submission of such Remedial Action Plans to the International Joint Commission by June 30, 1991, and to finalize such Remedial Action Plans by January 1, 1993.

(C) For any area of concern designated as such subsequent to the enactment of this Act, the Program Office shall (i) if the United States has agreed to draft the Remedial Action Plan, ensure that the Great Lakes State in which such area of concern is located submits such Plan to the Program Office within two years of the area's designation, submits it to the International Joint Commission no later than six months after submitting it to the Program Office, and includes such Plan in the State's water quality plan no later than one year after submitting it to the Commission; and (ii) if Canada has agreed to draft the Remedial Action Plan, work with Canada, pursuant to subparagraph (c)(1)(C) of this section, to ensure the submission of such Plan to the International Joint Commission within

two years of the area's designation and the finalization of such Plan no later than eighteen months after submitting it to such Commission.

(D) The Program Office shall compile formal comments on individual Remedial Action Plans made by the International Joint Commission pursuant to section 4(d) of Annex 2 of the Great Lakes Water Quality Agreement and, upon request by a member of the public, shall make such comments available for inspection and copying. The Program Office shall also make available, upon request, formal comments made by the Environmental Protection Agency on individual Remedial Action Plans.

(E) REPORT.—Not later than 1 year after the date of enactment of this subparagraph, the Administrator shall submit to Congress a report on such actions, time periods, and resources as are necessary to fulfill the duties of the Agency relating to oversight of Remedial Action Plans under—

(i) this paragraph; and

(ii) the Great Lakes Water Quality Agreement.

(4) LAKEWIDE MANAGEMENT PLANS.—The Administrator, in consultation with the Program Office shall—

(A) by January 1, 1992, publish in the Federal Register a proposed Lakewide Management Plan for Lake Michigan and solicit public comments;

(B) by January 1, 1993, submit a proposed Lakewide Management Plan for Lake Michigan to the International Joint Commission for review; and

(C) by January 1, 1994, publish in the Federal Register a final Lakewide Management Plan for Lake Michigan and begin implementation.

Nothing in this subparagraph shall preclude the simultaneous development of Lakewide Management Plans for the other Great Lakes.

(5) SPILLS OF OIL AND HAZARDOUS MATERIALS.—The Program Office, in consultation with the Coast Guard, shall identify areas within the Great Lakes which are likely to experience numerous or voluminous spills of oil or other hazardous materials from land based facilities, vessels, or other sources and, in consultation with the Great Lakes States, shall identify weaknesses in Federal and State programs and systems to prevent and respond to such spills. This information shall be included on at least a biennial basis in the report required by this section.

(6) 5-YEAR PLAN AND PROGRAM.—The Program Office shall develop, in consultation with the States, a five-year plan and program for reducing the amount of nutrients introduced into the Great Lakes. Such program shall incorporate any management program for reducing nutrient runoff from nonpoint sources established under section 319 of this Act and shall include a program for monitoring nutrient runoff into, and ambient levels in, the Great Lakes.

(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.]

(B) FOCUS AREAS.—In carrying out the Initiative, the Administrator shall prioritize programs and projects, to be carried out in coordination with non-Federal partners, that address the priority areas described in the Initiative Action Plan, 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.—

(i) IN GENERAL.—In carrying out the Initiative, the Administrator shall collaborate with other Federal partners, including the Great Lakes Interagency Task Force established by Executive Order 13340 (69 Fed.

Reg. 29043), 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 Initiative Action Plan and the Great Lakes Water Quality Agreement;

(II) the feasibility of—

(aa) prompt implementation;

(bb) timely achievement of results; and

(cc) resource leveraging; and

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

(ii) OUTREACH.—In selecting the best combination of programs and projects for Great Lakes protection and restoration under clause (i), the Administrator shall consult with the Great Lakes States and Indian tribes and solicit input from other non-Federal stakeholders.

(iii) HARMFUL ALGAL BLOOM COORDINATOR.—The Administrator shall designate a point person from an appropriate Federal partner to coordinate, with Federal partners and Great Lakes States, Indian tribes, and other non-Federal stakeholders, projects and activities under the Initiative involving harmful algal blooms in the Great Lakes.

(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.]

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

(I) Federal projects;

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

(III) operations and activities of the Program Office, including remediation of sediment contamination in areas of concern.

(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)] (J)(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).

(iii) *AGREEMENTS WITH NON-FEDERAL ENTITIES.*—

(I) *IN GENERAL.*—*The Administrator, or the head of any other Federal department or agency receiving funds under clause (ii)(I), may make a grant to, or otherwise enter into an agreement with, a qualified non-Federal entity, as determined by the Administrator or the applicable head of the other Federal department or agency receiving funds, for planning, research, monitoring, outreach, or implementation of a project selected under subparagraph (C), to support the Initiative Action Plan or the Great Lakes Water Quality Agreement.*

(II) *QUALIFIED NON-FEDERAL ENTITY.*—*For purposes of this clause, a qualified non-Federal entity may include a governmental entity, nonprofit organization, institution, or individual.*

[(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.]

(E) *SCOPE.*—

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

(I) locally;

(II) Great Lakes-wide; or

(III) 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 financial assistance is received—

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

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

(III) pursuant to the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901 et seq.).

(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) *REVISION OF INITIATIVE ACTION PLAN.*—

(i) *IN GENERAL.*—Not less often than once every 5 years, the Administrator, in conjunction with the Great Lakes Interagency Task Force, shall review, and revise as appropriate, the Initiative Action Plan to guide the activities of the Initiative in addressing the restoration and protection of the Great Lakes system.

(ii) *OUTREACH.*—In reviewing and revising the Initiative Action Plan under clause (i), the Administrator shall consult with the Great Lakes States and Indian tribes and solicit input from other non-Federal stakeholders.

(H) *MONITORING AND REPORTING.*—The Administrator shall—

(i) establish and maintain a process for monitoring and periodically reporting to the public on the progress made in implementing the Initiative Action Plan;

(ii) make information about each project carried out under the Initiative Action Plan available on a public website; and

(iii) provide to the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works a yearly detailed description of the progress of the Initiative and amounts transferred to participating Federal departments and agencies under subparagraph (D)(ii).

(I) *INITIATIVE ACTION PLAN DEFINED.*—In this paragraph, the term “Initiative Action Plan” means the comprehensive, multi-year action plan for the restoration of the Great Lakes, first developed pursuant to the Joint Explanatory Statement of the Conference Report accompanying the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 (Public Law 111–88).

(J) 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.

(8) ADMINISTRATOR'S RESPONSIBILITY.—The Administrator shall ensure that the Program Office enters into agreements with the various organizational elements of the Agency involved in Great Lakes activities and the appropriate State agencies specifically delineating—

(A) the duties and responsibilities of each such element in the Agency with respect to the Great Lakes;

(B) the time periods for carrying out such duties and responsibilities; and

(C) the resources to be committed to such duties and responsibilities.

(9) BUDGET ITEM.—The Administrator shall, in the Agency's annual budget submission to Congress, include a funding request for the Program Office as a separate budget line item.

(10) CONFINED DISPOSAL FACILITIES.—(A) The Administrator, in consultation with the Assistant Secretary of the Army for Civil Works, shall develop and implement, within one year of the date of enactment of this paragraph, management plans for every Great Lakes confined disposal facility.

(B) The plan shall provide for monitoring of such facilities, including—

(i) water quality at the site and in the area of the site;

(ii) sediment quality at the site and in the area of the site;

(iii) the diversity, productivity, and stability of aquatic organisms at the site and in the area of the site; and

(iv) such other conditions as the Administrator deems appropriate.

(C) The plan shall identify the anticipated use and management of the site over the following twenty-year period including the expected termination of dumping at the site, the anticipated need for site management, including pollution control, following the termination of the use of the site.

(D) The plan shall identify a schedule for review and revision of the plan which shall not be less frequent than five years after adoption of the plan and every five years thereafter.

(11) REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.—

(A) IN GENERAL.—In accordance with this paragraph, the Administrator, acting through the Program Office, may carry out projects that meet the requirements of subparagraph (B).

(B) ELIGIBLE PROJECTS.—A project meets the requirements of this subparagraph if the project is to be carried

out in an area of concern located wholly or partially in the United States and the project—

- (i) monitors or evaluates contaminated sediment;
- (ii) subject to subparagraph (D), implements a plan to remediate contaminated sediment, including activities to restore aquatic habitat that are carried out in conjunction with a project for the remediation of contaminated sediment; or
- (iii) prevents further or renewed contamination of sediment.

(C) PRIORITY.—In selecting projects to carry out under this paragraph, the Administrator shall give priority to a project that—

- (i) constitutes remedial action for contaminated sediment;
- (ii)(I) has been identified in a Remedial Action Plan submitted under paragraph (3); and
(II) is ready to be implemented;
- (iii) will use an innovative approach, technology, or technique that may provide greater environmental benefits, or equivalent environmental benefits at a reduced cost; or
- (iv) includes remediation to be commenced not later than 1 year after the date of receipt of funds for the project.

(D) LIMITATIONS.—The Administrator may not carry out a project under this paragraph for remediation of contaminated sediments located in an area of concern—

- (i) if an evaluation of remedial alternatives for the area of concern has not been conducted, including a review of the short-term and long-term effects of the alternatives on human health and the environment;
- (ii) if the Administrator determines that the area of concern is likely to suffer significant further or renewed contamination from existing sources of pollutants causing sediment contamination following completion of the project;
- (iii) unless each non-Federal sponsor for the project has entered into a written project agreement with the Administrator under which the party agrees to carry out its responsibilities and requirements for the project; or
- (iv) unless the Administrator provides assurance that the Agency has conducted a reasonable inquiry to identify potentially responsible parties connected with the site.

(E) NON-FEDERAL SHARE.—

- (i) IN GENERAL.—The non-Federal share of the cost of a project carried out under this paragraph shall be at least 35 percent.

(ii) IN-KIND CONTRIBUTIONS.—

- (I) IN GENERAL.—The non-Federal share of the cost of a project carried out under this paragraph may include the value of an in-kind contribution provided by a non-Federal sponsor.

(II) CREDIT.—A project agreement described in subparagraph (D)(iii) may provide, with respect to a project, that the Administrator shall credit toward the non-Federal share of the cost of the project the value of an in-kind contribution made by the non-Federal sponsor, if the Administrator determines that the material or service provided as the in-kind contribution is integral to the project.

(III) WORK PERFORMED BEFORE PROJECT AGREEMENT.—In any case in which a non-Federal sponsor is to receive credit under subclause (II) for the cost of work carried out by the non-Federal sponsor and such work has not been carried out by the non-Federal sponsor as of the date of enactment of this subclause, the Administrator and the non-Federal sponsor shall enter into an agreement under which the non-Federal sponsor shall carry out such work, and only work carried out following the execution of the agreement shall be eligible for credit.

(IV) LIMITATION.—Credit authorized under this clause for a project carried out under this paragraph—

(aa) shall not exceed the non-Federal share of the cost of the project; and

(bb) shall not exceed the actual and reasonable costs of the materials and services provided by the non-Federal sponsor, as determined by the Administrator.

(V) INCLUSION OF CERTAIN CONTRIBUTIONS.—In this subparagraph, the term “in-kind contribution” may include the costs of planning (including data collection), design, construction, and materials that are provided by the non-Federal sponsor for implementation of a project under this paragraph.

(iii) TREATMENT OF CREDIT BETWEEN PROJECTS.—Any credit provided under this subparagraph towards the non-Federal share of the cost of a project carried out under this paragraph may be applied towards the non-Federal share of the cost of any other project carried out under this paragraph by the same non-Federal sponsor for a site within the same area of concern.

(iv) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project carried out under this paragraph—

(I) may include monies paid pursuant to, or the value of any in-kind contribution performed under, an administrative order on consent or judicial consent decree; but

(II) may not include any funds paid pursuant to, or the value of any in-kind contribution performed under, a unilateral administrative order or court order.

(v) OPERATION AND MAINTENANCE.—The non-Federal share of the cost of the operation and maintenance of a project carried out under this paragraph shall be 100 percent.

(F) SITE CHARACTERIZATION.—

(i) IN GENERAL.—The Administrator, in consultation with any affected State or unit of local government, shall carry out at Federal expense the site characterization of a project under this paragraph for the remediation of contaminated sediment.

(ii) LIMITATION.—For purposes of clause (i), the Administrator may carry out one site assessment per discrete site within a project at Federal expense.

(G) COORDINATION.—In carrying out projects under this paragraph, the Administrator shall coordinate with the Secretary of the Army, and with the Governors of States in which the projects are located, to ensure that Federal and State assistance for remediation in areas of concern is used as efficiently as practicable.

(H) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph \$50,000,000 for each of fiscal years 2004 through 2010.

(ii) AVAILABILITY.—Funds made available under clause (i) shall remain available until expended.

(iii) ALLOCATION OF FUNDS.—Not more than 20 percent of the funds appropriated pursuant to clause (i) for a fiscal year may be used to carry out subparagraph (F).

(12) PUBLIC INFORMATION PROGRAM.—

(A) IN GENERAL.—The Administrator, acting through the Program Office and in coordination with States, Indian tribes, local governments, and other entities, may carry out a public information program to provide information relating to the remediation of contaminated sediment to the public in areas of concern that are located wholly or partially in the United States.

(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$1,000,000 for each of fiscal years 2004 through 2010.

(d) GREAT LAKES RESEARCH.—

(1) ESTABLISHMENT OF RESEARCH OFFICE.—There is established within the National Oceanic and Atmospheric Administration the Great Lakes Research Office.

(2) IDENTIFICATION OF ISSUES.—The Research Office shall identify issues relating to the Great Lakes resources on which research is needed. The Research Office shall submit a report to Congress on such issues before the end of each fiscal year which shall identify any changes in the Great Lakes system with respect to such issues.

(3) INVENTORY.—The Research Office shall identify and inventory, Federal, State, university, and tribal environmental research programs (and, to the extent feasible, those of private

organizations and other nations) relating to the Great Lakes system, and shall update that inventory every four years.

(4) RESEARCH EXCHANGE.—The Research Office shall establish a Great Lakes research exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning research projects which are ongoing or completed and which affect the Great Lakes System.

(5) RESEARCH PROGRAM.—The Research Office shall develop, in cooperation with the Coordination Office, a comprehensive environmental research program and data base for the Great Lakes system. The data base shall include, but not be limited to, data relating to water quality, fisheries, and biota.

(6) MONITORING.—The Research Office shall conduct, through the Great Lakes Environmental Research Laboratory, the National Sea Grant College program, other Federal laboratories, and the private sector, appropriate research and monitoring activities which address priority issues and current needs relating to the Great Lakes.

(7) LOCATION.—The Research Office shall be located in a Great Lakes State.

(e) RESEARCH AND MANAGEMENT COORDINATION.—

(1) JOINT PLAN.—Before October 1 of each year, the Program Office and the Research Office shall prepare a joint research plan for the fiscal year which begins in the following calendar year.

(2) CONTENTS OF PLAN.—Each plan prepared under paragraph (1) shall—

(A) identify all proposed research dedicated to activities conducted under the Great Lakes Water Quality Agreement of 1978;

(B) include the Agency's assessment of priorities for research needed to fulfill the terms of such Agreement; and

(C) identify all proposed research that may be used to develop a comprehensive environmental data base for the Great Lakes System and establish priorities for development of such data base.

(3) HEALTH RESEARCH REPORT.—(A) Not later than September 30, 1994, the Program Office, in consultation with the Research Office, the Agency for Toxic Substances and Disease Registry, and Great Lakes States shall submit to the Congress a report assessing the adverse effects of water pollutants in the Great Lakes System on the health of persons in Great Lakes States and the health of fish, shellfish, and wildlife in the Great Lakes System. In conducting research in support of this report, the Administrator may, where appropriate, provide for research to be conducted under cooperative agreements with Great Lakes States.

(B) There is authorized to be appropriated to the Administrator to carry out this section not to exceed \$3,000,000 for each of fiscal years 1992, 1993, and 1994.

(f) INTERAGENCY COOPERATION.—The head of each department, agency, or other instrumentality of the Federal Government which is engaged in, is concerned with, or has authority over programs relating to research, monitoring, and planning to maintain, en-

hance, preserve, or rehabilitate the environmental quality and natural resources of the Great Lakes, including the Chief of Engineers of the Army, the Chief of the Soil Conservation Service, the Commandant of the Coast Guard, the Director of the Fish and Wildlife Service, and the Administrator of the National Oceanic and Atmospheric Administration, shall submit an annual report to the Administrator with respect to the activities of that agency or office affecting compliance with the Great Lakes Water Quality Agreement of 1978.

(g) RELATIONSHIP TO EXISTING FEDERAL AND STATE LAWS AND INTERNATIONAL TREATIES.—Nothing in this section shall be construed—

(1) to affect the jurisdiction, powers, or prerogatives of any department, agency, or officer of the Federal Government or of any State government, or of any tribe, nor any powers, jurisdiction, or prerogatives of any international body created by treaty with authority relating to the Great Lakes; or

(2) to affect any other Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Great Lakes.

(h) AUTHORIZATIONS OF GREAT LAKES APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section not to exceed—

(1) \$11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, and 1990, and \$25,000,000 for fiscal year 1991;

(2) such sums as are necessary for each of fiscal years 1992 through 2003; and

(3) \$25,000,000 for each of fiscal years 2004 through 2008.