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SENATE

{ REPORT
118–55

LAKE TAHOE RESTORATION REAUTHORIZATION

JULY 11, 2023.—Ordered to be printed

Mr. MANCHIN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 612]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 612), to reauthorize the Lake Tahoe Restoration Act, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 612 is to reauthorize the Lake Tahoe Restoration Act through September 30, 2034.

BACKGROUND AND NEED

In 2000, Congress passed the Lake Tahoe Restoration Act (Public Law 106–506), which authorized \$300 million in funding for environmental projects and habitat restoration around Lake Tahoe. After a lapse in funding between 2010 and 2016, Congress reauthorized the Act in section 3603 of the Water Resources Development Act of 2016 (Public Law 114–322). This law increased the authorization of appropriations to \$415 million and established the “Environmental Improvement Program” to restore Lake Tahoe and the Tahoe Basin, and protect the region from a number of threats. The law also funded priority programs for fire risk reduction and forest management, aquatic invasive species control, storm-water management, erosion projects, and for the Lahontan Cutthroat Trout Recovery Program. As amended, the Lake Tahoe Restoration Act is currently authorized through December 2023. S. 612 extends the authorization through September 30, 2034.

LEGISLATIVE HISTORY

S. 612 was introduced by Senators Cortez Masto, Feinstein, Rosen, and Padilla on May 12, 2023. Similar legislation, S. 1583, was introduced in the 117th Congress by Senators Cortez Masto, Feinstein, Rosen, and Padilla on May 12, 2021. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 1583 on October 19, 2021. The Committee ordered S. 1583 reported favorably without amendment on November 18, 2021 (S. Rept. 117–85).

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on May 17, 2023, by a majority voice vote of a quorum present, recommends that the Senate pass S. 612. Senator Lee asked to be recorded as voting no.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section contains the short title, the “Lake Tahoe Restoration Act.”

Section 2. Reauthorization of the Lake Tahoe Restoration Act

Subsection (a) extends the authorization for the Secretary to enter into contracts and cooperative agreements with states, local governments, and other public and private entities under section 4(f) of the Lake Tahoe Restoration Act to provide for fire risk reduction, erosion control, reforestation, and other management activities on federal and non-federal lands through September 30, 2034.

Subsection (b) extends the authorization of appropriations for the Lake Tahoe Restoration Act through September 30, 2034.

COST AND BUDGETARY CONSIDERATIONS

The Committee has requested, but has not yet received, the Congressional Budget Office’s estimate of the cost of S. 612 as ordered reported. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at www.cbo.gov.

On November 21, 2022, the Congressional Budget Office provided a table entitled “Summary Estimates of Legislation Ordered Reported” by the Committee during the 117th Congress. The table included a cost estimate for similar legislation in the 117th Congress, S. 1583. The table is posted at www.cbo.gov.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 612. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little, if

any, additional paperwork would result from the enactment of S. 612, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 612, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony of the Forest Service from the October 19, 2021, hearing on S. 1583, similar legislation that was filed during the 117th Congress, follows:

STATEMENT OF CHRISTOPHER FRENCH, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE

S. 1583, LAKE TAHOE RESTORATION REAUTHORIZATION ACT

The Lake Tahoe Restoration Act, P.L. No. 106–506 authorized \$415,000,000 in appropriations for a period of seven fiscal years, beginning the first fiscal year after the date of enactment of the Water Resource Development Act of 2016. Of that amount, \$150,000,000 was authorized to carry out fire risk reduction and forest management priority projects, with at least \$100,000,000 to be used for programs identified as part of the Lake Tahoe Basin Multi-Jurisdictional Fuel Reduction and Wildfire Prevention Strategy 10-Year Plan. Further, \$113,000,000 was authorized to support stormwater management, erosion control, and total watershed restoration priority projects. With much consultation and coordination, the Forest Service has funded approximately \$33 million in environmental improvement projects within those two programs during this time.

A significant amount of the appropriated funds authorized under the Lake Tahoe Restoration Act have been delivered through our cooperators as they increase our ability to complete forest, watershed, erosion control and invasive plant projects on both NFS and private lands. In addition, the agency has greatly accelerated the pace and scale of forest restoration activities through the use of the categorical exclusion from documentation in an environmental assessment or environmental impact statement in the Act. With the authority to conduct mechanical thinning on up to 3,000 acres of NFS lands around Lake Tahoe, the Forest Service has reduced the timeframe for and cost of planning efforts, resulting in faster implementation of projects. By coordinating with our cooperators, we have minimized conflicts in project planning and implementation.

S. 1583 reauthorizes the Lake Tahoe Restoration Act through September 30, 2034. USDA supports the reauthorization as it removes the four-year requirements to enter into contracts and cooperative agreements with states,

local governments, and other public and private entities to provide for fuel reduction, erosion control, reforestation, and other management activities on federal and non-federal lands under the programs outlined in the Act. We would like to work with the bill sponsor to allow for the use of Southern Nevada Public Land Management Act of 1998 funds to increase fuel reduction activities on the environmentally sensitive urban lots acquired under the Santini-Burton Act.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 612, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Public Law 106–506

AN ACT To promote environmental restoration around the Lake Tahoe basin

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Lake Tahoe Restoration Act”.

* * * * *

SEC. 4. ADMINISTRATION OF THE LAKE TAHOE BASIN MANGAEMENT UNIT.

(a) IN GENERAL.—The Lake Tahoe Basin Management Unit shall be administered by the Secretary in accordance with this Act and the laws applicable to the National Forest System.

(b) RELATIONSHIP TO OTHER AUTHORITY.—

(1) PRIVATE OR NON FEDERAL LAND.—Nothing in this Act grants regulatory authority to the Secretary over private or other non-Federal land.

(2) PLANNING AGENCY.—Nothing in this Act affects or increases the authority of the Planning Agency.

(3) ACQUISITION UNDER OTHER LAW.—Nothing in this Act affects the authority of the Secretary to acquire land from willing sellers in the Lake Tahoe Basin under any other law.

(c) FOREST MANAGEMENT ACTIVITIES.—

(1) COORDINATION.—

(A) IN GENERAL.—In conducting forest management activities in the Lake Tahoe Basin Management Unit, the Secretary shall, as appropriate, coordinate with the Administrator and State and local agencies and organizations, including local fire departments and volunteer groups.

(B) GOALS.—The coordination of activities under subparagraph (A) should aim to increase efficiencies and maximize the compatibility of management practices across public property boundaries.

(2) MULTIPLE BENEFITS.—

(A) IN GENERAL.—In conducting forest management activities in the Lake Tahoe Basin Management Unit, the Secretary shall conduct the activities in a manner that—

(i) except as provided in subparagraph (B), attains multiple ecosystem benefits, including—

- (I) reducing forest fuels;
- (II) maintaining biological diversity;
- (III) improving wetland and water quality, including in Stream Environment Zones; and
- (IV) increasing resilience to changing water temperature and precipitation; and

(ii) helps achieve and maintain the environmental threshold carrying capacities established by the Planning Agency.

(B) EXCEPTION. Notwithstanding subparagraph (A)(i), the attainment of multiple ecosystem benefits shall not be required if the Secretary determines that management for multiple ecosystem benefits would excessively increase the cost of a program in relation to the additional ecosystem benefits gained from the management activity.

(3) GROUND DISTURBANCE. Consistent with applicable Federal law and Lake Tahoe Basin Management Unit land and resource management plan direction, the Secretary shall—

(A) establish post-program ground condition criteria for ground disturbance caused by forest management activities; and

(B) provide for monitoring to ascertain the attainment of the post-program conditions.

(4) AVAILABILITY OF CATEGORICAL EXCLUSION FOR CERTAIN FOREST MANAGEMENT PROJECTS.—A forest management activity conducted in the Lake Tahoe Basin Management Unit for the purpose of reducing forest fuels is categorically excluded from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the forest management activity—

(A) notwithstanding section 423 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009 (division E of Public Law 111–8; 123 Stat. 748), does not exceed 10,000 acres, including not more than 3,000 acres of mechanical thinning;

(B) is developed—

(i) in coordination with impacted parties, specifically including representatives of local governments, such as county supervisors or county commissioners; and in consultation with other interested parties; and

(ii) is consistent with the Lake Tahoe Basin Management Unit land and resource management plan.

(d) WITHDRAWAL OF FEDERAL LAND.—

(1) IN GENERAL.—Subject to valid existing rights and paragraph (2), the Federal land located in the Lake Tahoe Basin Management Unit is withdrawn from—

(A) all forms of entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) disposition under all laws relating to mineral and geothermal leasing.

(2) EXCEPTIONS.—A conveyance of land shall be exempt from withdrawal under this subsection if carried out under—

(A) this Act; or

(B) Public Law 96–586 (94 Stat. 3381) (commonly known as the “Santini Burton Act”).

(e) ENVIRONMENTAL THRESHOLD CARRYING CAPACITY.—The Lake Tahoe Basin Management Unit shall support the attainment of the environmental threshold carrying capacities.

(f) COOPERATIVE AUTHORITIES.—During the [4 fiscal years following the date of enactment of the Water Resources Development Act of 2016] period beginning on the date of enactment of this subsection and ending on the date described in section 10(a), the Secretary, in conjunction with land adjustment programs, may enter into contracts and cooperative agreements with States, units of local government, and other public and private entities to provide for fuel reduction, erosion control, reforestation, Stream Environment Zone restoration, and similar management activities on Federal land and non-Federal land within the programs.

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SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this Act \$ 415,000,000 [for a period of 7 fiscal years beginning the first fiscal year after the date of enactment of the Water Resources Development Act of 2016.] to remain available until September 30, 2034.

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