

GREAT LAKES LEGACY ACT OF 2002

JULY 18, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 1070]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1070) to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to make grants for remediation of sediment contamination in areas of concern and to authorize assistance for research and development of innovative technologies for such purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are 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 Legacy Act of 2002”.

SEC. 2. REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN IN THE GREAT LAKES.

Section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) is amended by adding at the end the following:

“(12) REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.—

“(A) IN GENERAL.—In accordance with this paragraph, the Administrator, acting through the Great Lakes National Program Office and in coordination with the Office of Research and Development, may carry out qualified projects.

“(B) QUALIFIED PROJECT.—In this paragraph, a qualified project is a project to be carried out in an area of concern located wholly or in part in the United States that—

“(i) monitors or evaluates contaminated sediment;

“(ii) subject to subparagraph (D), implements a plan to remediate 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) has been identified in a Remedial Action Plan submitted pursuant to paragraph (3) and is ready to be implemented; or

“(iii) will use an innovative approach, technology, or technique that may provide greater environmental benefits or equivalent environmental benefits at a reduced cost.

“(D) LIMITATION.—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; or

“(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.

“(E) NON-FEDERAL MATCHING REQUIREMENT.—

“(i) IN GENERAL.—The non-Federal share of the cost of a project carried out under this paragraph shall be not less than 35 percent.

“(ii) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of a project carried out under this paragraph may include the value of in-kind services contributed by a non-Federal sponsor, including any in-kind service performed under an administrative order on consent or judicial consent decree, but not including any in-kind services performed under a unilateral administrative order or court order.

“(iii) 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) MAINTENANCE OF EFFORT.—The Administrator may not carry out a project under this paragraph unless the non-Federal sponsor enters into such agreements with the Administrator as the Administrator may require to ensure that the non-Federal sponsor will maintain its aggregate expenditures from all other sources for remediation programs in the area of concern in which the project is located at or above the average level of such expenditures in its 2 fiscal years preceding the date on which the project is initiated.

“(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 possible.

“(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 2003 through 2007.

“(ii) AVAILABILITY.—Funds appropriated under clause (i) shall remain available until expended.”.

SEC. 3. RELATIONSHIP TO FEDERAL AND STATE AUTHORITIES.

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

(1) by striking “construed to affect” and inserting the following: “construed—“(1) to affect”;

(2) by striking the period at the end and inserting “; or”;

(3) by adding at the end the following:

“(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.”; and

(4) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this section) with paragraph (2) (as added by paragraph (3) of this section).

SEC. 4. RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—In coordination with other Federal and local officials, the Administrator of the Environmental Protection Agency is authorized to conduct research on the development and use of innovative approaches, technologies, and techniques for the remediation of sediment contamination in areas of concern in the Great Lakes.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts authorized under other laws, there is authorized to be appropriated to carry out this section \$2,000,000 for each of fiscal years 2003 through 2007.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.

Amend the title so as to read:

A bill to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and conduct research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes.

SUMMARY AND PURPOSE

H.R. 1070, the “Great Lakes Legacy Act of 2002” amends Section 118 of the Clean Water Act to authorize \$50 million a year for five years for monitoring, source control and remediation of sediment contamination in Great Lakes Areas of Concern. H.R. 1070 also authorizes \$2 million a year for five years to conduct research on the development of sediment remediation technologies and techniques.

BACKGROUND AND NEED FOR LEGISLATION

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 constitute the largest system of fresh, surface water on Earth holding 18% of the world’s fresh surface water and 95% of the U.S. fresh surface water.

Over the past 200 years, the Great Lakes region has undergone significant industrialization. Some of the heavy industries include mining, steel, machine tools, and automobile manufacturing. Agriculture also is 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, 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, as well as environmental benefits.

Industrialization and development have had a significant impact on the Great Lakes ecosystem. The Great Lakes are particularly vulnerable to contamination because the average outflow rates from most of the Lakes are very slow. Lake Superior retains water for 173 years. Lake Michigan for 62 years, Lake Huron for 31 years. Lake Ontario has a water retention period of 6 years and Lake Erie, the shallowest of the Lakes, has the shortest water retention period, at 2.7 years. Lakes with low outflow rates do not flush contaminants quickly. As a result, many pollutants discharged into the Great Lakes settle into the sediments at the bottom of the Lakes.

According to EPA’s National Water Quality Inventory 1998 Report to Congress (based on state surveys of 90% of Great Lakes shoreline miles) most of the Great Lakes are safe for swimming and other recreational activities and can be used as a source of drinking water. However, only 4% of the near-shore waters fully support all of their designated uses. Water quality impairments in the Great Lakes generally involve fish consumption advisories and aquatic life impacts. According to EPA’s 2001 National Listing of

Fish and Wildlife Advisories, 100 percent of the Great Lakes and their connecting waters are under fish consumption advisories for persistent toxic substances. Exposure to these toxic substances, which include polychlorinated biphenyls (PCBs), dioxins, and mercury, may pose a significant risk to human health, mainly through the consumption of contaminated fish. States report that the primary sources of pollutants causing these impairments are atmospheric deposition and contaminated sediment. Other sources include land disposal of wastes, agricultural sources, industrial and municipal point sources, and storm water and other urban runoff.

Under the Boundary Waters Treaty of 1909, the United States and Canada created the International Joint Commission (IJC). The IJC has six commissioners, three from each nation. In 1972, the United States and Canada signed the Great Lakes Water Quality Agreement to address mutual interests and improve water quality. In 1987, the two nations revised the agreement and committed to ecosystem cleanup plans for "Areas of Concern." The IJC monitors progress towards these commitments and issues biennial reports.

To support the commitments made in the Great Lakes Water Quality Agreement, in 1987 Congress added section 118 to the Clean Water Act. Section 118 formally established the Great Lakes National Program Office within EPA. One of its functions is to ensure that Remedial Action Plans are developed and implemented for the Areas of Concern identified by the United States and Canada. At present, there are 43 Areas of Concern, 26 located wholly within the United States, 12 located wholly within Canada, and 5 that are shared by both countries. Remediation is complete at only one Area of Concern, located in Canada.

In May 2002, the General Accounting Office (GAO) released a report on the status of implementation of Remedial Action Plans for the Great Lakes' Areas of Concern. This report concluded that the Environmental Protection Agency is not effectively fulfilling the nation's responsibility for developing and implementing the Remedial Action Plans required under the Great Lakes Water Quality Agreement. The report criticized the Agency for transferring oversight responsibility for Remedial Action Plans from the Great Lakes National Program Office to EPA's regional offices in 1992, noting that the regional offices provided initial support and oversight for the Remedial Action Plan process, but then significantly reduced the number of staff and the amount of federally allocated funds devoted to Remedial Action Plan development and implementation. The GAO report recommends that the EPA Administrator clarify which office within EPA is directly responsible for ensuring implementation of the Remedial Action Plans and identify the actions, time periods, and resources needed to help EPA to fulfill its responsibilities.

Restoring beneficial uses at the Great Lakes Areas of Concern will require cooperative efforts of federal, state and local governments, as well as citizen and corporate involvement. Achieving this kind of cooperation has been elusive at many Great Lakes Areas of Concern. As noted above, the Great Lakes States have reported that contaminated sediments are one of the primary causes of impairment of the nearshore waters of the Great Lakes. Remediation of contaminated sediments has been the subject of substantial controversy due to the potential for high costs associated with sedi-

ment remediation, the large numbers of parties potentially liable for these cleanup costs, and limited or conflicting data measuring reduction of risk to human health and the environment following various remedial alternatives. In hearings on this legislation and on sediment remediation generally, the Subcommittee received conflicting testimony on the benefits and success of some sediment remediation approaches involving dredging, capping, and natural attenuation.

According to a 1997 document from the IJC "Overcoming Obstacles to Sediment Remediation," the primary obstacles to sediment remediation at Great Lakes Areas of Concern fall into six categories: (1) limited funding and resources, (2) regulatory complexity, (3) lack of a decision-making framework, (4) limited corporate involvement, (5) insufficient research and technology development, and (6) limited public and local support.

Since 1997, some progress has been made at removing those barriers. For example, decision-making frameworks have been developed by EPA's Office of Water, the National Research Council of the National Academy of Sciences, and EPA's Office of Solid Waste and Emergency Response.

In April 1998, the EPA Office of Water released a document called "EPA's Contaminated Sediment Management Strategy." The goals of EPA's Contaminated Sediment Management Strategy are: (1) to prevent further contamination of sediments that may cause unacceptable ecological or human health risks; (2) when practical, to clean up existing sediment contamination that adversely affects the nation's waterbodies or their uses, or that causes other significant effects on human health or the environment; (3) to ensure that sediment dredging and the disposal of dredged material continue to be managed in an environmentally sound manner; and (4) to develop and consistently apply methodologies for analyzing contaminated sediments.

In March 2001, the National Research Council of the National Academy of Sciences released a report on "A Risk-Management Strategy for PCB-Contaminated Sediments." Although the report focused on PCB-contaminated sediments, its recommendations are relevant to all sediment remediation. In summary, the National Research Council recommended: (1) early, active, and continuous involvement of all affected parties and communities, (2) conducting risk assessments and risk management decisions on a site-specific basis, incorporating all available scientific information, (3) making identification and adequate control of sources an essential early step in site risk management, (4) establishment of a risk management goal based on overall risks to humans and the environment, including societal, cultural, and economic risk, as well as human health and ecological risk, (5) consideration of a combination of risk-management options, including source control, dredging and associated sediment treatment, storage or disposal, capping, bioremediation, institutional controls and natural attenuation, (6) thorough examination of the advantages and disadvantages of all risk management options, from active remediation to no action alternatives, including consideration of the risks posed by the remediation itself, (7) selection of an option based on site-specific factors and conditions, without presumption of a preferred or default risk management option, and (8) long-term monitoring and evaluation

of contaminated sediment sites to evaluate the effectiveness of the management approach, and to ensure adequate, continuous protection of human health and the environment.

In February 2002, EPA's Office of Solid Waste and Emergency Response issued eleven principles for managing contaminated sediment risks at hazardous waste sites. These eleven principles are: (1) control sources early, (2) involve the community early and often, (3) coordinate with states, local governments, Tribes, and natural resource trustees, (4) develop and refine a conceptual site model that considers sediment stability, (5) use an iterative approach in a risk-based framework, (6) carefully evaluate the assumptions and uncertainties associated with site characterization data and site models, (7) select site-specific, project-specific, and sediment-specific risk management approaches that will achieve risk-based goals, (8) ensure that sediment cleanup levels are clearly tied to risk management goals, (9) maximize the effectiveness of institutional controls and recognize their limitations, (10) design remedies to minimize short-term risks while achieving long-term protection, and (11) monitor during and after sediment remediation to assess and document remedy effectiveness.

Establishment of these decision-making frameworks for reducing risks associated with contaminated sediments should help reduce the regulatory complexity and controversy surrounding remediation of contaminated sediments. However, a framework alone will not lead to the restoration of beneficial uses at more Areas of Concern. The barriers of limited funding and resources, limited corporate involvement, insufficient research and technology development, and limited public and local support remain.

To help address these remaining barriers, H.R. 1070, the Great Lakes Legacy Act of 2002 authorizes \$50 million a year for five years for EPA to conduct, with local cost-sharing partners, monitoring, source control and remediation of sediment contamination in Great Lakes Areas of Concern.

Providing federal support for remediation of Areas of Concern may result in greater cooperation and can leverage contributions by local communities and the private sector. For example, at the Ash-tabula River Area of Concern the participation of the Army Corps of Engineers helped to leverage participation by other public and private entities in remediation efforts at that site.

H.R. 1070 supports research on managing contaminated sediments by authorizing \$2 million for each of the fiscal years 2003 through 2007 to conduct research and development on the use of innovative approaches, technologies, and techniques for the remediation of sediment contamination in Areas of Concerns.

Finally, H.R. 1070 addresses several of the concerns raised by the General Accounting Office by reemphasizing the role of the Great Lakes National Program Office in implementing the Remedial Action Plans in Areas of Concern, and by authorizing additional federal resources for the Great Lakes National Program Office to address sediment contamination in the Areas of Concern.

DISCUSSION OF COMMITTEE BILL AND SECTION-BY-SECTION
ANALYSIS

Section 1. Short title

Provides that the Act may be cited as the “Great Lakes Legacy Act of 2002.”

Section 2. Remediation of sediment contamination in Areas of Concern in the Great Lakes

Section 2 of H.R. 1070 adds new paragraph (12) to section 118(c) of the Clean Water Act. This section authorizes EPA, acting through the Great Lakes National Program Office, to carry out projects in Great Lakes Areas of Concern that (1) monitor or evaluate contaminated sediment, (2) implement a plan to remediate contaminated sediment, or (3) prevent further or renewed contamination of sediment. Priority is given to projects that constitute remedial action, have been identified in a Remedial Action Plan developed under section 118 and are ready to be implemented, or use an innovative approach, technology, or technique that may provide greater environmental benefits or equal environmental benefits at a reduced cost.

In addition to meeting all applicable statutory requirements, EPA should select remedial alternatives in a manner consistent with the risk management frameworks discussed above, Agency policy and guidance, and scientific information available at the time the remedial alternative is selected. H.R. 1070 also places limitations on EPA’s authority to carry out projects for the remediation of contaminated sediments.

First, EPA shall not carry out a project for the remediation of contaminated sediments 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. The Committee does not expect EPA to proceed with an alternative if EPA determines, based on its review of short-term and long-term effects of the alternative, that impacts of the remedial alternative are likely to cause greater adverse effects on human health and the environment than other remedial alternatives.

Second, EPA shall not carry out a project if EPA 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. As discussed in the risk management frameworks developed by EPA and the National Research Council, the first goal of any sediment management activity should be assessment and control of the sources of contamination because without source control, efforts to reduce risk through other management options are less likely to be successful.

In order to facilitate and encourage partnerships, qualified projects carried out by the Administrator must receive at least 35% non-Federal matching funds. The non-Federal matching share may be provided through in-kind work carried out by the non-Federal interest. Additionally, non-Federal entities must ensure to provide for all operation and maintenance costs associated with the project.

Maintenance of effort language has been included in order to ensure that new federal appropriations for sediment remediation do not displace existing funding from non-Federal sponsors. In order to carry out qualified projects, the Administrator is to enter into agreements with the non-Federal sponsors to ensure that the non-Federal sponsors maintain expenditures for sediment remediation programs in the area of concern in which the qualified project is located.

The Administrator is directed to coordinate with the Secretary of the Army and State Governors in carrying out qualified projects in order to ensure efficient use of government funds directing public resources to the most deserving projects.

The bill authorizes \$50,000,000 a year for fiscal years 2003 through 2007 to be appropriated to the Administrator of the Environmental Protection Agency, acting through the Great Lakes National Program Office, to carry out qualified sediment remediation projects under this paragraph.

Section 3. Relationship to Federal and State authorities

Section 118(g) of the Clean Water Act "Relationship to Federal and State Authorities" is amended to include language that specifies that actions taken under Section 118 shall not affect any other Federal or State authority that may be used to facilitate cleanup and protection of the Great Lakes. This legislation does not affect any existing statutory enforcement authorities relating to the remediation of contaminated sediments.

Section 4. Research and Development Program

The National Research Council's 2001 Risk Management Strategy for PCB-Contaminated Sediments recommends further research in the areas of ex situ and in situ technologies associated with removal and containment of contaminated sediment and pilot scale testing of innovative technologies. In keeping with these recommendations, the Administrator of the Environmental Protection Agency is authorized to conduct research on the development and use of innovative approaches, technologies, and techniques for the remediation of sediment contamination in areas of concern in the Great Lakes.

The bill authorizes \$2,000,000 a year for fiscal years 2003 through 2007 to be appropriated to the Administrator of the Environmental Protection Agency, to carry out the research activities identified above.

The Committee expects that the Administrator will collaborate with non-Federal entities, including colleges, universities, and private entities, in carrying out the Administrator's responsibilities under this section. In selecting non-Federal entities to participate in research projects under this section, the Administrator is directed to give preference to non-Federal entities located within the Great Lakes region.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

Representatives Ehlers, Kirk, and Barcia introduced H.R. 1070 on March 15, 2001. The bill was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Science. The Subcommittee on Water Resources and En-

vironment held a hearing on H.R. 1070 on July 11, 2001. On June 25, 2002, the Subcommittee on Water Resources and Environment marked up H.R. 1070, and reported the bill favorably to the Full Committee by voice vote, with an amendment. The amendment adopted by the Subcommittee changed the authorization from a grant program to a program that places responsibility to carry out qualified projects with the Administrator of the Environmental Protection Agency, with cost-sharing support from a non-federal sponsor. The amendment also made technical changes to the definition of a qualified project. The Transportation and Infrastructure Committee met in open session on June 26, 2002, and ordered the bill, as amended by the Subcommittee, reported to the House by voice vote.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall 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 taken in connection with ordering H.R. 1070 reported. A motion to order H.R. 1070 reported to the House, with an amendment, was unanimously agreed to by voice vote.

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.

COST OF LEGISLATION

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.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to increase monitoring, source control, and remediation of contaminated sediments at Great Lakes Areas of Concern and to increase research on the development of sediment remediation technologies and techniques.

3. 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 following cost estimate for H.R. 1070 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 3, 2002.

Hon. DON YOUNG,
*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. 1070, the Great Lakes Legacy Act of 2002.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 1070—Great Lakes Legacy Act of 2002

Summary: H.R. 1070 would authorize the environmental Protection Agency (EPA), in conjunction with nonfederal sponsors, to carry out projects aimed at cleaning up certain areas of the Great Lakes where contamination has settled into sediments at the bottom of the lakes. The bill would authorize the appropriation of \$250 million over the 2003–2007 period to EPA for that purpose. In addition, the bill would authorize the appropriation of \$10 million over the five-year period for EPA to conduct research on the development and use of innovative methods for cleaning up the Great Lakes.

Assuming appropriation of the specified amounts, CBO estimates that implementing this legislation would cost \$223 million over the 2003–2007 period. Enacting H.R. 1070 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 1070 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. This bill would benefit Great Lakes states by authorizing the appropriation of \$250 million over the next five years for grants to conduct projects that lead to remediation of sediment contamination in areas in the Great Lakes.

Estimated cost to the Federal Government: CBO estimates that implementing the bill would cost \$223 million over the 2003–2007 period, assuming appropriation of the amounts authorized for each year. Those estimated outlays are based on historical patterns for similar activities. The estimated budgetary impact of H.R. 1070 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—				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
EPA funding for clean-up projects:					
Authorization level	50	50	50	50	50
Estimated outlays	25	40	48	50	50
Research and development:					
Authorization level	2	2	2	2	2

	By fiscal year, in millions of dollars—				
	2003	2004	2005	2006	2007
Estimated outlays	2	2	2	2	2
Total proposed changes:					
Authorization level	52	52	52	52	52
Estimated outlays	27	42	50	52	52

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 1070 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. This bill would benefit Great Lakes states by authorizing the appropriation of \$250 million over the next five years for grants to conduct projects that lead to remediation of sediment contamination in areas in the Great Lakes.

Estimate prepared by: Federal costs: Susanne S. Mehlman; impact on state, local, and tribal governments: Elyse Goldman; impact on the private sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

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 1994 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. 1070 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.

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 omit-

ted is enclosed in black brackets, new matter is printed in *italic*, 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) * * *

* * * * *

(c) GREAT LAKES MANAGEMENT.—

(1) * * *

* * * * *

(12) *REMEDiation OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.*—

(A) *IN GENERAL.*—*In accordance with this paragraph, the Administrator, acting through the Great Lakes National Program Office and in coordination with the Office of Research and Development, may carry out qualified projects.*

(B) *QUALIFIED PROJECT.*—*In this paragraph, a qualified project is a project to be carried out in an area of concern located wholly or in part in the United States that—*

- (i) monitors or evaluates contaminated sediment;*
- (ii) subject to subparagraph (D), implements a plan to remediate 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) has been identified in a Remedial Action Plan submitted pursuant to paragraph (3) and is ready to be implemented; or*
- (iii) will use an innovative approach, technology, or technique that may provide greater environmental benefits or equivalent environmental benefits at a reduced cost.*

(D) *LIMITATION.*—*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; or*
- (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.*

(E) *NON-FEDERAL MATCHING REQUIREMENT.*—

- (i) IN GENERAL.*—*The non-Federal share of the cost of a project carried out under this paragraph shall be not less than 35 percent.*

(ii) *IN-KIND CONTRIBUTIONS.*—*The non-Federal share of the cost of a project carried out under this paragraph may include the value of in-kind services contributed by a non-Federal sponsor, including any in-kind service performed under an administrative order on consent or judicial consent decree, but not including any in-kind services performed under a unilateral administrative order or court order.*

(iii) *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) *MAINTENANCE OF EFFORT.*—*The Administrator may not carry out a project under this paragraph unless the non-Federal sponsor enters into such agreements with the Administrator as the Administrator may require to ensure that the non-Federal sponsor will maintain its aggregate expenditures from all other sources for remediation programs in the area of concern in which the project is located at or above the average level of such expenditures in its 2 fiscal years preceding the date on which the project is initiated.*

(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 possible.*

(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 2003 through 2007.*

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

* * * * *

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

* * * * *

COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, June 27, 2002.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure, House
of Representatives, Washington, DC.*

DEAR CHAIRMAN YOUNG: On March 15, 2001, Congressman Ehlers introduced H.R. 1070, the "Great Lakes Legacy Act of 2001." The bill was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Science. The bill contains provisions that fall within the jurisdiction of the Committee on Science.

In deference to your desire to bring this legislation before the House in an expeditious manner, I will not exercise this Committee's right to consider H.R. 1070. Despite waiving its consideration of H.R. 1070, the Science Committee does not waive its jurisdiction over H.R. 1070. Additionally, the Science Committee expressly reserves its authority to seek conferees on any provisions that are within its jurisdiction during any House-Senate conference that may be convened on this or similar legislation that falls within the Science Committee's jurisdiction. I ask for your commitment to support any request by the Science Committee for conferees on H.R. 1070 as well as any similar or related legislation.

I request that you include this letter as part of the legislative report to accompany H.R. 1070, as well as the Congressional Record during consideration of the legislation on the House floor.

Thank you for your consideration and attention regarding this matter.

Sincerely,

SHERWOOD L. BOEHLERT,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, June 17, 2002.

Hon. SHERWOOD L. BOEHLERT,
*Chairman, Committee on Science,
Rayburn Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of June 27, 2002, regarding H.R. 1070, the Great Lakes Legacy Act of 2001, and for your willingness to waive consideration of provisions in the bill that fall within your Committee's jurisdiction under House Rules.

I agree that your waiving consideration of relevant provisions of H.R. 1070 does not waive your Committee's jurisdiction over the bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee's jurisdiction during any House-Senate conference on H.R. 1070 or similar legislation, and will support your request for conferees on such provisions.

As you request, your letter and this response will be included in the committee report on the legislation as well as the Congressional Record during consideration on the House Floor.

Thank you for your cooperation in moving this important legislation.

Sincerely,

DON YOUNG,
Chairman.

