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SENATE

{ REPORT
107-339

DANIEL PATRICK MOYNIHAN LAKE CHAMPLAIN BASIN PROGRAM ACT OF 2002

NOVEMBER 13, 2002.—Ordered to be printed

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

[to accompany S. 2928]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 2928) to amend the Federal Water Pollution Control Act and the Water Resources Development Act of 2000 to modify provisions relating to the Lake Champlain basin, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

GENERAL STATEMENT, BACKGROUND, AND OBJECTIVES

Lake Champlain is the sixth largest freshwater lake in the world, after only the Great Lakes. Flowing north along the borders of Vermont, New York, and Canada, it is 120 miles long and just 12 miles wide at its widest point. Lake Champlain is home to a diverse array of 81 species of fish, 318 species of birds, 56 species of mammals, 21 species of amphibians and 20 reptile species. Today, the Lake is plagued by excess phosphorous loadings, toxics such as mercury, and invasions of non-native species such as the zebra mussel and sea lamprey.

The Lake Champlain Basin Program began in 1990 when Congress designated the Lake as a resource of national significance. The program began as a management conference with a charter to develop a comprehensive pollution prevention, control, and restoration plan for Lake Champlain. The conference evolved into today's Lake Champlain Basin Program, which is made up of multiple Federal agencies, State and local governments, and stakeholders. The Basin Program works cooperatively with partners throughout the

region to protect and enhance the environmental integrity and the social and economic benefits of the Lake Champlain Basin.

The Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002 authorizes the implementation of the Plan prepared by the management conference and revised by the Lake Champlain Basin Program in 2002.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

“Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002.”

Sec. 2. Lake Champlain Basin Program

This section amends section 120 of the Federal Water Pollution Control Act (33 U.S.C. 1270) by inserting the text of this bill. The committee intends to strengthen and increase the capacity of this cooperative effort by formally acknowledging the role of the Lake Champlain Basin Program and its Steering Committee, and to encourage this innovative initiative to retain its flexible, responsive approach to addressing the evolving environmental challenges of the Lake Champlain Basin.

AUTHORIZATION OF PLAN IMPLEMENTATION

This section defines key terms such as “Plan” which is the plan entitled “Opportunities for Action: An Evolving Plan for the Future of the Lake Champlain Basin”, approved by the Lake Champlain Steering Committee on January 30, 2002. The Act authorizes Federal agencies to participate in implementing this Plan.

The Lake Champlain Management Conference, first authorized by the Lake Champlain Special Designation Act of 1990 (33 U.S.C. 1270 note; Public Law 101–596), completed the first plan in 1996. Since that time, the Management Conference evolved into the Lake Champlain Basin Program. This section specifically authorizes the Lake Champlain Basin Program. This section establishes the purposes of the program:

- to protect and enhance the environmental integrity and social and economic benefits of the Lake Champlain basin; and
- to achieve the environmental goals described in the Plan, including—
 - (i) the reduction of phosphorous inputs to Lake Champlain from point sources and nonpoint sources so as to—
 - (I) promote a healthy and diverse ecosystem; and
 - (II) provide for sustainable human use and enjoyment of Lake Champlain;
 - (ii) the reduction of toxic contamination, such as contamination by mercury and polychlorinated biphenyls, to protect public health and the ecosystem of the Lake Champlain basin;
 - (iii) the control of the introduction, spread, and impacts of non-native nuisance species to preserve the integrity of the ecosystem of the Lake Champlain basin;
 - (iv) the minimization of risks to humans from water-related health hazards in the Lake Champlain basin, including

- through the protection of sources of drinking water in the Lake Champlain basin;
- (v) the restoration and maintenance of a healthy and diverse community of fish and wildlife in the Lake Champlain basin;
 - (vi) the protection and restoration of wetland, streams, and riparian habitat in the Lake Champlain basin, including functions and values provided by those areas;
 - (vii) the management of Lake Champlain, including shorelines and tributaries of Lake Champlain, to achieve—
 - (I) the protection of natural and cultural resources of Lake Champlain; and
 - (II) the maintenance of recreational uses of Lake Champlain;
 - (viii) the protection of recreation and cultural heritage resources of the Lake Champlain basin;
 - (ix) the continuance of the Lake Champlain long-term water quality and biological monitoring program; and
 - (x) the promotion of healthy and diverse economic activity and sustainable development principles in the Lake Champlain basin.

This section designates the Lake Champlain Steering Committee as the implementing body for the Plan. The Steering Committee is made up of representatives from Federal, State, and local agencies as well as interested stakeholders. It provides a forum for consensus building on prioritization and implementation of priorities in the Plan. The committee intends for the current processes at the Steering Committee to continue to ensure smooth and effective implementation of the Plan.

This section requires the Steering Committee to review and, as necessary, revise the Plan at least once every 5 years. The Plan authorized by this Act is the first revision of the plan developed in response to the Lake Champlain Special Designation Act of 1990 (33 U.S.C. 1270 note; Public Law 101–596.) Continual review and revision will be necessary to ensure that the document remains a current and accurate roadmap for preservation of Lake Champlain.

This section authorizes the Administrator to make grants to implement the management strategies in the plan to State, interstate, and regional water pollution control agencies as well as public or nonprofit agencies, institutions, and organizations. Federal funds will be matched with at least a 25 percent non-Federal contribution. The committee intends for the cost sharing applied to the Lake Champlain program to be consistent with the existing program that has operated for 12 years with a 25 percent non-Federal matching requirement.

COORDINATION OF FEDERAL PROGRAMS

This section authorizes the roles of other Federal agencies in the implementation of the Plan.

The Secretary of Agriculture is authorized to support the implementation of the Lake Champlain Basin Program by providing financial and technical assistance relating to best management practices for controlling nonpoint source pollution, particularly with respect to preventing pollution from agricultural activities. The Department of Agriculture has been a key participant in activities in

the Lake Champlain Basin since 1990. The committee intends that the Department, through programs such as the Conservation Reserve Enhancement Program (CREP) and the Wetlands Reserve Program (WRP) will continue this long-standing commitment to the Basin. The reduction of nutrient run-off from non-point sources of pollution, particularly agriculture, is one of the activities in the Plan that can have the greatest impact on water quality in Lake Champlain. The Department of Agriculture is a key partner in achieving this goal.

The Secretary of Interior, acting through both the United States Geological Survey (USGS) and the Fish and Wildlife Service (FWS) is authorized to support the implementation of the Lake Champlain Basin Program. Through USGS, the Secretary may provide financial, scientific, and technical assistance and applicable watershed research, such as stream flow monitoring; water quality monitoring; evaluation of effectiveness of best management practices; research on the transport and final destination of toxic chemicals in the environment; and development of an integrated geographic information system for the Lake Champlain basin.

Through the Fish and Wildlife Service, the Secretary shall support the implementation of the program by:

- supporting the protection and restoration of wetland, streams, aquatic, and riparian habitat;
- supporting restoration of interjurisdictional fisheries and declining aquatic species in the Lake Champlain watershed through propagation of fish in hatcheries and continued advancement in fish culture and aquatic species management technology;
- supporting the control and management of aquatic nuisance species that have adverse effects on fisheries or the form, function, or structure of the ecosystem of the Lake Champlain basin;
- providing financial and technical assistance in accordance with the Fish and Wildlife Coordination Act (16 U.S.C. 661 et 3 seq.) to private landowners seeking to improve fish and wildlife habitat, a goal of which is restoration of full function to degraded habitat, enhancement of specific habitat functions, establishment of valuable fish and wildlife habitat that did not previously exist on a particular parcel of real property; and
- taking other appropriate action to assist in implementation of the Plan.

Through the National Park Service, the Secretary shall support the implementation of the program by providing financial and technical assistance for programs concerning cultural heritage, natural resources, recreational resources, or other programs consistent with the mission of the National Park Service that are identified in the Plan.

The Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere, shall support the implementation of the program by providing financial and technical assistance, through the national sea grant program of the Department of Commerce, for research; management of fisheries and other aquatic resources; related watershed programs; and other appropriate action to assist in implementation of the Plan.

The bill authorizes \$11,000,000 for each of fiscal years 2003 through 2007 for implementation of the Lake Champlain Basin

Program, with \$5,000,000 for the Administrator, \$3,000,000 for Interior, \$1,000,000 for Commerce; and \$2,000,000 for Agriculture.

Sec. 3. Lake Champlain Watershed, Vermont and New York

This section makes technical changes to section 542 of Public Law 106–541, the Water Resources Development Act of 2000 (114 Stat. 2671.) These modifications allow the Corps of Engineers to provide design and construction assistance for ecosystem restoration to the Lake Champlain Basin Program for the purposes of implementing the Plan. It adds Hamilton County in New York to the definition of Lake Champlain watershed. It authorizes the Army Corps of Engineers to conduct remote sensing and the development of a geographic information system for the Lake Champlain basin by the Cold Regions Research and Engineering Laboratory. It allows the Corps to provide assistance through the Lake Champlain Basin Program when providing assistance for ecosystem restoration projects. It clarifies existing crediting authority by allowing 100 percent of the non-Federal share to be comprised of in-kind services and by clarifying that funds provided to a non-Federal interest under the conservation reserve enhancement program of the Department of Agriculture announced on May 27, 1998 (63 Fed. Reg. 28965), or the wetlands reserve program under subchapter C of chapter 1 of 20 subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.) or the wetlands reserve program for use in carrying out a project under the Plan shall be credited toward the non-Federal share of the cost of the project if the Secretary of Agriculture certifies that those funds may be used for the purpose of the project under the Plan. Each of these changes is intended to facilitate Army Corps of Engineers participation in the Lake Champlain Basin Program.

LEGISLATIVE HISTORY

Senators Jeffords, Leahy, Clinton, and Schumer introduced S. 2928, the Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002 on September 12, 2002. It was referred to the Committee on Environment and Public Works. No hearing was held on the bill. The committee met to consider S. 2928 on September 26, 2002. A manager’s amendment offered by Senator Jeffords was agreed to by voice vote. The bill was reported out by voice vote.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 2928 on September 26, 2002. A manager’s amendment offered by Senator Jeffords was agreed to by voice vote. The committee favorably reported the bill by voice vote.

REGULATORY IMPACT STATEMENT

The bill does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee finds that S. 2928 would impose no unfunded mandates on State, local, or tribal governments.

COST OF LEGISLATION

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 2, 2002.

Hon. JAMES M. JEFFORDS, *Chairman,*
Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2928, the Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Susanne S. Mehlman (for Federal costs), who can be reached at 226-2860, Susan Seig Tompkins (for the State and local impact), who can be reached at 225-3220, and Cecil McPherson (for the private-sector impact), who can be reached at 226-2940.

Sincerely,

DAN L. CRIPPEN.

S. 2928 Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002, as ordered reported by the Senate Committee on Environment and Public Works on September 26, 2002

Summary

S. 2928 would establish the Lake Champlain Basin Program to protect the Lake Champlain basin region from environmental damage. This legislation would authorize the appropriation of \$55 million over the 2003-2007 period for the Environmental Protection Agency (EPA), the Department of the Interior, the Department of Commerce, and the Department of Agriculture. EPA would use these funds to make grants to States, regional water pollution control agencies, and other public and nonprofit agencies to support the implementation of management strategies for protecting the environmental integrity of the Lake Champlain basin region. The other agencies would use these funds to provide financial and technical assistance, such as water quality monitoring and management of fisheries and other aquatic resources.

CBO estimates that implementing this legislation would cost \$55 million over the 2003-2007 period, assuming appropriation of the specified amounts. Enacting the bill would not affect direct spending or revenues. S. 2928 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

CBO estimates that implementing the bill would cost \$55 million over the 2003–2007 period, assuming appropriation of the amounts authorized for each year. Those estimated outlays are based on historical spending patterns for similar activities. The estimated budgetary impact of S. 2928 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
SPENDING SUBJECT TO APPROPRIATION					
Lake Champlain Basin Program:					
Authorization Level	11	11	11	11	11
Estimated Outlays	11	11	11	11	11

¹ EPA has not yet received a full-year appropriation for 2003. The Lake Champlain Basin Management Conference received an appropriation of \$3 million in 2002.

Intergovernmental and Private-Sector Impact

S. 2928 contains no intergovernmental or private-sector mandates as defined in UMRA. States in the Lake Champlain basin would benefit from grants authorized to implement a plan to improve the environmental integrity of the Lake Champlain watershed. Any costs to participants in these programs would be incurred voluntarily.

Previous CBO Estimate

On October 1, 2002, CBO transmitted a cost estimate for H.R. 1070, the Great Lakes Legacy Act of 2002, as ordered reported by the Senate Committee on Environment and Public Works on September 26, 2002. The Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002 was included in that version of H.R. 1070, which would authorize the appropriation of \$55 million over the 2003–2007 period.

Estimate Prepared By: Federal Costs: Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins; Impact on the Private Sector: Cecil McPherson.

Estimate Approved By: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

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

FEDERAL WATER POLLUTION CONTROL ACT

(33 U.S.C. 1251 et seq.)

AN ACT To provide for water pollution control activities in the Public Health Service of the Federal Security Agency and in the Federal Works Agency, and for other purposes.

* * * * *

LAKE CHAMPLAIN MANAGEMENT CONFERENCE

Sec. 120. (a) ESTABLISHMENT.—There is established a Lake Champlain Management Conference to develop a comprehensive pollution prevention, control, and restoration plan for Lake Champlain. The Administrator shall convene the management conference within ninety days of the date of enactment of this section.

(b) MEMBERSHIP.—The Members of the Management Conference shall be comprised of—

(1) the Governors of the States of Vermont and New York;

(2) each interested Federal agency, not to exceed a total of five members;

(3) the Vermont and New York Chairpersons of the Vermont, New York, Quebec Citizens Advisory Committee for the Environmental Management of Lake Champlain;

(4) four representatives of the State legislature of Vermont;

(5) four representatives of the State legislature of New York;

(6) six persons representing local governments having jurisdiction over any land or water within the Lake Champlain basin, as determined appropriate by the Governors; and

(7) eight persons representing affected industries, non-governmental organizations, public and private educational institutions, and the general public, as determined appropriate by the trigovernmental Citizens Advisory Committee for the Environmental Management of Lake Champlain, but not to be current members of the Citizens Advisory Committee.

(c) TECHNICAL ADVISORY COMMITTEE.—(1) The Management Conference shall, not later than one hundred and twenty days after the date of enactment of this section, appoint a Technical Advisory Committee.

(2) Such Technical Advisory Committee shall consist of officials of: appropriate departments and agencies of the Federal Government; the State governments of New York and Vermont; and governments of political subdivisions of such States; and public and private research institutions.

(d) RESEARCH PROGRAM.—(1)¹ The Management Conference shall establish a multi-disciplinary environmental research program for Lake Champlain. Such research program shall be planned and conducted jointly with the Lake Champlain Research Consortium.

¹ So in law. No paragraph (2). See P.L. 101-596, sec. 303, 104 Stat. 3006.

[(e) POLLUTION PREVENTION, CONTROL, AND RESTORATION PLAN.—(1) Not later than three years after the date of the enactment of this section, the Management Conference shall publish a pollution prevention, control, and restoration plan (hereafter in this section referred to as the “Plan”) for Lake Champlain.

[(2) The Plan developed pursuant to this section shall—

[(A) identify corrective actions and compliance schedules addressing point and nonpoint sources of pollution necessary to restore and maintain the chemical, physical, and biological integrity of water quality, a balanced, indigenous population of shellfish, fish and wildlife, recreational, and economic activities in and on the lake;

[(B) incorporate environmental management concepts and programs established in State and Federal plans and programs in effect at the time of the development of such plan;

[(C) clarify the duties of Federal and State agencies in pollution prevention and control activities, and to the extent allowable by law, suggest a timetable for adoption by the appropriate Federal and State agencies to accomplish such duties within a reasonable period of time;

[(D) describe the methods and schedules for funding of programs, activities, and projects identified in the Plan, including the use of Federal funds and other sources of funds; and

[(E) include a strategy for pollution prevention and control that includes the promotion of pollution prevention and management practices to reduce the amount of pollution generated in the Lake Champlain basin.

[(3) The Administrator, in cooperation with the Management Conference, shall provide for public review and comment on the draft Plan. At a minimum, the Management Conference shall conduct one public meeting to hear comments on the draft plan in the State of New York and one such meeting in the State of Vermont.

[(4) Not less than one hundred and twenty days after the publication of the Plan required pursuant to this section, the Administrator shall approve such plan if the plan meets the requirements of this section and the Governors of the States of New York and Vermont concur.

[(5) Upon approval of the plan, such plan shall be deemed to be an approved management program for the purposes of section 319(h) of this Act and such plan shall be deemed to be an approved comprehensive conservation and management plan pursuant to section 320 of this Act.

[(f) GRANT ASSISTANCE.—(1) The Administrator may, in consultation with the Management Conference, make grants to State, interstate, and regional water pollution control agencies, and public or nonprofit agencies, institutions, and organizations.

[(2) Grants under this subsection shall be made for assisting research, surveys, studies, and modeling and technical and supporting work necessary for the development of the Plan and for retaining expert consultants in support of litigation undertaken by the State of New York and the State of Vermont to compel cleanup or obtain cleanup damage costs from persons responsible for pollution of Lake Champlain.

[(3) The amount of grants to any person under this subsection for a fiscal year shall not exceed 75 per centum of the costs of such research, survey, study and work and shall be made available on the condition that non-Federal share of such costs are provided from non-Federal sources.

[(4) The Administrator may establish such requirements for the administration of grants as he determines to be appropriate.

[(g) DEFINITION.—For the purposes of this section, the term “Lake Champlain drainage basin” means all or part of Clinton, Franklin, Warren, Essex, and Washington counties in the State of New York and all or part of Franklin, Grand Isle, Chittenden, Addison, Rutland, Lamoille, Orange, Washington, Orleans, and Caledonia counties in Vermont, that contain all of the streams, rivers, lakes, and other bodies of water, including wetlands, that drain into Lake Champlain.

[(h) STATUTORY INTERPRETATION.—Nothing in this section shall be construed so as to affect the jurisdiction or powers of—

[(1) any department or agency of the Federal Government or any State government; or

[(2) any international organization or entity related to Lake Champlain created by treaty or memorandum to which the United States is a signatory.

[(i) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this section \$2,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.]

SEC. 120. LAKE CHAMPLAIN BASIN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) COMMITTEE.—The term “Committee” means the steering committee of the program comprised of representatives of Federal, State, and local governments and other persons, as specified in the Plan.

(2) LAKE CHAMPLAIN BASIN.—

(A) IN GENERAL.—The term “Lake Champlain basin” means all water and land resources in the United States in the drainage basin of Lake Champlain.

(B) INCLUSIONS.—The term “Lake Champlain basin” includes—

(i) Clinton, Essex, Franklin, Hamilton, Warren, and Washington counties in the State of New York; and

(ii) Addison, Bennington, Caledonia, Chittenden, Franklin, Grand Isle, Lamoille, Orange, Orleans, Rutland, and Washington counties in the State of Vermont.

(3) PLAN.—The term “Plan” means the plan entitled “Opportunities for Action: An Evolving Plan for the Future of the Lake Champlain Basin”, approved by Lake Champlain Steering Committee on January 30, 2002, that describes the actions necessary to protect and enhance the environmental integrity and the social and economic benefits of the Lake Champlain basin.

(4) PROGRAM.—The term “program” means the Lake Champlain Basin Program established by subsection (b)(1).

(b) ESTABLISHMENT.—

(1) *IN GENERAL.*—There is established a program to be known as the “Lake Champlain Basin Program”.

(2) *PURPOSES.*—The purposes of the program are—

(A) to protect and enhance the environmental integrity and social and economic benefits of the Lake Champlain basin; and

(B) to achieve the environmental goals described in the Plan, including—

(i) the reduction of phosphorous inputs to Lake Champlain from point sources and nonpoint sources so as to—

(I) promote a healthy and diverse ecosystem; and

(II) provide for sustainable human use and enjoyment of Lake Champlain;

(ii) the reduction of toxic contamination, such as contamination by mercury and polychlorinated biphenyls, to protect public health and the ecosystem of the Lake Champlain basin;

(iii) the control of the introduction, spread, and impacts of nonnative nuisance species to preserve the integrity of the ecosystem of the Lake Champlain basin;

(iv) the minimization of risks to humans from water-related health hazards in the Lake Champlain basin, including through the protection of sources of drinking water in the Lake Champlain basin;

(v) the restoration and maintenance of a healthy and diverse community of fish and wildlife in the Lake Champlain basin;

(vi) the protection and restoration of wetland, streams, and riparian habitat in the Lake Champlain basin, including functions and values provided by those areas;

(vii) the management of Lake Champlain, including shorelines and tributaries of Lake Champlain, to achieve—

(I) the protection of natural and cultural resources of Lake Champlain; and

(II) the maintenance of recreational uses of Lake Champlain;

(viii) the protection of recreation and cultural heritage resources of the Lake Champlain basin;

(ix) the continuance of the Lake Champlain long-term water quality and biological monitoring program; and

(x) the promotion of healthy and diverse economic activity and sustainable development principles in the Lake Champlain basin.

(c) *IMPLEMENTATION.*—The Committee, in consultation with appropriate heads of Federal agencies, shall implement the program.

(d) *REVISION OF PLAN.*—At least once every 5 years, the Committee shall review and, as necessary, revise the Plan.

(e) *GRANTS.*—

(1) *IN GENERAL.*—Subject to paragraph (2), the Administrator may, in consultation with the Committee, make grants, for the purpose of implementing the management strategies contained in the Plan, to—

(A) State, interstate, and regional water pollution control agencies; and

(B) public or nonprofit agencies, institutions, and organizations.

(2) *COST SHARING.*—The Federal share of the cost of any activity carried out using funds from a grant provided under this subsection shall not exceed 75 percent.

(3) *ADDITIONAL REQUIREMENTS.*—The Administrator may establish such additional requirements for the administration of grants provided under this subsection as the Administrator determines to be appropriate.

(f) *COORDINATION OF FEDERAL PROGRAMS.*—

(1) *AGRICULTURE.*—The Secretary of Agriculture shall support the implementation of the program by providing financial and technical assistance relating to best management practices for controlling nonpoint source pollution, particularly with respect to preventing pollution from agricultural activities.

(2) *INTERIOR.*—

(A) *GEOLOGICAL SURVEY.*—The Secretary of the Interior, acting through the United States Geological Survey, shall support the implementation of the program by providing financial, scientific, and technical assistance and applicable watershed research, such as—

(i) stream flow monitoring;

(ii) water quality monitoring;

(iii) evaluation of effectiveness of best management practices;

(iv) research on the transport and final destination of toxic chemicals in the environment; and

(v) development of an integrated geographic information system for the Lake Champlain basin.

(B) *FISH AND WILDLIFE.*—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service and in cooperation with the Committee, shall support the implementation of the program by—

(i) supporting the protection and restoration of wetland, streams, aquatic, and riparian habitat;

(ii) supporting restoration of interjurisdictional fisheries and declining aquatic species in the Lake Champlain watershed through—

(I) propagation of fish in hatcheries; and

(II) continued advancement in fish culture and aquatic species management technology;

(iii) supporting the control and management of aquatic nuisance species that have adverse effects on—

(I) fisheries; or

(II) the form, function, or structure of the ecosystem of the Lake Champlain basin;

(iv) providing financial and technical assistance in accordance with the Fish and Wildlife Coordination

Act (16 U.S.C. 661 *et seq.*) to private landowners seeking to improve fish and wildlife habitat, a goal of which is—

(I) restoration of full function to degraded habitat;

(II) enhancement of specific habitat functions;

or

(III) establishment of valuable fish and wildlife habitat that did not previously exist on a particular parcel of real property; and

(v) taking other appropriate action to assist in implementation of the Plan.

(C) NATIONAL PARKS.—The Secretary of the Interior, acting through the Director of the National Park Service, shall support the implementation of the program by providing, through the use of funds in the National Recreation and Preservation Appropriation account of the National Park Service, financial and technical assistance for programs concerning cultural heritage, natural resources, recreational resources, or other programs consistent with the mission of the National Park Service that are associated with the Lake Champlain basin, as identified in the Plan.

(3) COMMERCE.—The Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere, shall support the implementation of the program by providing financial and technical assistance, through the national sea grant program of the Department of Commerce, for—

(A) research;

(B) management of fisheries and other aquatic resources;

(C) related watershed programs; and

(D) other appropriate action to assist in implementation of the Plan.

(g) NO EFFECT ON OTHER AUTHORITY.—Nothing in this section affects the authority of—

(1) any Federal or State agency; or

(2) any international entity relating to Lake Champlain established by an international agreement to which the United States is a party.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$11,000,000 for each of fiscal years 2003 through 2007, of which—

(1) \$5,000,000 shall be made available to the Administrator;

(2) \$3,000,000 shall be made available to the Secretary of the Interior;

(3) \$1,000,000 shall be made available to the Secretary of Commerce; and

(4) \$2,000,000 shall be made available to the Secretary of Agriculture.

* * * * *

WATER RESOURCES DEVELOPMENT ACT OF 2000

[Public Law 106-541]

* * * * *

SEC. 542. LAKE CHAMPLAIN WATERSHED, VERMONT AND NEW YORK.

[(a) DEFINITIONS.—In this section, the following definitions apply:

[(1) CRITICAL RESTORATION PROJECT.—The term “critical restoration project” means a project that will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation, and protection benefits.

[(2) LAKE CHAMPLAIN WATERSHED.—The term “Lake Champlain watershed” means—

[(A) the land areas]

(a) *DEFINITION OF LAKE CHAMPLAIN WATERSHED.—In this section, the term “Lake Champlain watershed” means—*

(1) *the land areas within Addison, Bennington, Caledonia, Chittenden, Franklin, Grand Isle, Lamoille, Orange, Orleans, Rutland, and Washington Counties in the State of Vermont; and*

[(B)(i) the]

(2)(A) *the land areas that drain into Lake Champlain and that are located within Essex, Clinton, Franklin, Hamilton, Warren, and Washington Counties in the State of New York; and*

[(ii) the]

(B) *the near-shore areas of Lake Champlain within the counties referred to in subparagraph (A).*

(b) **[(CRITICAL RESTORATION PROJECTS] ECOSYSTEM RESTORATION PROGRAM.—**

(1) **IN GENERAL.—**The Secretary may **[(participate in] provide design and construction assistance to non-Federal interests for [critical restoration] ecosystem restoration projects in the Lake Champlain watershed.**

(2) **TYPES OF PROJECTS.—[A] An [critical restoration] ecosystem restoration project shall be eligible for assistance under this section if the [critical restoration] ecosystem restoration project consists of—**

(A) implementation of an intergovernmental agreement for coordinating regulatory and management responsibilities with respect to the Lake Champlain watershed;

(B) acceleration of whole farm planning to implement best management practices to maintain or enhance water quality and to promote agricultural land use in the Lake Champlain watershed;

(C) acceleration of whole community planning to promote intergovernmental cooperation in the regulation and management of activities consistent with the goal of maintaining or enhancing water quality in the Lake Champlain watershed;

(D) natural resource stewardship activities on public or private land to promote land uses that—

(i) preserve and enhance the economic and social character of the communities in the Lake Champlain watershed; and

(ii) protect and enhance water quality; or

(E) any other activity determined by the Secretary to be appropriate, *including remote sensing and the development of a geographic information system for the Lake Champlain basin by the Cold Regions Research and Engineering Laboratory.*

(c) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide [assistance for a] *design and construction assistance for an [critical restoration] ecosystem restoration project* under this section only if—

(1) the [critical restoration] *ecosystem restoration* project is publicly owned; or

(2) the non-Federal interest with respect to the [critical restoration] *ecosystem restoration* project demonstrates that the [critical restoration] *ecosystem restoration* project will provide a substantial public benefit in the form of *ecosystem restoration or water quality improvement.*

(d) PROJECT SELECTION.—

[(1) IN GENERAL.—In consultation with the Lake Champlain Basin Program and the heads of other appropriate Federal, State, tribal, and local agencies, the Secretary may—

[(A) identify [critical restoration] *ecosystem restoration* projects in the Lake Champlain watershed; and

[(B) carry out the [critical restoration] *ecosystem restoration* projects after entering into an agreement with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) and this section.

[(2) CERTIFICATION.—

[(A) IN GENERAL.—A]

(d) CRITERIA FOR ELIGIBILITY.—

(1) IN GENERAL.—An [critical restoration] *ecosystem restoration* project shall be eligible for financial assistance under this section only if the appropriate State official for the [critical restoration] *ecosystem restoration* project certifies to the Secretary that the [critical restoration] *ecosystem restoration* project will contribute to the protection and enhancement of the quality or quantity of the water resources of the Lake Champlain watershed.

[(B) SPECIAL]

(2) SPECIAL CONSIDERATION.—In certifying [critical restoration] *ecosystem restoration* projects to the Secretary, the appropriate State officials shall give special consideration to projects that implement plans, agreements, and measures that preserve and enhance the economic and social character of the communities in the Lake Champlain watershed.

(e) COST SHARING.—

(1) IN GENERAL.—Before providing assistance under this section with respect [to a] *to an [critical restoration] ecosystem restoration project*, the Secretary shall enter into a [project] *project (which assistance may include the provision of*

funds through the Lake Champlain Basin Program), cooperation [agreement that shall require the non-Federal interest] agreement that is in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) and under which the non-Federal interest agrees—

(A) to pay 35 percent of the total costs of the project;

(B) to provide any land, easements, rights-of-way, dredged material disposal areas, and relocations necessary to carry out the project;

(C) to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs associated with the project; and

(D) to hold the United States harmless from any claim or damage that may arise from carrying out the project, except any claim or damage that may arise from the negligence of the Federal Government or a contractor of the Federal Government.

(2) NON-FEDERAL SHARE.—

(A) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work carried out by the non-Federal interest before the date of execution of a project cooperation agreement for the [critical restoration] *ecosystem restoration* project, if the Secretary finds that the design work is integral to the project.

(B) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The Secretary shall credit the non-Federal interest for the value of any land, easement, right-of-way, dredged material disposal area, or relocation provided for carrying out the project.

(C) FORM.—The non-Federal interest may provide up to [50] 100 percent of the non-Federal share in the form of services, materials, supplies, or other in-kind contributions.

(3) CREDIT FOR AGRICULTURAL CONSERVATION.—*Funds provided to a non-Federal interest under the conservation reserve enhancement program of the Department of Agriculture announced on May 27, 1998 (63 Fed. Reg. 28965), or the wetlands reserve program under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.), for use in carrying out a project under the Plan shall be credited toward the non-Federal share of the cost of the project if the Secretary of Agriculture certifies that those funds may be used for the purpose of the project under the Plan.*

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives, limits, or otherwise affects the applicability of Federal or State law with respect to a project carried out with assistance provided under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$20,000,000, to remain available until expended.

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