

109TH CONGRESS
1ST SESSION

S. 508

To provide for the environmental restoration of the Great Lakes.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 2005

Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. LUGAR, Mr. BAYH, Mr. DAYTON, and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To provide for the environmental restoration of the Great Lakes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Great Lakes Environ-
5 mental Restoration Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Great Lakes and the connecting chan-
9 nels of the Great Lakes form the largest freshwater
10 system in the world, holding $\frac{1}{5}$ of the fresh surface

1 water supply of the world and 9/10 of the fresh sur-
2 face water supply of the United States;

3 (2) 30 years after the date of enactment of the
4 Federal Water Pollution Control Act (33 U.S.C.
5 1251 et seq.), water quality in the Great Lakes has
6 improved, but the Great Lakes remain in a degraded
7 state;

8 (3) evidence of the degraded environment of the
9 Great Lakes includes—

10 (A) a record 599 closings of Great Lakes
11 beaches in 2001;

12 (B) an increase to 20 percent in the per-
13 centage of Great Lakes shoreline that contains
14 polluted sediments; and

15 (C) the issuance by State and local au-
16 thorities of 1,400 fish consumption advisories
17 relating to the Great Lakes;

18 (4) the Great Lakes are sources of drinking
19 water for approximately 40,000,000 people in the
20 United States and Canada;

21 (5) in the years since the Great Lakes Water
22 Quality Agreement was signed and the United
23 States and Canada agreed to “restore and maintain
24 the chemical, physical, and biological integrity of the
25 waters of the Great Lakes Basin and give priority

1 attention to the 43 designated Areas of Concern”,
 2 no sites have been restored in the United States;

3 (6) it is the responsibility of the Federal Gov-
 4 ernment and State and local governments to ensure
 5 that the Great Lakes remain a clean and safe source
 6 of water for drinking, fishing, and swimming; and

7 (7) while the total quantity of resources needed
 8 to restore the Great Lakes is unknown, additional
 9 funding is needed now to augment existing efforts to
 10 address the known threats facing the Great Lakes.

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

13 (1) BOARD.—The term “Board” means the
 14 Great Lakes Environmental Restoration Advisory
 15 Board established by section 5(a).

16 (2) GREAT LAKE.—The term “Great Lake”
 17 means—

18 (A) Lake Erie;

19 (B) Lake Huron (including Lake Saint
 20 Clair);

21 (C) Lake Michigan;

22 (D) Lake Ontario;

23 (E) Lake Superior; and

24 (F) the connecting channels of those
 25 Lakes, including—

- 1 (i) the Saint Marys River;
- 2 (ii) the Saint Clair River;
- 3 (iii) the Detroit River;
- 4 (iv) the Niagara River; and
- 5 (v) the Saint Lawrence River to the
- 6 Canadian border.

7 (3) GREAT LAKES STATE.—The term “Great
8 Lakes State” means each of the States of Illinois,
9 Indiana, Ohio, Michigan, Minnesota, New York,
10 Pennsylvania, and Wisconsin.

11 (4) GREAT LAKES SYSTEM.—The term “Great
12 Lakes system” means all the streams, rivers, lakes,
13 and other bodies of water in the drainage basin of
14 the Great Lakes.

15 (5) PROGRAM.—The term “Program” means
16 the Great Lakes Environmental Restoration Grant
17 Program established by section 4(a).

18 (6) PROGRAM OFFICE.—The term “Program
19 Office” means the Great Lakes National Program
20 Office of the Environmental Protection Agency.

21 (7) TASK FORCE.—The term “Task Force”
22 means the Great Lakes Interagency Task Force es-
23 tablished by section 6(a).

1 **SEC. 4. GREAT LAKES RESTORATION GRANTS.**

2 (a) ESTABLISHMENT.—There is established a Great
3 Lakes Environmental Restoration Grant Program, to be
4 administered by the Program Office.

5 (b) GRANTS.—

6 (1) IN GENERAL.—In coordination with the
7 Board, the Program Office shall provide to States,
8 municipalities, and other applicants grants for use in
9 and around the Great Lakes in carrying out—

- 10 (A) contaminated sediment cleanup;
- 11 (B) wetland restoration;
- 12 (C) invasive species control and prevention;
- 13 (D) coastal wildlife and fisheries habitat
- 14 improvement;
- 15 (E) public access improvement;
- 16 (F) water quality improvement;
- 17 (G) sustainable water use;
- 18 (H) nonpoint source pollution reduction; or
- 19 (I) such other projects and activities to re-
- 20 store, protect, and assist the recovery of the
- 21 Great Lakes as the Board may determine.

22 (2) DISTRIBUTION.—In providing grants under
23 this section for a fiscal year, the Program Office
24 shall ensure that—

- 25 (A) at least 1 project or activity is funded
- 26 in each Great Lakes State for the fiscal year;

1 (B) the amount of funds received by each
 2 Great Lakes State under this section for the
 3 fiscal year is at least 6 percent, but not more
 4 than 30 percent, of the total amount of funds
 5 made available for grants under this section for
 6 the fiscal year;

7 (C) each project or activity for which fund-
 8 ing is provided results in 1 or more tangible im-
 9 provements in the Great Lakes watershed; and

10 (D) each project or activity for which fund-
 11 ing is provided addresses 1 or more priority
 12 issue areas identified by the Board for the fiscal
 13 year.

14 (3) GRANT EVALUATION.—

15 (A) IN GENERAL.—In evaluating grant
 16 proposals, the Program Office shall give great
 17 weight to the ranking of proposals by the Board
 18 under section 5(c)(3).

19 (B) DECISION NOT TO FUND.—Not later
 20 than 30 days after the date of the determina-
 21 tion, if the Program Office decides not to fund
 22 a grant proposal ranked by the Board as 1 of
 23 the top 10 proposals meriting funding, the Pro-
 24 gram Office shall provide to the Board a writ-

1 ten statement explaining the reasons why the
2 proposal was not funded.

3 (4) FUNDING LIMITATIONS.—Funds provided
4 under the Program shall not be used for any of the
5 following activities:

6 (A) Design, construction, or improvement
7 of a road, except as required in connection with
8 a sewer upgrade.

9 (B) Design, implementation, or evaluation
10 of a research or monitoring project or activity,
11 except as required in connection with a project
12 or activity that will result in a tangible improve-
13 ment to the Great Lakes watershed.

14 (C) Design or implementation of a beau-
15 tification project or activity that does not result
16 in a tangible improvement to the Great Lakes
17 watershed.

18 (D) Litigation expenses, including legal ac-
19 tions to address violations of the Federal Water
20 Pollution Control Act (33 U.S.C. 1251 et seq.),
21 the Endangered Species Act of 1973 (16 U.S.C.
22 1531 et seq.), or any other environmental law
23 or regulation.

1 (E) Lobbying expenses (as defined in sec-
 2 tion 2 of the Lobbying Disclosure Act of 1995
 3 (2 U.S.C. 1602)).

4 (c) AUTHORIZATION OF APPROPRIATIONS.—

5 (1) IN GENERAL.—There is authorized to be
 6 appropriated to carry out this section \$600,000,000
 7 for each of fiscal years 2006 through 2015.

8 (2) COST SHARING.—The Federal share of the
 9 cost of any project or activity carried out using
 10 funds made available under paragraph (1) shall not
 11 exceed 80 percent.

12 (3) IN-KIND CONTRIBUTIONS.—The non-Fed-
 13 eral share of the cost of any project or activity car-
 14 ried out using funds made available under para-
 15 graph (1) may be provided in cash or in kind.

16 **SEC. 5. GREAT LAKES ENVIRONMENTAL RESTORATION AD-**
 17 **VISORY BOARD.**

18 (a) ESTABLISHMENT.—There is established a com-
 19 mittee to be known as the “Great Lakes Environmental
 20 Restoration Advisory Board”.

21 (b) MEMBERSHIP.—

22 (1) IN GENERAL.—The Board shall be com-
 23 posed of 21 voting members (or designees of the
 24 members), of whom—

1 (A) 8 shall be the Governors of the Great
2 Lakes States;

3 (B) 1 shall be the Director of the Great
4 Lakes National Program Office;

5 (C) 1 shall be the Secretary of the Interior;

6 (D) 1 shall be the Director of the National
7 Oceanic and Atmospheric Administration;

8 (E) 1 shall be the Chief of Engineers;

9 (F) 1 shall be the Secretary of Agriculture;
10 and

11 (G) 8 shall be chief executives of cities,
12 counties, or municipalities in the Great Lakes
13 basin and selected by the Steering Committee
14 of the Great Lakes Cities Initiative, including 1
15 member from each Great Lakes State.

16 (2) OBSERVERS.—The Board may include ob-
17 servers, including—

18 (A) the Premiers of the Canadian Prov-
19 inces of Ontario and Quebec;

20 (B) a representative of the Government of
21 Canada;

22 (C) a representative of the State Depart-
23 ment;

24 (D) 8 representatives of environmental or-
25 ganizations (with 1 member appointed by the

1 Governor of each Great Lakes State), includ-
 2 ing—

3 (i) Great Lakes United;

4 (ii) the Lake Michigan Federation;

5 (iii) the National Wildlife Federation;

6 (iv) the Sierra Club; and

7 (v) The Nature Conservancy;

8 (E) 5 representatives of industry selected
 9 by the chairperson of the Board;

10 (F) the Chairperson of the United States
 11 section of the International Joint Committee;

12 (G) the Vice Chairperson of the United
 13 States section of the Great Lakes Fishery Com-
 14 mission;

15 (H) the Chairperson of the Great Lakes
 16 Commission; and

17 (I) 3 representatives of Native Americans
 18 selected by the President.

19 (3) DATE OF APPOINTMENTS.—The appoint-
 20 ment of each member of the Board shall be made
 21 not later than 90 days after the date of enactment
 22 of this Act.

23 (4) TERM; VACANCIES.—

24 (A) TERM.—A member of the Board shall
 25 be appointed for 5 years.

1 (B) VACANCIES.—A vacancy on the
2 Board—

3 (i) shall not affect the powers of the
4 Board; and

5 (ii) shall be filled in the same manner
6 as the original appointment was made.

7 (5) MEETINGS.—The Board shall meet at the
8 call of the chairperson.

9 (6) CHAIRPERSON.—The Board shall select a
10 chairperson of the Board from the members ap-
11 pointed under paragraph (1)(A).

12 (c) DUTIES.—

13 (1) IN GENERAL.—Before the beginning of the
14 fiscal year, the Board shall determine by majority
15 vote, and shall submit to the Program Office, the
16 funding priority issue areas that shall apply to all
17 grants provided under section 4 during the fiscal
18 year.

19 (2) GREAT LAKES GOALS.—The priorities shall
20 be based on environmental restoration goals for the
21 Great Lakes that—

22 (A) are prepared by the Governors of
23 Great Lakes States; and

1 (B) identify specific objectives and the best
 2 methods by which to produce a tangible im-
 3 provement to the Great Lakes.

4 (3) GRANTS.—

5 (A) PROGRAM OFFICE.—The Program Of-
 6 fice shall provide to the Board, in a timely man-
 7 ner, copies of grant proposals submitted under
 8 section 4.

9 (B) BOARD.—The Board shall—

- 10 (i) review the grant proposals; and
- 11 (ii) by a date specified by the Pro-
 12 gram Office, provide to the Program Office
 13 a list of the grant applications that the
 14 Board recommends for funding, ranked in
 15 order of the applications that most merit
 16 funding.

17 **SEC. 6. GREAT LAKES INTERAGENCY TASK FORCE.**

18 (a) ESTABLISHMENT.—There is established, in the
 19 Environmental Protection Agency, the Great Lakes Inter-
 20 agency Task Force.

21 (b) PURPOSES.—The purposes of the Task Force
 22 are—

- 23 (1) to help establish a process for collaboration
 24 among the members of the Task Force, the members
 25 of the working group established under subsection

1 (e)(1), the Great Lakes States, local communities,
2 tribes, regional bodies, and other interests in the
3 Great Lakes region regarding policies, strategies,
4 projects, and priorities for the Great Lakes system;

5 (2) to collaborate with Canada and binational
6 bodies involved in the Great Lakes region regarding
7 policies, strategies, projects, and priorities for the
8 Great Lakes system;

9 (3) to coordinate the development of consistent
10 Federal policies, strategies, projects, and priorities
11 for addressing the restoration and protection of the
12 Great Lakes system and assisting in the appropriate
13 management of the Great Lakes system;

14 (4) to develop outcome-based goals for the
15 Great Lakes system relying on—

16 (A) existing data and science-based indica-
17 tors of water quality and related environmental
18 factors, and other factors;

19 (B) focusing on outcomes such as cleaner
20 water, sustainable fisheries, and biodiversity of
21 the Great Lakes system; and

22 (C) ensuring that Federal policies, strate-
23 gies, projects, and priorities support measurable
24 results;

1 (5) to exchange information regarding policies,
 2 strategies, projects, and priorities related to the
 3 Great Lakes system between the agencies rep-
 4 resented on the Task Force;

5 (6) to coordinate action of the Federal Govern-
 6 ment associated with the Great Lakes system;

7 (7) to ensure coordinated Federal scientific and
 8 other research associated with the Great Lakes sys-
 9 tem;

10 (8) to ensure coordinated development and im-
 11 plementation of the Great Lakes portion of the
 12 Global Earth Observation System of Systems by the
 13 Federal Government; and

14 (9) to provide assistance and support to agen-
 15 cies represented on the Task Force in the activities
 16 of the agencies related to the Great Lakes system.

17 (c) MEMBERSHIP AND OPERATION.—

18 (1) IN GENERAL.—The Task Force shall con-
 19 sist of—

20 (A) the Administrator of the Environ-
 21 mental Protection Agency;

22 (B) the Secretary of State;

23 (C) the Secretary of the Interior;

24 (D) the Secretary of Agriculture;

25 (E) the Secretary of Commerce;

- 1 (F) the Secretary of Housing and Urban
- 2 Development;
- 3 (G) the Secretary of Transportation;
- 4 (H) the Secretary of Homeland Security;
- 5 (I) the Secretary of the Army; and
- 6 (J) the Chairperson of the Council on En-
- 7 vironmental Quality.

8 (2) OPERATION.—A member of the Task Force
 9 may designate to perform the Task Force functions
 10 of the member any person who is part of the depart-
 11 ment, agency, or office of the member and who is—

12 (A) an officer of the United States ap-
 13 pointed by the President; or

14 (B) a full-time employee of the United
 15 States serving in a position with pay equal to
 16 or great than the minimum rate payable for
 17 grade GS–15 of the General Schedule.

18 (d) CHAIRPERSON.—The Administrator of the Envi-
 19 ronmental Protection Agency shall serve as chairperson of
 20 the Task Force.

21 (e) DUTIES.—

22 (1) GREAT LAKES REGIONAL WORKING
 23 GROUP.—

24 (A) IN GENERAL.—The Task Force shall
 25 establish a Great Lakes regional working group

1 to coordinate and make recommendations on
2 how to implement the policies, strategies,
3 projects, and priorities of the Task Force.

4 (B) MEMBERSHIP.—The working group
5 established under subparagraph (A) shall con-
6 sist of the appropriate regional administrator or
7 director with programmatic responsibility for
8 the Great Lakes system for each agency rep-
9 resented on the Task Force, including—

10 (i) the Great Lakes National Program
11 Office of the Environmental Protection
12 Agency;

13 (ii) the United States Fish and Wild-
14 life Service of the Department of the Inte-
15 rior;

16 (iii) the National Park Service of the
17 Department of the Interior;

18 (iv) the United States Geological Sur-
19 vey of the Department of the Interior;

20 (v) the Natural Resources Conserva-
21 tion Service of the Department of Agri-
22 culture;

23 (vi) the Forest Service of the Depart-
24 ment of Agriculture;

(vii) the National Oceanic and Atmospheric Administration of the Department of Commerce;

(viii) the Department of Housing and Urban Development;

(ix) the Department of Transportation;

(x) the Coast Guard in the Department of Homeland Security; and

(xi) the Corps of Engineers.

(2) PRINCIPLES OF SUCCESSFUL REGIONAL COLLABORATION.—The chairperson of the Task Force shall coordinate the development of a set of principles of successful regional collaboration to advance the policy set forth in section 1 of the Great Lakes Interagency Task Force: Executive Order dated May 18, 2004.

(3) REPORT.—Not later than May 31, 2005, and annually thereafter as appropriate, the Task Force shall submit to the President a report that—

(A) summarizes the activities of the Task Force; and

(B) provides any recommendations that would, in the judgment of the Task Force, advance the policy set forth in section 1 of the

1 Great Lakes Interagency Task Force: Executive
2 Order dated May 18, 2004.

3 **SEC. 7. GREAT LAKES WATER QUALITY INDICATORS AND**
4 **MONITORING.**

5 (a) IN GENERAL.—Section 118(c)(1) of the Federal
6 Water Pollution Control Act (33 U.S.C. 1268(c)(1)) is
7 amended by striking subparagraph (B) and inserting the
8 following:

9 “(B)(i) not later than 2 years after the
10 date of enactment of this clause, in cooperation
11 with Canada and appropriate Federal agencies
12 (including the United States Geological Survey,
13 the National Oceanic and Atmospheric Admin-
14 istration, and the United States Fish and Wild-
15 life Service), develop and implement a set of
16 science-based indicators of water quality and re-
17 lated environmental factors in the Great Lakes,
18 including, at a minimum, measures of toxic pol-
19 lutants that have accumulated in the Great
20 Lakes for a substantial period of time, as deter-
21 mined by the Program Office;

22 “(ii) not later than 4 years after the date
23 of enactment of this clause—

24 “(I) establish a Federal network for
25 the regular monitoring of, and collection of

1 data throughout, the Great Lakes basin
2 with respect to the indicators described in
3 clause (i); and

4 “(II) collect an initial set of bench-
5 mark data from the network; and

6 “(iii) not later than 2 years after the date
7 of collection of the data described in clause
8 (ii)(II), and biennially thereafter, in addition to
9 the report required under paragraph (10), sub-
10 mit to Congress, and make available to the pub-
11 lic, a report that—

12 “(I) describes the water quality and
13 related environmental factors of the Great
14 Lakes (including any changes in those fac-
15 tors), as determined through the regular
16 monitoring of indicators under clause
17 (ii)(I) for the period covered by the report;
18 and

19 “(II) identifies any emerging problems
20 in the water quality or related environ-
21 mental factors of the Great Lakes.”.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
23 118 of the Federal Water Pollution Control Act (33
24 U.S.C. 1268) is amended by striking subsection (h) and
25 inserting the following:

1 “(h) AUTHORIZATION OF APPROPRIATIONS.—

2 “(1) IN GENERAL.—There is authorized to be
3 appropriated to carry out this section (other than
4 subsection (c)(1)(B)) \$25,000,000 for each of fiscal
5 years 2006 through 2010.

6 “(2) GREAT LAKES WATER QUALITY INDICA-
7 TORS AND MONITORING.—There are authorized to
8 be appropriated to carry out subsection (c)(1)(B)—

9 “(A) \$4,000,000 for fiscal year 2006;

10 “(B) \$6,000,000 for fiscal year 2007;

11 “(C) \$8,000,000 for fiscal year 2008; and

12 “(D) \$10,000,000 for fiscal year 2009.”.

○