

Union Calendar No. 491

106TH CONGRESS
2^D SESSION

H. R. 3388

[Report No. 106-833, Part I]

To promote environmental restoration around the Lake Tahoe basin.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 1999

Mr. DOOLITTLE (for himself and Mr. GIBBONS) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on Agriculture, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 7, 2000

Additional sponsor: Mr. MATSUI

SEPTEMBER 7, 2000

Reported from the Committee on Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

SEPTEMBER 7, 2000

Referral to the Committees on Agriculture and Transportation and Infrastructure extended for a period ending not later than September 7, 2000

SEPTEMBER 7, 2000

The Committees on Agriculture and Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To promote environmental restoration around the Lake
Tahoe basin.

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 “Lake Tahoe Restoration*
5 *Act”.*

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 *(a) FINDINGS.—Congress finds that—*

8 *(1) Lake Tahoe, one of the largest, deepest, and*
9 *clearest lakes in the world, has a cobalt blue color, a*
10 *unique alpine setting, and remarkable water clarity,*
11 *and is recognized nationally and worldwide as a nat-*
12 *ural resource of special significance;*

13 *(2) in addition to being a scenic and ecological*
14 *treasure, Lake Tahoe is one of the outstanding rec-*
15 *reational resources of the United States, offering ski-*
16 *ing, water sports, biking, camping, and hiking to mil-*
17 *lions of visitors each year, and contributing signifi-*
18 *cantly to the economies of California, Nevada, and the*
19 *United States;*

1 (3) *the economy in the Lake Tahoe basin is de-*
2 *pendent on the protection and restoration of the nat-*
3 *ural beauty and recreation opportunities in the area;*

4 (4) *Lake Tahoe is in the midst of an environ-*
5 *mental crisis; the Lake's water clarity has declined*
6 *from a visibility level of 105 feet in 1967 to only 70*
7 *feet in 1999, and scientific estimates indicate that if*
8 *the water quality at the Lake continues to degrade,*
9 *Lake Tahoe will lose its famous clarity in only 30*
10 *years;*

11 (5) *sediment and algae-nourishing phosphorous*
12 *and nitrogen continue to flow into the Lake from a*
13 *variety of sources, including land erosion, fertilizers,*
14 *air pollution, urban runoff, highway drainage,*
15 *streamside erosion, land disturbance, and ground*
16 *water flow;*

17 (6) *methyl tertiary butyl ether—*

18 (A) *has contaminated and closed more than*
19 $\frac{1}{3}$ *of the wells in South Tahoe; and*

20 (B) *is advancing on the lake at a rate of*
21 *approximately 9 feet per day;*

22 (7) *destruction of wetlands, wet meadows, and*
23 *stream zone habitat has compromised the Lake's abil-*
24 *ity to cleanse itself of pollutants;*

1 (8) *approximately 40 percent of the trees in the*
2 *Lake Tahoe basin are either dead or dying, and the*
3 *increased quantity of combustible forest fuels has sig-*
4 *nificantly increased the risk of catastrophic forest fire*
5 *in the Lake Tahoe basin;*

6 (9) *as the largest land manager in the Lake*
7 *Tahoe basin, with 77 percent of the land, the Federal*
8 *Government has a unique responsibility for restoring*
9 *environmental health to Lake Tahoe;*

10 (10) *the Federal Government has a long history*
11 *of environmental preservation at Lake Tahoe,*
12 *including—*

13 (A) *congressional consent to the establish-*
14 *ment of the Tahoe Regional Planning Agency in*
15 *1969 (Public Law 91-148; 83 Stat. 360) and in*
16 *1980 (Public Law 96-551; 94 Stat. 3233);*

17 (B) *the establishment of the Lake Tahoe*
18 *Basin Management Unit in 1973; and*

19 (C) *the enactment of Public Law 96-586*
20 *(94 Stat. 3381) in 1980 to provide for the acqui-*
21 *sition of environmentally sensitive land and ero-*
22 *sion control grants;*

23 (11) *President Clinton renewed the Federal Gov-*
24 *ernment's commitment to Lake Tahoe in 1997 at the*
25 *Lake Tahoe Presidential Forum, when he committed*

1 to increased Federal resources for environmental res-
2 toration at Lake Tahoe and established the Federal
3 Interagency Partnership and Federal Advisory Com-
4 mittee to consult on natural resources issues con-
5 cerning the Lake Tahoe basin;

6 (12) the States of California and Nevada have
7 contributed proportionally to the effort to protect and
8 restore Lake Tahoe, including—

9 (A) expenditures—

10 (i) exceeding \$200,000,000 by the State
11 of California since 1980 for land acquisi-
12 tion, erosion control, and other environ-
13 mental projects in the Lake Tahoe basin;
14 and

15 (ii) exceeding \$30,000,000 by the State
16 of Nevada since 1980 for the purposes de-
17 scribed in clause (i); and

18 (B) the approval of a bond issue by voters
19 in the State of Nevada authorizing the expendi-
20 ture by that State of an additional \$20,000,000;
21 and

22 (13) significant additional investment from Fed-
23 eral, State, local, and private sources is needed to
24 stop the damage to Lake Tahoe and its forests, and
25 restore the Lake Tahoe basin to ecological health.

1 **(b) PURPOSES.**—*The purposes of this Act are—*

2 *(1) to enable the Forest Service to plan and im-*
3 *plement significant new environmental restoration*
4 *activities and forest management activities to address*
5 *the phenomena described in paragraphs (4) through*
6 *(8) of subsection (a) in the Lake Tahoe basin;*

7 *(2) to ensure that Federal, State, local, regional,*
8 *tribal, and private agencies continue to work together*
9 *to improve water quality and manage Federal land*
10 *in the Lake Tahoe Basin Management Unit; and*

11 *(3) to provide funding to local governments for*
12 *erosion and sediment control projects on non-Federal*
13 *land.*

14 **SEC. 3. DEFINITIONS.**

15 *In this Act:*

16 **(1) ENVIRONMENTAL THRESHOLD CARRYING CA-**
17 **PACITY.**—*The term “environmental threshold carrying*
18 *capacity” has the meaning given the term in Article*
19 *II of the Tahoe Regional Planning Compact set forth*
20 *in the first section of Public Law 96–551 (94 Stat.*
21 *3235).*

22 **(2) FIRE RISK REDUCTION ACTIVITY.**—

23 **(A) IN GENERAL.**—*The term “fire risk re-*
24 *duction activity” means an activity that is nec-*
25 *essary to reduce the risk of wildfire to promote*

1 *forest management and simultaneously achieve*
2 *and maintain the environmental threshold car-*
3 *rying capacities established by the Planning*
4 *Agency in a manner consistent, where applica-*
5 *ble, with chapter 71 of the Tahoe Regional Plan-*
6 *ning Agency Code of Ordinances.*

7 (B) *INCLUDED ACTIVITIES.*—*The term “fire*
8 *risk reduction activity” includes—*

9 (i) *prescribed burning;*

10 (ii) *mechanical treatment;*

11 (iii) *road obliteration or reconstruc-*
12 *tion; and*

13 (iv) *such other activities consistent*
14 *with Forest Service practices as the Sec-*
15 *retary determines to be appropriate.*

16 (3) *PLANNING AGENCY.*—*The term “Planning*
17 *Agency” means the Tahoe Regional Planning Agency*
18 *established under Public Law 91–148 (83 Stat. 360)*
19 *and Public Law 96–551 (94 Stat. 3233).*

20 (4) *PRIORITY LIST.*—*The term “priority list”*
21 *means the environmental restoration priority list de-*
22 *veloped under section 6.*

23 (5) *SECRETARY.*—*The term “Secretary” means*
24 *the Secretary of Agriculture, acting through the Chief*
25 *of the Forest Service.*

1 **SEC. 4. ADMINISTRATION OF THE LAKE TAHOE BASIN MAN-**
2 **AGEMENT UNIT.**

3 (a) *IN GENERAL.*—*The Lake Tahoe Basin Manage-*
4 *ment Unit shall be administered by the Secretary in accord-*
5 *ance with this Act and the laws applicable to the National*
6 *Forest System.*

7 (b) *RELATIONSHIP TO OTHER AUTHORITY.*—

8 (1) *PRIVATE OR NON-FEDERAL LAND.*—*Nothing*
9 *in this Act grants regulatory authority to the Sec-*
10 *retary over private or other non-Federal land.*

11 (2) *PLANNING AGENCY.*—*Nothing in this Act af-*
12 *fects or increases the authority of the Planning Agen-*
13 *cy.*

14 (3) *ACQUISITION UNDER OTHER LAW.*—*Nothing*
15 *in this Act affects the authority of the Secretary to ac-*
16 *quire land from willing sellers in the Lake Tahoe*
17 *basin under any other law.*

18 **SEC. 5. CONSULTATION WITH PLANNING AGENCY AND**
19 **OTHER ENTITIES.**

20 (a) *IN GENERAL.*—*With respect to the duties described*
21 *in subsection (b), the Secretary shall consult with and seek*
22 *the advice and recommendations of—*

23 (1) *the Planning Agency;*

24 (2) *the Tahoe Federal Interagency Partnership*
25 *established by Executive Order No. 13057 (62 Fed.*
26 *Reg. 41249) or a successor Executive order;*

1 (3) *the Lake Tahoe Basin Federal Advisory*
2 *Committee established by the Secretary on December*
3 *15, 1998 (64 Fed. Reg. 2876) (until the committee is*
4 *terminated);*

5 (4) *Federal representatives and all political sub-*
6 *divisions of the Lake Tahoe Basin Management Unit;*
7 *and*

8 (5) *the Lake Tahoe Transportation and Water*
9 *Quality Coalition.*

10 (b) *DUTIES.—The Secretary shall consult with and*
11 *seek advice and recommendations from the entities described*
12 *in subsection (a) with respect to—*

13 (1) *the administration of the Lake Tahoe Basin*
14 *Management Unit;*

15 (2) *the development of the priority list;*

16 (3) *the promotion of consistent policies and*
17 *strategies to address the Lake Tahoe basin’s environ-*
18 *mental and recreational concerns;*

19 (4) *the coordination of the various programs,*
20 *projects, and activities relating to the environment*
21 *and recreation in the Lake Tahoe basin to avoid un-*
22 *necessary duplication and inefficiencies of Federal,*
23 *State, local, tribal, and private efforts; and*

24 (5) *the coordination of scientific resources and*
25 *data, for the purpose of obtaining the best available*

1 *science as a basis for decisionmaking on an ongoing*
2 *basis.*

3 **SEC. 6. ENVIRONMENTAL RESTORATION PRIORITY LIST.**

4 *(a) IN GENERAL.—Not later than 1 year after the date*
5 *of enactment of this Act, the Secretary shall develop a pri-*
6 *ority list of potential or proposed environmental restoration*
7 *projects for the Lake Tahoe basin.*

8 *(b) DEVELOPMENT OF PRIORITY LIST.—In developing*
9 *the priority list, the Secretary shall—*

10 *(1) use the best available science, including any*
11 *relevant findings and recommendations of the water-*
12 *shed assessment conducted by the Forest Service in the*
13 *Lake Tahoe basin; and*

14 *(2) include, in order of priority, potential or*
15 *proposed environmental restoration projects in the*
16 *Lake Tahoe basin that—*

17 *(A) are included in or are consistent with*
18 *the environmental improvement program adopt-*
19 *ed by the Planning Agency in February 1998*
20 *and amendments to the program;*

21 *(B) would help to achieve and maintain the*
22 *environmental threshold carrying capacities*
23 *for—*

24 *(i) air quality;*

25 *(ii) fisheries;*

- 1 (iii) noise;
- 2 (iv) recreation;
- 3 (v) scenic resources;
- 4 (vi) soil conservation;
- 5 (vii) forest health;
- 6 (viii) water quality; and
- 7 (ix) wildlife;

8 (3) in determining the order of priority of poten-
9 tial and proposed environmental restoration projects
10 under paragraph (2), the focus shall address projects
11 (listed in no particular order) involving—

12 (A) erosion and sediment control, including
13 the activities described in section 2(g) of Public
14 Law 96–586 (94 Stat. 3381) (as amended by sec-
15 tion 7);

16 (B) the acquisition of environmentally sen-
17 sitive land from willing sellers under Public Law
18 96–586 (94 Stat. 3381) or land acquisition
19 under any other Federal law;

20 (C) fire risk reduction activities in urban
21 areas and urban-wildland interface areas, in-
22 cluding high recreational use areas and urban
23 lots acquired from willing sellers under Public
24 Law 96–586 (94 Stat. 3381);

1 (D) *cleaning up methyl tertiary butyl ether*
2 *contamination; and*

3 (E) *the management of vehicular parking*
4 *and traffic in the Lake Tahoe Basin Manage-*
5 *ment Unit, especially—*

6 (i) *improvement of public access to the*
7 *Lake Tahoe basin, including the promotion*
8 *of alternatives to the private automobile;*

9 (ii) *the Highway 28 and 89 corridors*
10 *and parking problems in the area;*

11 (iii) *cooperation with local public*
12 *transportation systems, including—*

13 (I) *the Coordinated Transit Sys-*
14 *tem; and*

15 (II) *public transit systems on the*
16 *north shore of Lake Tahoe.*

17 (c) *MONITORING.—The Secretary shall provide for con-*
18 *tinuous scientific research on and monitoring of the imple-*
19 *mentation of projects on the priority list, including the sta-*
20 *tus of the achievement and maintenance of environmental*
21 *threshold carrying capacities.*

22 (d) *CONSISTENCY WITH MEMORANDUM OF UNDER-*
23 *STANDING.—A project on the priority list shall be conducted*
24 *in accordance with the memorandum of understanding*
25 *signed by the Forest Supervisor and the Planning Agency*

1 on November 10, 1989, including any amendments to the
2 memorandum as long as the memorandum remains in ef-
3 fect.

4 (e) *REVIEW OF PRIORITY LIST.*—Periodically, but not
5 less often than every 3 years, the Secretary shall—

6 (1) review the priority list;

7 (2) consult with—

8 (A) the Tahoe Regional Planning Agency;

9 (B) interested political subdivisions; and

10 (C) the Lake Tahoe Water Quality and
11 Transportation Coalition; and

12 (3) make any necessary changes with respect
13 to—

14 (A) the findings of scientific research and
15 monitoring in the Lake Tahoe basin;

16 (B) any change in an environmental thresh-
17 old as determined by the Planning Agency;

18 (C) any change in general environmental
19 conditions in the Lake Tahoe basin; and

20 (D) submit to Congress a report on any
21 changes made.

22 (f) *CLEANUP OF HYDROCARBON CONTAMINATION.*—

23 (1) *IN GENERAL.*—The Secretary shall make a
24 payment of \$1,000,000 to the Tahoe Regional Plan-
25 ning Agency and the South Tahoe Public Utility Dis-

1 *strict to develop and publish a plan, not later than 1*
2 *year after the date of enactment of this Act, for the*
3 *prevention and cleanup of hydrocarbon contamina-*
4 *tion (including contamination with MTBE) of the*
5 *surface water and ground water of the Lake Tahoe*
6 *basin.*

7 (2) *CONSULTATION.—In developing the plan, the*
8 *Tahoe Regional Planning Agency and the South*
9 *Tahoe Public Utility District shall consult with the*
10 *States of California and Nevada and appropriate po-*
11 *litical subdivisions.*

12 (3) *WILLING SELLERS.—The plan shall not in-*
13 *clude any acquisition of land or an interest in land*
14 *except an acquisition from a willing seller.*

15 (g) *AUTHORIZATION OF APPROPRIATIONS.—There is*
16 *authorized to be appropriated, for the implementation of*
17 *projects on the priority list, \$20,000,000 for the first fiscal*
18 *year that begins after the date of enactment of this Act and*
19 *for each of the 9 fiscal years thereafter.*

20 **SEC. 7. ENVIRONMENTAL IMPROVEMENT PAYMENTS.**

21 *Section 2 of Public Law 96–586 (94 Stat. 3381) is*
22 *amended by striking subsection (g) and inserting the fol-*
23 *lowing:*

24 “(g) *PAYMENTS TO LOCALITIES.—*

1 “(1) *IN GENERAL.*—*The Secretary of Agriculture*
2 *shall, to the extent and in the amount provided in ad-*
3 *vance in appropriations Acts, make annual payments*
4 *to the governing bodies of each of the political sub-*
5 *divisions (including any public utility the service*
6 *area of which includes any part of the Lake Tahoe*
7 *basin), any portion of which is located in the area de-*
8 *icted on the final map filed under section 3(a).*

9 “(2) *USE OF PAYMENTS.*—*Payments under this*
10 *subsection may be used—*

11 “(A) *first, for erosion control and water*
12 *quality projects; and*

13 “(B) *second, unless emergency projects*
14 *arise, for projects to address other threshold cat-*
15 *egories after thresholds for water quality and soil*
16 *conservation have been achieved and maintained.*

17 “(3) *ELIGIBILITY FOR PAYMENTS.*—

18 “(A) *IN GENERAL.*—*To be eligible for a*
19 *payment under this subsection, a political sub-*
20 *division shall annually submit a priority list of*
21 *proposed projects to the Secretary of Agriculture.*

22 “(B) *COMPONENTS OF LIST.*—*A priority*
23 *list under subparagraph (A) shall include, for*
24 *each proposed project listed—*

1 “(i) a description of the need for the
2 project;

3 “(ii) all projected costs and benefits;
4 and

5 “(iii) a detailed budget.

6 “(C) USE OF PAYMENTS.—A payment
7 under this subsection shall be used only to carry
8 out a project or proposed project that is part of
9 the environmental improvement program adopt-
10 ed by the Tahoe Regional Planning Agency in
11 February 1998 and amendments to the program.

12 “(D) FEDERAL OBLIGATION.—All projects
13 funded under this subsection shall be part of
14 Federal obligation under the environmental im-
15 provement program.

16 “(4) DIVISION OF FUNDS.—

17 “(A) IN GENERAL.—The total amounts ap-
18 propriated for payments under this subsection
19 shall be allocated by the Secretary of Agriculture
20 based on the relative need for and merits of
21 projects proposed for payment under this section.

22 “(B) MINIMUM.—To the maximum extent
23 practicable, for each fiscal year, the Secretary of
24 Agriculture shall ensure that each political sub-
25 division in the Lake Tahoe basin receives

1 *amounts appropriated for payments under this*
2 *subsection.*

3 “(5) *AUTHORIZATION OF APPROPRIATIONS.—In*
4 *addition to the amounts authorized to be appro-*
5 *propriated to carry out section 6 of the Lake Tahoe Res-*
6 *toration Act, there is authorized to be appropriated*
7 *for making payments under this subsection*
8 *\$10,000,000 for the first fiscal year that begins after*
9 *the date of enactment of this paragraph and for each*
10 *of the 9 fiscal years thereafter.”.*

11 **SEC. 8. FIRE RISK REDUCTION ACTIVITIES.**

12 *(a) IN GENERAL.—In conducting fire risk reduction*
13 *activities in the Lake Tahoe basin, the Secretary shall, as*
14 *appropriate, coordinate with State and local agencies and*
15 *organizations, including local fire departments and volun-*
16 *teer groups.*

17 *(b) GROUND DISTURBANCE.—The Secretary shall, to*
18 *the maximum extent practicable, minimize any ground dis-*
19 *turbances caused by fire risk reduction activities.*

20 **SEC. 9. AVAILABILITY AND SOURCE OF FUNDS.**

21 *(a) IN GENERAL.—Funds authorized under this Act*
22 *and the amendment made by this Act—*

23 *(1) shall be in addition to any other amounts*
24 *available to the Secretary for expenditure in the Lake*
25 *Tahoe basin; and*

1 (2) shall not be drawn from an appropriation
2 for any other unit of the National Forest System.

3 (b) *MATCHING REQUIREMENT.*—Except as provided in
4 subsection (c), funds for activities under section 6 of this
5 Act and section 2(g) of Public Law 96–586 (94 Stat. 3381)
6 shall be available for obligation on a 1-to-1 basis with fund-
7 ing of restoration activities in the Lake Tahoe basin by the
8 States of California and Nevada.

9 (c) *RELOCATION COSTS.*—The Secretary shall provide
10 $\frac{2}{3}$ of necessary funding to local utility districts for the costs
11 of relocating facilities in connection with environmental
12 restoration projects under section 6 and erosion control
13 projects under section 2 of Public Law 96–586.

14 (d) *SOURCE OF LAND ACQUISITION FUNDS.*—To the
15 extent activities under section 6 of this Act or section 2(g)
16 of Public Law 96–586 involve the acquisition of land or
17 an interest in land, amounts necessary to provide for the
18 acquisition of such land or interest may be appropriated
19 from the land and water conservation fund established
20 under section 2 of the Land and Water Conservation Fund
21 Act of 1965 (16 U.S.C. 460l–5). The appropriation of funds
22 under this subsection shall be subject to—

23 (1) any overall funding limitation in effect on
24 use of the land and water conservation fund; and

1 (2) *the funding limitation specified in section*
2 *6(g), in the case of acquisition carried out as part of*
3 *an activity under section 6.*

4 **SEC. 10. AMENDMENT OF PUBLIC LAW 96-586.**

5 *Section 3(a) of Public Law 96-586 (94 Stat. 3383)*
6 *is amended by adding at the end the following:*

7 “(5) *WILLING SELLERS.—Land within the Lake*
8 *Tahoe Basin Management Unit subject to acquisition under*
9 *this section that is owned by a private person shall be ac-*
10 *quired only from a willing seller.”.*

11 **SEC. 11. RELATIONSHIP TO OTHER LAWS.**

12 *Nothing in this Act exempts the Secretary from the*
13 *duty to comply with any applicable Federal law.*

14 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

15 *There are authorized to be appropriated such sums as*
16 *are necessary to carry out this Act.*

Union Calendar No. 491

106TH CONGRESS
2D SESSION

H. R. 3388

[Report No. 106-833 Part I]

A BILL

To promote environmental restoration around the
Lake Tahoe basin.

SEPTEMBER 7, 2000

Reported from the Committee on Resources with an
amendment

SEPTEMBER 7, 2000

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SEPTEMBER 7, 2000

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