

In the Senate of the United States,

October 17, 2002.

Resolved, That the bill from the House of Representatives (H.R. 1070) entitled “An Act 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.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

2 (a) *SHORT TITLE.*—*This Act may be cited as the*

3 *“Great Lakes and Lake Champlain Act of 2002”.*

1 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 2 *Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—GREAT LAKES

Sec. 101. Short title.

Sec. 102. Report on remedial action plans.

*Sec. 103. Remediation of sediment contamination in areas of concern in the
 Great Lakes.*

Sec. 104. Relationship to Federal and State authorities.

Sec. 105. Authorization of appropriations.

Sec. 106. Research and development program.

TITLE II—LAKE CHAMPLAIN

Sec. 201. Short title.

Sec. 202. Lake Champlain Basin Program.

TITLE III—MISCELLANEOUS

Sec. 301. Phase II storm water program.

Sec. 302. Preservation of reporting requirements.

Sec. 303. Repeal.

Sec. 304. Cross Harbor Freight Movement Project EIS, New York City.

Sec. 305. Center for Brownfields Excellence.

Sec. 306. Louisiana Highway 1026 Project, Louisiana.

3 ***TITLE I—GREAT LAKES***

4 ***SEC. 101. SHORT TITLE.***

5 *This title may be cited as the “Great Lakes Legacy*
 6 *Act of 2002”.*

7 ***SEC. 102. REPORT ON REMEDIAL ACTION PLANS.***

8 *Section 118(c)(3) of the Federal Water Pollution Con-*
 9 *trol Act (33 U.S.C. 1268(c)(3)) is amended by adding at*
 10 *the end the following:*

11 *“(E) REPORT.—Not later than 1 year after*
 12 *the date of enactment of this subparagraph, the*
 13 *Administrator shall submit to Congress a report*
 14 *on such actions, time periods, and resources as*

1 *are necessary to fulfill the duties of the Agency*
2 *relating to oversight of Remedial Action Plans*
3 *under—*

4 “(i) *this paragraph; and*

5 “(ii) *the Great Lakes Water Quality*
6 *Agreement.*”.

7 **SEC. 103. REMEDIATION OF SEDIMENT CONTAMINATION IN**
8 **AREAS OF CONCERN IN THE GREAT LAKES.**

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

12 “(12) **REMEDICATION OF SEDIMENT CONTAMINA-**
13 **TION IN AREAS OF CONCERN.—**

14 “(A) **IN GENERAL.—***In accordance with this*
15 *paragraph, the Administrator, acting through*
16 *the Program Office, may carry out projects that*
17 *meet the requirements of subparagraph (B).*

18 “(B) **ELIGIBLE PROJECTS.—***A project meets*
19 *the requirements of this subparagraph if the*
20 *project is to be carried out in an area of concern*
21 *located wholly or partially in the United States*
22 *and the project—*

23 “(i) *monitors or evaluates contami-*
24 *nated sediment;*

1 “(ii) subject to subparagraph (D), im-
2 plements a plan to remediate contaminated
3 sediment; or

4 “(iii) prevents further or renewed con-
5 tamination of sediment.

6 “(C) *PRIORITY.*—In selecting projects to
7 carry out under this paragraph, the Adminis-
8 trator shall give priority to a project that—

9 “(i) constitutes remedial action for
10 contaminated sediment;

11 “(ii)(I) has been identified in a Reme-
12 dial Action Plan submitted under para-
13 graph (3); and

14 “(II) is ready to be implemented;

15 “(iii) will use an innovative approach,
16 technology, or technique that may provide
17 greater environmental benefits, or equiva-
18 lent environmental benefits at a reduced
19 cost; or

20 “(iv) includes remediation to be com-
21 menced not later than 1 year after the date
22 of receipt of funds for the project.

23 “(D) *LIMITATION.*—The Administrator may
24 not carry out a project under this paragraph for

1 *remediation of contaminated sediments located*
2 *in an area of concern—*

3 “(i) *if an evaluation of remedial alter-*
4 *natives for the area of concern has not been*
5 *conducted, including a review of the short-*
6 *term and long-term effects of the alter-*
7 *natives on human health and the environ-*
8 *ment; or*

9 “(ii) *if the Administrator determines*
10 *that the area of concern is likely to suffer*
11 *significant further or renewed contamina-*
12 *tion from existing sources of pollutants*
13 *causing sediment contamination following*
14 *completion of the project.*

15 “(E) *NON-FEDERAL SHARE.—*

16 “(i) *IN GENERAL.—The non-Federal*
17 *share of the cost of a project carried out*
18 *under this paragraph shall be at least 35*
19 *percent.*

20 “(ii) *IN-KIND CONTRIBUTIONS.—The*
21 *non-Federal share of the cost of a project*
22 *carried out under this paragraph may in-*
23 *clude the value of in-kind services contrib-*
24 *uted by a non-Federal sponsor.*

1 “(iii) *NON-FEDERAL SHARE.*—*The*
2 *non-Federal share of the cost of a project*
3 *carried out under this paragraph—*

4 “(I) *may include monies paid*
5 *pursuant to, or the value of any in-*
6 *kind service performed under, an ad-*
7 *ministrative order on consent or judi-*
8 *cial consent decree; but*

9 “(II) *may not include any funds*
10 *paid pursuant to, or the value of any*
11 *in-kind service performed under, a*
12 *unilateral administrative order or*
13 *court order.*

14 “(iv) *OPERATION AND MAINTEN-*
15 *NANCE.*—*The non-Federal share of the cost*
16 *of the operation and maintenance of a*
17 *project carried out under this paragraph*
18 *shall be 100 percent.*

19 “(F) *MAINTENANCE OF EFFORT.*—*The Ad-*
20 *ministrator may not carry out a project under*
21 *this paragraph unless the non-Federal sponsor*
22 *enters into such agreements with the Adminis-*
23 *trator as the Administrator may require to en-*
24 *sure that the non-Federal sponsor will maintain*
25 *its aggregate expenditures from all other sources*

1 *for remediation programs in the area of concern*
2 *in which the project is located at or above the av-*
3 *erage level of such expenditures in the 2 fiscal*
4 *years preceding the date on which the project is*
5 *initiated.*

6 “(G) *COORDINATION.*—*In carrying out*
7 *projects under this paragraph, the Administrator*
8 *shall coordinate with the Secretary of the Army,*
9 *and with the Governors of States in which the*
10 *projects are located, to ensure that Federal and*
11 *State assistance for remediation in areas of con-*
12 *cern is used as efficiently as practicable.*

13 “(H) *AUTHORIZATION OF APPROPRIA-*
14 *TIONS.*—

15 “(i) *IN GENERAL.*—*In addition to*
16 *other amounts authorized under this sec-*
17 *tion, there is authorized to be appropriated*
18 *to carry out this paragraph \$50,000,000 for*
19 *each of fiscal years 2004 through 2008.*

20 “(ii) *AVAILABILITY.*—*Funds made*
21 *available under clause (i) shall remain*
22 *available until expended.*

23 “(13) *PUBLIC INFORMATION PROGRAM.*—

24 “(A) *IN GENERAL.*—*The Administrator, act-*
25 *ing through the Program Office and in coordina-*

1 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

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

4 *(1) by striking the second sentence; and*

5 *(2) in the first sentence—*

6 *(A) by striking “not to exceed \$11,000,000”*

7 *and inserting “not to exceed—*

8 *“(1) \$11,000,000”;*

9 *(B) by striking the period at the end and*

10 *inserting a semicolon; and*

11 *(C) by adding at the end the following:*

12 *“(2) such sums as are necessary for each of fiscal*

13 *years 1992 through 2003; and*

14 *“(3) \$25,000,000 for each of fiscal years 2004*

15 *through 2008.”.*

16 **SEC. 106. RESEARCH AND DEVELOPMENT PROGRAM.**

17 *(a) IN GENERAL.—In coordination with other Federal,*

18 *State, and local officials, the Administrator of the Environ-*

19 *mental Protection Agency may conduct research on the de-*

20 *velopment and use of innovative approaches, technologies,*

21 *and techniques for the remediation of sediment contamina-*

22 *tion in areas of concern that are located wholly or partially*

23 *in the United States.*

24 *(b) AUTHORIZATION OF APPROPRIATIONS.—*

25 *(1) IN GENERAL.—In addition to amounts au-*

26 *thorized under other laws, there is authorized to be*

1 *appropriated to carry out this section \$3,000,000 for*
 2 *each of fiscal years 2004 through 2008.*

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

5 **TITLE II—LAKE CHAMPLAIN**

6 **SEC. 201. SHORT TITLE.**

7 *This title may be cited as the “Daniel Patrick Moy-*
 8 *nihan Lake Champlain Basin Program Act of 2002”.*

9 **SEC. 202. LAKE CHAMPLAIN BASIN PROGRAM.**

10 *Section 120 of the Federal Water Pollution Control Act*
 11 *(33 U.S.C. 1270) is amended—*

12 (1) *by striking the section heading and all that*
 13 *follows through “There is established” in subsection*
 14 *(a) and inserting the following:*

15 **“SEC. 120. LAKE CHAMPLAIN BASIN PROGRAM.**

16 **“(a) ESTABLISHMENT.—**

17 **“(1) IN GENERAL.—***There is established”;*

18 (2) *in subsection (a) (as amended by paragraph*
 19 *(1)), by adding at the end the following:*

20 **“(2) IMPLEMENTATION.—***The Administrator—*

21 **“(A) may provide support to the State of**
 22 **Vermont, the State of New York, and the New**
 23 **England Interstate Water Pollution Control**
 24 **Commission for the implementation of the Lake**
 25 **Champlain Basin Program; and**

1 “(B) shall coordinate actions of the Envi-
2 ronmental Protection Agency under subpara-
3 graph (A) with the actions of other appropriate
4 Federal agencies.”;

5 (3) in subsection (d), by striking “(1)”;

6 (4) in subsection (e)—

7 (A) in paragraph (1), by striking “(here-
8 after in this section referred to as the ‘Plan’)”;
9 and

10 (B) in paragraph (2)—

11 (i) in subparagraph (D), by striking
12 “and” at the end;

13 (ii) in subparagraph (E), by striking
14 the period at the end and inserting “; and”;
15 and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(F) be reviewed and revised, as necessary, at
19 least once every 5 years, in consultation with the Ad-
20 ministrator and other appropriate Federal agencies.”;

21 (5) in subsection (f)—

22 (A) in paragraph (1), by striking “the
23 Management Conference,” and inserting “par-
24 ticipants in the Lake Champlain Basin Pro-
25 gram,”; and

1 (B) in paragraph (2), by striking “develop-
2 ment of the Plan” and all that follows and in-
3 serting “development and implementation of the
4 Plan.”;

5 (6) in subsection (g)—

6 (A) by striking “(g)” and all that follows
7 through “the term” and inserting the following:
8 “(g) DEFINITIONS.—In this section:

9 “(1) LAKE CHAMPLAIN BASIN PROGRAM.—The
10 term ‘Lake Champlain Basin Program’ means the co-
11 ordinated efforts among the Federal Government,
12 State governments, and local governments to imple-
13 ment the Plan.

14 “(2) LAKE CHAMPLAIN DRAINAGE BASIN.—The
15 term”;

16 (B) in paragraph (2) (as designated by sub-
17 paragraph (A))—

18 (i) by inserting “Hamilton,” after
19 “Franklin,”; and

20 (ii) by inserting “Bennington,” after
21 “Rutland,”; and

22 (C) by adding at the end the following:

23 “(3) PLAN.—The term ‘Plan’ means the plan de-
24 veloped under subsection (e).”;

1 (7) *by striking subsection (h) and inserting the*
2 *following:*

3 “(h) *NO EFFECT ON CERTAIN AUTHORITY.—Nothing*
4 *in this section—*

5 “(1) *affects the jurisdiction or powers of—*

6 “(A) *any department or agency of the Fed-*
7 *eral Government or any State government; or*

8 “(B) *any international organization or en-*
9 *tity related to Lake Champlain created by treaty*
10 *or memorandum to which the United States is a*
11 *signatory;*

12 “(2) *provides new regulatory authority for the*
13 *Environmental Protection Agency; or*

14 “(3) *affects section 304 of the Great Lakes Crit-*
15 *ical Programs Act of 1990 (Public Law 101–596; 33*
16 *U.S.C. 1270 note).”;* and

17 (8) *in subsection (i)—*

18 (A) *by striking “section \$2,000,000” and*
19 *inserting “section—*

20 “(1) *\$2,000,000”;*

21 (B) *by striking the period at the end and*
22 *inserting a semicolon; and*

23 (C) *by adding at the end the following:*

24 “(2) *such sums as are necessary for each of fiscal*
25 *years 1996 through 2003; and*

1 “(3) \$11,000,000 for each of fiscal years 2004
2 through 2008.”.

3 **TITLE III—MISCELLANEOUS**

4 **SEC. 301. PHASE II STORM WATER PROGRAM.**

5 *Notwithstanding any other provision of law, for fiscal*
6 *year 2003, funds made available to a State to carry out*
7 *nonpoint source management programs under section 319*
8 *of the Federal Water Pollution Control Act (33 U.S.C.*
9 *1329) may, at the option of the State, be used to carry out*
10 *projects and activities in the State relating to the develop-*
11 *ment or implementation of phase II of the storm water pro-*
12 *gram of the Environmental Protection Agency established*
13 *by the rule entitled “National Pollutant Discharge Elimini-*
14 *ation System—Regulations for Revision of the Water Pol-*
15 *lution Control Program Addressing Storm Water Dis-*
16 *charges”, promulgated by the Administrator of the Environ-*
17 *mental Protection Agency on December 8, 1999 (64 Fed.*
18 *Reg. 68722).*

19 **SEC. 302. PRESERVATION OF REPORTING REQUIREMENTS.**

20 *(a) IN GENERAL.—Section 3003(a)(1) of the Federal*
21 *Reports Elimination and Sunset Act of 1995 (31 U.S.C.*
22 *1113 note; Public Law 104–66) does not apply to any re-*
23 *port required to be submitted under any of the following*
24 *provisions of law:*

1 (1) *EFFECTS OF POLLUTION ON ESTUARIES OF*
2 *THE UNITED STATES.—Section 104(n)(3) of the Fed-*
3 *eral Water Pollution Control Act (33 U.S.C.*
4 *1254(n)(3)).*

5 (2) *IMPLEMENTATION OF GREAT LAKES WATER*
6 *QUALITY AGREEMENT OF 1978.—Section 118(c)(10) of*
7 *the Federal Water Pollution Control Act (33 U.S.C.*
8 *1268(c)(10)).*

9 (3) *COMPREHENSIVE CONSERVATION AND MAN-*
10 *AGEMENT PLAN FOR LONG ISLAND SOUND.—Section*
11 *119(c)(7) of the Federal Water Pollution Control Act*
12 *(33 U.S.C. 1269(c)(7)).*

13 (4) *LEVEL B PLAN ON ALL RIVER BASINS.—Sec-*
14 *tion 209(b) of the Federal Water Pollution Control*
15 *Act (33 U.S.C. 1289(b)).*

16 (5) *STATE REPORTS ON WATER QUALITY OF ALL*
17 *NAVIGABLE WATERS.—Section 305(b) of the Federal*
18 *Water Pollution Control Act (33 U.S.C. 1315(b)).*

19 (6) *EXEMPTIONS FROM WATER POLLUTION CON-*
20 *TROL REQUIREMENTS FOR EXECUTIVE AGENCIES.—*
21 *Section 313(a) of the Federal Water Pollution Control*
22 *Act (33 U.S.C. 1323(a)).*

23 (7) *STATUS OF WATER QUALITY IN UNITED*
24 *STATES LAKES.—Section 314(a) of the Federal Water*
25 *Pollution Control Act (33 U.S.C. 1324(a)).*

1 (8) *NATIONAL ESTUARY PROGRAM ACTIVITIES.*—
2 *Section 320(j)(2) of the Federal Water Pollution Con-*
3 *trol Act (33 U.S.C. 1330(j)(2)).*

4 (9) *REPORTS ON CONTRACTS ENTERED INTO RE-*
5 *LATING TO PROCUREMENT FROM VIOLATORS OF*
6 *WATER QUALITY STANDARDS.*—*Section 508(e) of the*
7 *Federal Water Pollution Control Act (33 U.S.C.*
8 *1368(e)).*

9 (10) *NATIONAL REQUIREMENTS AND COSTS OF*
10 *WATER POLLUTION CONTROL.*—*Section 516 of the*
11 *Federal Water Pollution Control Act (33 U.S.C.*
12 *1375).*

13 (b) *OTHER REPORTS.*—

14 (1) *IN GENERAL.*—*Effective November 10, 1998,*
15 *section 501 of the Federal Reports Elimination Act of*
16 *1998 (Public Law 105–362; 112 Stat. 3283) is*
17 *amended by striking subsections (a), (b), (c), and (d).*

18 (2) *APPLICABILITY.*—*The Federal Water Pollu-*
19 *tion Control Act (33 U.S.C. 1254(n)(3)) shall be ap-*
20 *plied and administered on and after the date of en-*
21 *actment of this Act as if the amendments made by*
22 *subsections (a), (b), (c), and (d) of section 501 of the*
23 *Federal Reports Elimination Act of 1998 (Public*
24 *Law 105–362; 112 Stat. 3283) had not been enacted.*

1 **SEC. 303. REPEAL.**

2 *Title VII of Public Law 105–78 (20 U.S.C. 50 note;*
3 *111 Stat. 1524) (other than section 702) is repealed.*

4 **SEC. 304. CROSS HARBOR FREIGHT MOVEMENT PROJECT**
5 **EIS, NEW YORK CITY.**

6 *Section 1602 of the Transportation Equity Act for the*
7 *21st Century (112 Stat. 305) is amended in item number*
8 *1320 of the table by striking “Reconstruct 79th Street Traf-*
9 *fic Circle, New York City” and inserting “Cross Harbor*
10 *Freight Movement Project EIS, New York City”.*

11 **SEC. 305. CENTER FOR BROWNFIELDS EXCELLENCE.**

12 *(a) IN GENERAL.—To demonstrate the transfer of tech-*
13 *nology and expertise from the Federal Government to the*
14 *private sector, and to demonstrate the effectiveness of the*
15 *reuse by the private sector of properties and assets that the*
16 *Federal Government has determined, through applicable*
17 *statutes and processes, that it no longer needs, the Adminis-*
18 *trator of the Environmental Protection Agency shall make*
19 *a grant to not less than one eligible sponsor to establish*
20 *and operate a center for Brownfields Excellence.*

21 *(b) RESPONSIBILITIES OF CENTER.—The responsibil-*
22 *ities of a center established under this section shall include*
23 *the transfer of technology and expertise in the redevelop-*
24 *ment of abandoned or underutilized property that may have*
25 *environmental contamination and the dissemination of in-*

1 *formation regarding successful models for such redevelop-*
2 *ment.*

3 (c) *PRIORITY.*—*In carrying out this section, the Ad-*
4 *ministrator shall give priority consideration to a grant ap-*
5 *plication submitted by an eligible sponsor that meets the*
6 *following criteria:*

7 (1) *Demonstrated ability to facilitate the return*
8 *of property that may have environmental contamina-*
9 *tion to productive use.*

10 (2) *Demonstrated ability to facilitate public-pri-*
11 *vate partnerships and regional cooperation.*

12 (3) *Capability to provide leadership in making*
13 *both national and regional contributions to address-*
14 *ing the problem of underutilized or abandoned prop-*
15 *erties.*

16 (4) *Demonstrated ability to work with Federal*
17 *departments and agencies to facilitate reuse by the*
18 *private sector of properties and assets no longer need-*
19 *ed by the Federal Government.*

20 (5) *Demonstrated ability to foster technology*
21 *transfer.*

22 (d) *ELIGIBLE SPONSOR DEFINED.*—*In this section, the*
23 *term “eligible sponsor” means a regional nonprofit commu-*
24 *nity redevelopment organization assisting an area that—*

1 (1) *has lost jobs due to the closure of a private*
2 *sector or Federal installation; and*

3 (2) *as a result, has an underemployed workforce*
4 *and underutilized or abandoned properties.*

5 (e) *AUTHORIZATION OF APPROPRIATIONS.—There is*
6 *authorized to be appropriated to carry out this section*
7 *\$1,000,000.*

8 **SEC. 306. LOUISIANA HIGHWAY 1026 PROJECT, LOUISIANA.**

9 *Section 1602 of the Transportation Equity Act for the*
10 *21st Century (112 Stat. 272) is amended in item number*
11 *426 of the table by striking “Louisiana Highway 16” and*
12 *inserting the following: “Louisiana Highway 1026”.*

Attest:

Secretary.

107TH CONGRESS
2D SESSION

H. R. 1070

AMENDMENT