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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend the Federal Water Pollution Control Act to establish an Ohio River Basin Restoration Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MCGARVEY introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Water Pollution Control Act to establish an Ohio River Basin Restoration Program, and for other purposes.

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 “Ohio River Restoration
5 Program Act”.

1 **SEC. 2. OHIO RIVER BASIN RESTORATION PROGRAM.**

2 Title I of the Federal Water Pollution Control Act
3 (33 U.S.C. 1251 et seq.) is amended by adding at the end
4 the following:

5 **“SEC. 127. OHIO RIVER.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) AGENCY.—The term ‘Agency’ means the
8 Environmental Protection Agency.

9 “(2) OHIO RIVER BASIN.—The term ‘Ohio
10 River Basin’ means the portions of each Ohio River
11 State that contain the watershed of the Ohio River.

12 “(3) OHIO RIVER BASIN RESTORATION PRO-
13 GRAM.—The term ‘Ohio River Basin Restoration
14 Program’ means the Ohio River Basin Restoration
15 Program established by this section.

16 “(4) OHIO RIVER STATE.—The term ‘Ohio
17 River State’ means Ohio, Kentucky, West Virginia,
18 Pennsylvania, Indiana, Illinois, New York, Virginia,
19 Maryland, North Carolina, Georgia, Alabama, Ten-
20 nessee, or Mississippi.

21 “(5) PROGRAM OFFICE.—The term ‘Program
22 Office’ means the Ohio River National Program Of-
23 fice established under this section.

24 “(6) PROGRAM DIRECTOR.—The term ‘Program
25 Director’ means the Director of the Program Office.

1 “(7) TRIBAL GOVERNMENT.—The term ‘Tribal
2 Government’ means the recognized governing body
3 of any Indian tribe individually identified (including
4 parenthetically) in the list published under section
5 104 of the Federally Recognized Indian Tribe List
6 Act of 1994 (25 U.S.C. 5131).

7 “(b) OHIO RIVER NATIONAL PROGRAM OFFICE.—

8 “(1) IN GENERAL.—The Administrator shall es-
9 tablish an Ohio River National Program Office with-
10 in the Agency to carry out the Ohio River Basin
11 Restoration Program.

12 “(2) PROGRAM DIRECTOR.—The Program Of-
13 fice shall be headed by a Program Director, ap-
14 pointed by the Administrator, who, by reason of
15 management experience and technical expertise re-
16 lating to the Ohio River, is highly qualified to direct
17 the development of programs and plans on a variety
18 of issues related to restoration of the Ohio River
19 Basin.

20 “(3) FUNCTIONS.—The Program Director
21 shall—

22 “(A) coordinate actions of the Agency that
23 seek to protect and restore the Ohio River
24 Basin;

1 “(B) develop, implement, and update the
2 Ohio River Basin Restoration Program and ac-
3 tion plan required by this section, in coordina-
4 tion with relevant Federal agencies and non-
5 Federal entities;

6 “(C) document information and updates
7 related to the development and implementation
8 of the Ohio River Basin Restoration Program
9 and action plan required by this section, and
10 make such information and updates available to
11 the public, including on a public website;

12 “(D) facilitate, in cooperation with the Bu-
13 reau of Indian Affairs, engagement and con-
14 sultation with Tribal Governments and Tribal
15 organizations to ensure Tribal needs and prior-
16 ities are solicited early and throughout the de-
17 velopment of the actionable goals and action
18 plan required by this section; and

19 “(E) submit to Congress, and make avail-
20 able on a public website, the action plan and
21 updates required by this section, and an annual
22 report describing—

23 “(i) progress made in implementing
24 the Ohio River Basin Restoration Pro-
25 gram;

1 “(ii) coordination of the Ohio River
2 Basin Restoration Program with other
3 Federal, State, Tribal, and local programs;

4 “(iii) any funds transferred to rel-
5 evant Federal agencies under this section;

6 “(iv) any grants awarded under this
7 section;

8 “(v) specific projects and activities
9 carried out pursuant to this section; and

10 “(vi) agreements with relevant Fed-
11 eral agencies and non-Federal entities.

12 “(4) AGREEMENTS.—In carrying out paragraph
13 (3), the Program Director may enter into agree-
14 ments, as applicable, with relevant Federal agencies
15 and non-Federal entities.

16 “(c) OHIO RIVER BASIN RESTORATION PROGRAM.—

17 “(1) ESTABLISHMENT.—There is established
18 within the Agency the Ohio River Basin Restoration
19 Program to advance systemic, large-scale restoration
20 of the Ohio River Basin.

21 “(2) ACTIVITIES.—Any project or activity car-
22 ried out pursuant to the Ohio River Basin Restora-
23 tion Program shall be designed to address at least
24 1 of the following:

1 “(A) Improvement of water quality in the
2 Ohio River Basin and drinking water in the
3 Ohio River States through—

4 “(i) reductions in the amount of pol-
5 luted runoff, excess agricultural nutrients,
6 and sediment reaching the Ohio River; and

7 “(ii) improvements in water source
8 protections.

9 “(B) Improvement of community resilience
10 through restoration of natural systems in the
11 Ohio River Basin to minimize and ameliorate
12 flood and storm risks.

13 “(C) Protection and restoration of fish and
14 wildlife habitat in the Ohio River Basin.

15 “(D) Prevention and control of the spread
16 of aquatic invasive species in the Ohio River
17 Basin.

18 “(E) Remediation of toxic substances and
19 mine-related pollution.

20 “(F) Improvement of opportunities for
21 public access and recreation in the Ohio River
22 Basin consistent with the ecological needs of
23 fish and wildlife habitat.

1 “(G) Improvement of water management
2 to enhance outcomes for fish and wildlife and
3 reduce flood risks.

4 “(H) Collection, monitoring, and evalua-
5 tion of data needed to plan, implement, and as-
6 sess the effectiveness of projects or activities
7 carried out under this section.

8 “(I) Improvement of public outreach, edu-
9 cation, and citizen involvement in the develop-
10 ment and implementation of projects and activi-
11 ties carried out under this section.

12 “(3) APPROACHES.—Projects and activities car-
13 ried out under this section shall prioritize use of nat-
14 ural, nature-based, and non-structural solutions to
15 the maximum extent practicable, including—

16 “(A) protecting or restoring naturally-oc-
17 ccurring hydrologic, geomorphic, and ecological
18 functions and processes; and

19 “(B) removing or modifying structures
20 such as culverts, levees, and dams to restore ec-
21 ological functions and processes.

22 “(4) PROJECT IMPLEMENTATION.—

23 “(A) IN GENERAL.—Funds made available
24 to carry out the Ohio River Basin Restoration
25 Program may be used to implement projects

1 and activities described in paragraph (2) that
2 are carried out by a relevant Federal agency or
3 by a non-Federal entity.

4 “(B) GRANT AUTHORITY.—The Program
5 Director, or the head of any other Federal
6 agency receiving funds to carry out the Ohio
7 River Basin Restoration Program, may make a
8 grant to, or otherwise enter into an agreement
9 with, any non-Federal entity (including any
10 State, local, or Tribal governmental entity, non-
11 profit organization, institution of higher edu-
12 cation, or individual) that the Program Director
13 or agency head determines is qualified to carry
14 out a project or activity described in paragraph
15 (2).

16 “(5) PROJECT SELECTION.—

17 “(A) IN GENERAL.—In carrying out the
18 Ohio River Basin Restoration Program, the
19 Program Director shall collaborate with rel-
20 evant Federal agencies to select projects and
21 activities to be implemented pursuant to this
22 section using appropriate principles and cri-
23 teria, including—

1 “(i) the selection of projects and ac-
2 tivities that are equitably distributed
3 throughout the Ohio River Basin;

4 “(ii) the ability of a project or activity
5 to achieve strategic and measurable envi-
6 ronmental outcomes;

7 “(iii) the recognition that projects and
8 activities may provide benefits to local or
9 regional communities, or to the entire Ohio
10 River Basin;

11 “(iv) the feasibility of prompt imple-
12 mentation, timely achievement of measur-
13 able results, and resource leveraging; and

14 “(v) the opportunity to improve inter-
15 agency, intergovernmental, and inter-
16 organizational coordination and collabora-
17 tion to reduce duplication and improve
18 measurable environmental outcomes.

19 “(B) COMPATIBILITY.—The Program Di-
20 rector shall ensure that projects and activities
21 carried out under this section are compatible
22 with—

23 “(i) the ability of the Corps of Engi-
24 neers to maintain navigation in the Ohio
25 River; and

1 “(ii) the structural integrity or effec-
2 tiveness of Federal, State, local, or Tribal
3 disaster risk reduction infrastructure.

4 “(d) ACTIONABLE GOALS AND ACTION PLAN.—

5 “(1) ACTIONABLE GOALS.—Not later than 1
6 year after the date of enactment of this section, the
7 Program Director shall develop actionable goals for
8 the Ohio River Basin Restoration Program, which
9 shall be measurable and shall include criteria for
10 measuring their success in making progress toward
11 restoring the ecological health and resilience of the
12 Ohio River Basin.

13 “(2) ACTION PLAN.—Not later than 2 years
14 after the date of enactment of this section, the Pro-
15 gram Director shall develop an action plan for ad-
16 vancing the actionable goals developed under para-
17 graph (1).

18 “(3) CONTENTS.—The Program Director shall
19 include in the action plan developed under para-
20 graph (2)—

21 “(A) a description of existing Federal,
22 State, Tribal, and regional commissions, and re-
23 gional plans, programs, and activities affecting
24 the Ohio River Basin, that may be used to ad-

1 vance the Ohio River Basin Restoration Pro-
2 gram;

3 “(B) recommendations for a comprehensive
4 approach to advancing systemic, large-scale res-
5 toration of the Ohio River Basin that, where
6 appropriate, leverages existing Federal and
7 State programs;

8 “(C) a multi-year plan that identifies spe-
9 cific objectives with corresponding commitments
10 for activities, research, and measures for
11 progress; and

12 “(D) a plan to monitor the implementation
13 of any specific projects or activities identified in
14 the action plan.

15 “(4) PROJECT RECOMMENDATIONS.—The ac-
16 tion plan may include recommendations for specific
17 projects or activities that advance the action plan
18 objectives, including timelines, anticipated costs, and
19 the identification of entities responsible for the im-
20 plementation of such projects or activities.

21 “(5) UPDATES.—Not less often than once every
22 5 years, the Program Director shall review and up-
23 date the actionable goals and action plan developed
24 under this subsection.

1 “(6) COORDINATION AND CONSULTATION.—In
2 developing and updating the actionable goals and ac-
3 tion plan under this subsection, the Program Direc-
4 tor shall—

5 “(A) consult with Ohio River States, Trib-
6 al Governments within those States, the Sec-
7 retary of the Interior, the Chief of Engineers,
8 and the Secretary of Agriculture;

9 “(B) engage with relevant Federal agen-
10 cies, local governments, nongovernmental orga-
11 nizations, institutions of higher education,
12 interstate compact agencies, and members of
13 the public;

14 “(C) provide public notice and an oppor-
15 tunity for comment; and

16 “(D) engage an independent, scientific
17 panel to review the scientific credibility of the
18 action plan to optimize the likelihood of suc-
19 cessful restoration at appropriate scales.

20 “(e) FUNDING.—

21 “(1) AUTHORIZATION OF APPROPRIATIONS.—
22 There are authorized to be appropriated such sums
23 as may be necessary to carry out this section.

24 “(2) TRANSFER OF FUNDS TO FEDERAL ENTI-
25 TIES.—With funds made available to carry out this

1 section for each fiscal year, the Administrator
2 may—

3 “(A) transfer funds to the head of any rel-
4 evant Federal agency, with the concurrence of
5 the head of such agency, to carry out activities
6 in accordance with this section; and

7 “(B) enter into an interagency agreement
8 with the head of any relevant Federal agency to
9 carry out activities in accordance with this sec-
10 tion.

11 “(3) LIMITATIONS.—No funds made available
12 to carry out this section may be used for any water
13 infrastructure activity for which financial assistance
14 is received—

15 “(A) from a State water pollution control
16 revolving fund established under section 603;

17 “(B) from a State drinking water revolving
18 loan fund established under section 1452 of the
19 Safe Drinking Water Act (42 U.S.C. 300j–12);
20 or

21 “(C) pursuant to the Water Infrastructure
22 Finance and Innovation Act of 2014 (33 U.S.C.
23 3901 et seq.).

24 “(f) BUDGET ITEM.—The Administrator shall, in the
25 Agency’s annual budget submission to Congress, include

- 1 a funding request for the Ohio River Basin Restoration
- 2 Program as a separate budget line item.”.