

Calendar No. 799

108TH CONGRESS }
2d Session

SENATE

{ REPORT
108-407

**FRITZ HOLLINGS NATIONAL OCEAN
POLICY AND LEADERSHIP ACT**

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

on

S. 2647



NOVEMBER 10, 2004.—Ordered to be printed
Filed, under authority of the order of the Senate of OCTOBER 11, 2004

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

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Mr. MCCAIN, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 2647]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2647) “A Bill To establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, to ensure effective interagency coordination, and for other purposes”, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

S. 2647, as reported, would implement many of the governance-related recommendations of the United States Commission on Ocean Policy (U.S. Ocean Commission). The bill would set forth a national ocean policy to be implemented by Federal agencies, establish the National Oceanic and Atmospheric Administration (NOAA) as the lead Federal civilian ocean and atmospheric agency, and direct the agency to reorganize along functional lines. The bill would also promote better cooperation on ocean priorities by establishing mechanisms for focused interagency coordination on ocean and atmospheric policy and science issues. Finally, the bill would call for the President to make recommendations to Congress on Federal reorganization and other changes designed to address oceanic and atmospheric priorities.

BACKGROUND AND NEEDS

The legislation responds to many of the structural and governance-related recommendations of the Final Report of the U.S. Ocean Commission, which was the subject of a Full Committee hearing on September 21, 2004. The Commission was established pursuant to the Oceans Act of 2000 (P.L. 106-256), legislation introduced by Senator Hollings, and cosponsored by a number of Committee members, including Senators Stevens, Inouye, Kerry, Snowe, Breaux, and Wyden. The bill, supported by a broad coalition of interested entities, including coastal states, industry groups, conservation groups, and academic institutions, was signed into law by President Clinton on August 7, 2000.

The Oceans Act of 2000 directed the President to appoint a 16-member Ocean Commission, of which 12 members were required to be selected from lists of nominees submitted by the Senate and House majority and minority leaders, in consultation with Chairmen and Ranking Members of key committees, including the Senate Commerce Committee. The 16 Commissioners were appointed by President Bush on July 3, 2001. The Commission is chaired by Admiral James D. Watkins, USN (Ret.). The Commission was charged with making recommendations for a coordinated and comprehensive national ocean policy that would promote: (1) the protection of life and property; (2) stewardship of ocean and coastal resources; (3) protection of the marine environment and prevention of marine pollution; (4) enhancement of marine commerce; (5) expansion of human knowledge of the marine environment; (6) investments in technologies to promote energy and food security; (7) close cooperation among government agencies; and (8) United States leadership in ocean and coastal activities globally.

Since its first meeting in Washington D.C. on September 17, 2001, the Commission held a total of 15 meetings to hear testimony in all regions of the country, including the Caribbean, Gulf of Mexico, Hawaii, Alaska, and the Great Lakes. In addition to these regional meetings, the Commission held public deliberative meetings in Washington, D.C. to discuss policy options and recommendations. The Commission heard from more than 400 witnesses, including representatives from Federal agencies, States, industry, academic experts, environmental organizations, and private citizens. After submitting a Preliminary Report to the Governors for comment, the Commission released its Final Report (Report) on September 20, 2004. Pursuant to the Oceans Act of 2000, the President is required to submit a response with recommendations to Congress within 90 days of receiving the Report.

NEED FOR A REVISED NATIONAL POLICY

The last effort to examine United States ocean policy began in 1966, when Congress enacted the Marine Resources and Engineering Development Act (1966 Act) in order to define national objectives and programs with respect to the oceans. The 1966 Act was comprised of three primary elements: (1) a declaration of United States policy and objectives with respect to marine science activities; (2) establishment of a National Council on Marine Resources and Engineering Development; and (3) creation of a Presidential commission on marine science, engineering, and resources. Dr. Ju-

lius A. Stratton, a former president of the Massachusetts Institute of Technology and then-chairman of the Ford Foundation, led the commission created in the 1966 Act on an unprecedented investigation of this Nation's relationship with the oceans.

The work of the Stratton Commission led directly to the creation of NOAA in 1970. While the Commission called for the centralization of Federal civilian ocean efforts within a single new independent agency, a compromise was achieved, and NOAA was created from combining a number of entities within the Department of Commerce by Reorganization Plan Number 4 of 1970 and Executive Order 11564. The Stratton Commission report also laid the groundwork for enactment of the Coastal Zone Management Act (CZMA) in 1972 as well as the Fishery Conservation and Management Act in 1976, and it established priorities for Federal ocean activities that have guided this Nation for almost thirty years.

The Commission's Final Report recognized a number of substantial changes since 1966 that argue strongly for a new approach to Federal ocean and atmospheric policy, as well as the need for a fundamentally improved Federal structure that will provide the increased attention and coordination needed to address new challenges.

First, along with the growth of ocean-related activities in the past thirty years, the United States legal and bureaucratic framework related to the oceans has become increasingly complex. In 1966, neither NOAA nor the Environmental Protection Agency (EPA) existed. A number of laws with major impacts on the conduct of ocean and coastal activities had yet to be enacted, including the CZMA, the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act, the National Marine Sanctuaries Act, the Oil Pollution Act, and the Endangered Species Act. More than half of the fifteen Federal departments now have programs that relate to the oceans and coasts. In addition to the creation of these Federal agencies and programs, States have become more actively involved in ocean and coastal policy issues.

Second, coastal areas, which generate over half of the gross domestic product (\$4.5 trillion in 2000), are subject to increasing use for commerce, recreation, and development, activities addressed by a variety of State and Federal programs. By the year 2025, it is estimated that approximately 75 percent of Americans will live in coastal areas, putting more people at risk from natural hazards, fragmenting wildlife habitat, and contributing to coastal pollution. In addition, Federal waters that already support marine commerce, fishing, and offshore oil and gas development are becoming increasingly attractive for a host of new enterprises, ranging from offshore aquaculture to wind energy development, which is leading to regulatory confusion, user group conflicts, lost development opportunities, and environmental threats.

Third, there is a consensus that living ocean and coastal resources once considered boundless have limits, and many marine and coastal habitats are threatened by pollution and a wide variety of human activities in both coastal and inland areas. Of the United States' 267 major fish stocks (which supply 99 percent of commercial landings), nearly 20 percent are overfished or experiencing overfishing. Half of the Nation's fresh and saltwater wetlands have disappeared, and in some local cases, nearly all have disappeared.

As the intensity of the use of the marine environment grows, the lack of effective governance has become a critical problem requiring a re-evaluation of national priorities and consideration of new and innovative approaches.

Fourth, environmental threats to the oceans have grown increasingly complex. Problems that scientists know little about continue to emerge, and they require coordinated assessment, strategies, and responses. In the past 30 years, occurrences of harmful algal blooms have increased in frequency and intensity across a wider geographic range, costing the United States \$49 million per year in fisheries closures and losses in recreation and tourism. Various marine toxins afflict more than 90,000 people per year and account for 62 percent of all seafood-related illnesses. In 2003, 18,000 days of beach closures were ordered due to the presence of bacteria associated with human waste from local sewage treatment plants.

In addition, recent technological discoveries offer important new economic and scientific opportunities that bridge traditional jurisdictional boundaries. Currently, 95 percent of the world's ocean area remains unexplored, leaving a large portion of the ocean's potential resources unused or unknown. For example, scientists have made conservative estimates that the amount of carbon in frozen gas hydrates on the seafloor is twice the amount of carbon existing in all other known fossil fuels on Earth. Although no one can predict what exploration will yield, past exploration and research has led to discoveries that have changed our lives fundamentally and provided information critical to sustainable management of our living marine resources.

Finally, there is a need to increase our understanding of the ocean environment to develop coordinated national strategies to reduce the costs of natural hazards. Since 1989, at least 14 storms have resulted in losses exceeding \$1 billion; no storm before 1989 had ever resulted in economic losses this large. Coastal erosion caused by sea level rise, storms, and tsunamis account for the loss of 1,500 homes each year, and over the next several decades, the average cost per year for coastal property is expected to be \$530 million. While there have been notable advances in early warning and evacuation systems to protect human lives, the risk of property loss continues to escalate and coastal communities are more vulnerable to major storms than ever before.

NEED FOR STRENGTHENING NOAA AND IMPROVING FEDERAL COORDINATION

The 1970 Federal reorganization of ocean agencies that created NOAA in the Department of Commerce, authorized by Reorganization Plan Number 4, consolidated nine programs from five departments, adding them to the Department of Commerce's Environmental Sciences Services Administration (ESSA), which already included the Coast and Geodetic Survey and Weather Bureau from a 1965 reorganization. Programs added to ESSA at that time included the Bureau of Commercial Fisheries and elements of the Bureau of Sport Fisheries and Wildlife (from the Department of Interior), the National Oceanographic Data Center (from the Department of the Navy), the National Data Buoy Project (from the Department of Transportation), and the Sea Grant program (from the National Science Foundation). The Plan set forth a broad outline

of the agency's organization, transferred authorities, and generic responsibilities, most of which relate to research and technical duties previously held by the component agencies.

In succeeding years, new legislation has expanded NOAA's responsibilities to include conservation and management, including the Coastal Zone Management Act, the Magnuson-Stevens Fishery Conservation and Management Act, the National Marine Sanctuaries Act, and the Marine Mammal Protection Act. In addition to Reorganization Plan No. 4, the current scope of the agency's missions are defined primarily through a variety of existing legislative mandates or authorizations. One component of NOAA, the National Weather Service, operates under its own organic act, which was enacted in 1890. However, no single law sets forth a comprehensive expression of NOAA's mission, organization, and basic policies and powers. By contrast, the United States Fish and Wildlife Service, the United States Forest Service, and the United States Coast Guard, all operate under comprehensive "organic Acts".

NOAA's budget has grown as it has been given new responsibilities. In 1970, NOAA was funded at \$250 million, but its budget has grown substantially to \$3.7 billion in FY2004, which represents approximately 62 percent of the Department of Commerce budget. Led by an Administrator (who also holds the title of Undersecretary of Commerce for Oceans and Atmosphere) and a Deputy Administrator (Assistant Secretary of Commerce for Oceans and Atmosphere), NOAA is structured around six line offices: (1) the National Ocean Service (NOS); (2) the National Marine Fisheries Service (NMFS); (3) the National Weather Service (NWS); (4) the Office of Oceanic and Atmospheric Research (OAR); (5) the National Environmental Satellite Data and Information Service (NESDIS); and (6) the Office of Program Planning and Integration (PPI). Also within NOAA is an Office of Marine Aviation and Operations (OMAO), which manages the NOAA uniformed officer corps (NOAA Corps), one of the Nation's uniformed services which supports all other line office functions.

NOAA's many achievements since 1970 have come despite significant programmatic and functional overlaps or disconnects among the current line offices. Contributing to these problems is that the agency now operates or is affected by over 180 Federal statutes, none of which sets forth a comprehensive NOAA organizational framework. These statutory authorities are widely dispersed throughout many acts, each one addressing separate functions in isolation from other functions. There is a clear need to further define and specify NOAA's lead role in ocean and atmospheric policy, and strengthen, reorganize, and expand the agency to meet emerging national priorities. The Committee believes that an organic act for NOAA is needed to comprehensively codify NOAA's current activities, set forth its core missions, fill gaps in program authorities, and outline long-term priorities for the agency. The Committee also recognizes the need for better integration of agency activities to enhance the agency's ability to meet NOAA missions and provide necessary services to the Nation.

In addition, there is a need to evaluate whether the Federal government as a whole is appropriately organized to meet new challenges and priorities. Many experts have pointed to the need to provide NOAA independence, particularly with respect to budget,

scientific, and administrative matters. The Committee heard such recommendations from former administrators of NOAA, the National Aeronautics and Space Administration (NASA), and the National Science Foundation (NSF), who pointed to these independent agencies as a model for NOAA to follow in order to secure budget growth, increase visibility, and improve accountability. Others suggest that, in the short term, providing budgetary and administrative independence within a cabinet-level agency may provide both high level attention and a basis for increased funding.

In the long run, there is also a need to consider further realignment and reorganization of Federal ocean and atmospheric programs to ensure better coordination, improve effectiveness, and reduce duplication of effort. Up to 15 Federal departments or agencies have ocean and coastal responsibilities. It will be necessary to improve coordination and organization of Federal ocean and atmospheric agencies and programs, including consolidation and transfer of programs. Some believe such a reorganization would be facilitated through the establishment of an independent NOAA first. Others believe that the growth and consolidation of programs at NOAA should occur before a decision on NOAA independence or elevation of the agency to Departmental status. The Committee believes it is imperative to strengthen NOAA, establish effective interagency coordinating mechanisms, and set forth a plan and schedule for further Federal reorganization and coordination.

GOVERNANCE RECOMMENDATIONS OF U.S. OCEAN COMMISSION

The Ocean Commission's work builds upon the legislative and policy framework established in response to the Stratton Commission, but it also takes a comprehensive review of the developments that have occurred since and recommends changes that may be needed to ensure that the Nation is following a coherent plan for our ocean future. The Report presents a series of recommendations that relate to Federal ocean priorities, coordination, and organization, including recommendations concerning NOAA.

First, the Report sets forth a series of important overarching principles that should be employed to guide ocean policy decision-making now and into the future:

- Sustainability
- Stewardship (public trust)
- Ocean-Land-Atmosphere Connection
- Ecosystem-Based Management (including adoption of a precautionary approach)
 - Multiple Use Management
 - Preservation of Marine Biodiversity (including genetic and ecosystem diversity)
 - Best Available Science and Information
 - Adaptive Management
 - Understandable Law and Clear Decisions
 - Participatory Governance
 - Timeliness
 - Accountability
 - International Responsibility

Many of these principles are reinforced in specific recommendations, particularly the concept of ecosystem-based management,

which forms the backbone of the regionally-oriented science and management philosophy of the Report.

The Report also makes several recommendations intended to strengthen and coordinate Federal ocean and coastal decision-making, which currently suffers from lack of Federal leadership and coordination. These include:

National Coordination. The Commission recommended that the President, followed by Congress, should establish a Secretary-level multi-agency National Ocean Council (NOC), with subsidiary committees (e.g., science and education, management, international), as well as a non-Federal Presidential Council of Advisors on Ocean Policy (PCAOP). An Assistant to the President for Ocean Policy should be appointed to chair both the NOC and the PCAOP, and be supported by a new White House Office of Ocean Policy. **Strengthened Federal Agency Structure.** The Commission, recognizing that NOAA has become the lead Federal agency for oceans issues, strongly recommended that Congress strengthen NOAA in a three-phase process, stating that immediate strengthening of the agency's ability to fulfill its missions is critical.

Phase I, which the Commission recommends implementing immediately, is enactment of an organic act for the agency. The Commission recommended structuring NOAA around three mission areas in an organic act, consistent with the principle of ecosystem-based management and focuses on three functions: (1) assessment, predictions, and operations; (2) resource management; and (3) research and education. The Commission did not specify whether the current offices should be disestablished or whether they should be managed around cross-cutting missions, but it stated that improved interaction within these categories is needed so that NOAA's functions (e.g., science and management) complement and support each other.

In addition, the Report pointed to the need for budget support for the agency. The Commission stated that NOAA's placement within the Department of Commerce not only contributed to lack of visibility of the agency, but has definite budgetary implications as the agency seeks increases. In particular, the Report notes that because NOAA program budgets are evaluated, with other Commerce programs, by the General Government Programs directorate of the Office of Management and Budget, they are reviewed by examiners without specialized expertise that is relevant to NOAA programs. In addition, such placement precludes NOAA program budgets from being examined from an ecosystem perspective alongside other science and resource programs in the Federal government. Such a view is corroborated by testimony before the Committee, in which at least one witness stated that Congress, rather than the executive branch, has driven NOAA budget increases over time.

Phase II, which would occur during the next few years, is the consolidation of certain ocean- and coastal-related functions in other agencies, including movement into NOAA. The Commission noted that during the 1970 reorganization many programs that arguably should have become part of NOAA were left in other departments. As a result, programs have proliferated and in some cases the number of agencies addressing a similar issue causes fragmentation that diffuses responsibility, introduces unnecessary overlap, raises administrative costs, and interferes with the develop-

ment of a comprehensive management regime. The Report suggested considering consolidation of programs found in the following agencies: the Department of Interior, Environmental Protection Agency, the Directorate of Civil Works in the United States Army Corps of Engineers, and NASA. Categories for such consolidation include programs relating to: area-based ocean and coastal management; nonpoint source pollution; vessel pollution; invasive species; marine mammals; aquaculture; and satellite earth observing operations.

Phase III, a long-term action, would be to undertake a Federal reorganization of ocean and environmental programs and activities into a larger Department that recognizes the inextricable links among the sea, land, air, and living things. With its coastal zone, ocean, and atmospheric programs, NOAA possesses many capabilities for understanding and addressing these aspects of the natural environment. One option suggested by the Commission for a Phase III reorganization is consolidation of all natural resource functions, including those applicable to oceans and coastal, in one agency thus equipped to conduct an ecosystem-based management regime. However, as the Commission Report notes, at least 11 such proposals have failed due to the complexity of such a large-scale reorganization; none has been made since 1969.

SUMMARY OF PROVISIONS

S. 2647, as reported, would create an organic act for NOAA and establish the agency in statute. In addition, the bill would set a national policy for U.S. oceanic and atmospheric activities. The bill also would establish coordinating and advisory bodies within the Executive Branch to improve the implementation of federal government activities in these areas.

The bill would establish NOAA in statute as a successor to the agency that was created in Reorganization Plan No. 4 of 1970. This new NOAA would perform the following three functions:

- Management, conservation, protection, and restoration of ocean resources, including living marine resources, habitats and ocean ecosystems;
- Observation, monitoring, assessment, forecasting, prediction, operations and exploration for ocean and atmospheric environments including weather, climate, navigation and marine resources; and
- Research, education and outreach, technical assistance, technology development, and innovation activities relating to ocean and atmospheric environments including basic and applied scientific research and activities that support other agency functions and missions.

In addition, S. 2647, as reported, would establish the following positions: (1) NOAA Administrator; (2) the Deputy Administrator; (3) the Chief Financial Officer; (4) three Associate Administrators to be responsible for each of the three main functions of the agency; (5) an unspecified number of Assistant Administrators; and (6) the General Counsel. The bill also would retain the role of the NOAA Corps as currently defined in Reorganization Plan No. 4. The bill would give the Administrator the authority to cooperate with the Secretary of State on international issues, and work in coordination

with state programs to ensure cooperation in programmatic and enforcement issues.

Building on the recommendations of the Commission and testimony presented at the hearing, the bill as reported also strengthens the agency. First, it provides NOAA with more budgetary and administrative autonomy over its programs and activities, much as Congress has provided to the Federal Aviation Administration (FAA) and other entities. Second, the bill directs the NOAA Administrator to submit budgets directly to the Office of Management and Budget (OMB), specifying that OMB's natural resource program experts are to review the submission. Third, as reported, the bill also provides the NOAA Administrator the same Federal status and executive compensation levels as the NASA Administrator, which is intended to reflect the increasing importance of ocean and atmospheric matters to the long-term economic, environmental, and scientific security of the Nation. In addition, the NOAA Administrator would be appointed by the President for 5-year terms, increasing his or her independence and ensuring continuity of service during political transitions. Such an arrangement also exists with respect to other Federal scientific and technical agencies, including the FAA and NSF.

The bill, as reported, would require the Administrator to submit a plan and budget to Congress within 9 months of enactment of the Act to reorganize the agency and its programs. In developing the plan and budget, the Administrator should fully consider the U.S. Commission on Ocean Policy's recommendations, and how to provide improved service to the nation. In addition, the Administrator would be required to develop a 20-year integrated research plan for NOAA that would set forth the agency's scientific goals and priorities. The report would articulate goals, priorities, and programmatic actions for the agency in 5-year phases, and be revised every 5-to-7 years. In addition, the legislation would require the Administrator, in consultation with relevant federal and state agencies, to submit to Congress not later than 12 months after the date of enactment a biennial report on the status of the nation's ocean and atmospheric environments; trends in the quality, management, and utilization of such environments; and the effects of these trends on the nation.

The legislation would establish a Science Advisory Board within NOAA to advise the Administrator and Congress on long-range and short-range strategies for research, education, and the application of science to resource management and environmental assessment and prediction. The panel would consist of not more than 15 members appointed by the Administrator, who would serve 3-year terms.

The bill, as reported, would increase interagency coordination by establishing a Council on Ocean Stewardship within Executive Office. The Council would be composed of between 3 and 5 members that were appointed by the President and Senate-confirmed. The bill would direct the Council to perform a variety of functions, including providing a forum for improving Federal interagency planning, budget and program coordination, administration, outreach and cooperation; gather information and analyze the conditions and trends in the quality of the ocean and atmosphere; review the effectiveness of federal programs and activities; identify statutory and

regulatory redundancies and omissions and develop strategies to resolve conflicts; develop and issue recommendations and guidance for establishing recommendations for establishing mechanisms to assure the coordination of Federal programs with state and regional programs; expand research, education, and outreach efforts by Federal agencies; and conduct an annual review and analysis of funding proposed for ocean and atmospheric research and management in all Federal agency budgets, and provide budget recommendations to the President, the agencies, and OMB.

The President, through the Council, would be required to submit to Congress a biennial report on Federal ocean and atmospheric programs, priorities, and accomplishments. The report would be due not later than 18 months after the date of enactment of this Act. The bill would authorize the Council from Fiscal Year (FY) 2005 through FY 2010.

In addition, the legislation would authorize the President to establish a Presidential Panel of Advisers on Oceans, Atmosphere, and Climate Change. The panel would consist of not more than 25 members, including the Chair of the Council on Ocean Stewardship, and members would serve 3-year terms. The Panel would advise and assist the President and the Chairman of the Ocean Stewardship Council in identifying and fostering policies to protect, manage, and restore ocean and atmospheric environments and resources; review priority issues relating to national ocean and atmospheric policy (including climate change), conservation and management of ocean environments and resources, and the status of the ocean and atmospheric science and service programs.

Furthermore, S. 2647, as reported, would further increase Federal coordination by directing the Chair of the National Science and Technology Council (NSTC), in consultation with the Chair of the Council on Ocean Stewardship, to establish a National Ocean Science Committee. The Committee would be composed of 18 members, including the leadership of the nation's oceanic, atmospheric, and scientific research agencies. The Committee would serve as the primary source of advice and support on ocean science for the NSTC and Council on Ocean Stewardship; serve as the committee on ocean science for the NSTC; improve cooperation among federal departments and agencies with respect to ocean science budgets, programs, operations, facilities, and personnel; provide a forum for development of the strategy and oversee its implementation; suggest policies and procedures for interagency science programs; oversee the implementation of an integrated and sustained ocean and coastal observing system; establish interagency subcommittees and working groups to develop comprehensive and balanced federal programs and approaches to ocean science needs; coordinate U.S. government activities with other nations and international efforts; and carry out other activities. The Chair of the NSTC is required to develop a National Strategy for Ocean Science, Education and Technology through the National Ocean Science Committee, and submit it to Congress within one year after the date of enactment, and once every three years thereafter.

Finally, the bill, as reported, would require the President, in consultation with the Administrator and the Council on Ocean Stewardship to submit to Congress recommendations on, and a plan and proposed schedule for the transfer of relevant programs, functions,

services, and associated resources to NOAA; consolidation or elimination of oceanic or atmospheric programs, functions, services, or resources; and reorganization that would provide increased national attention and resources to oceanic and atmospheric needs and priorities and promote an integrated ecosystem and watershed-based approach. The report would have to be submitted not later than 2 years after issuance of the final report of the Commission on Ocean Policy.

LEGISLATIVE HISTORY

The National Ocean Policy and Leadership Act was introduced on July 13, 2004 by Senators Hollings, Stevens, Inouye, and Gregg. On September 22, 2004, the Committee on Commerce, Science, and Transportation approved the bill as amended by a substitute sponsored by Senators Hollings, McCain, Stevens, Inouye, Snowe, Breaux, Lautenberg, and Boxer. The Committee also approved an amendment offered by Senator Breaux renaming the bill the “Fritz Hollings National Ocean Policy and Leadership Act”.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 2647—Fritz Hollings National Ocean Policy and Leadership Act

Summary: S. 2647 would establish a National Oceanic Science Committee to consist of representatives from a number of Federal agencies, including the National Oceanic and Atmospheric Administration (NOAA), the Department of the Navy, the National Science Foundation (NSF), and the National Aeronautics and Space Administration (NASA). The new committee would be charged with developing a comprehensive strategy on ocean science, education, and technology. In addition, the bill would designate NOAA as the lead Federal agency on ocean and atmospheric issues and would provide statutory authority for the agency, which was created administratively in 1970.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 2647 would cost \$285 million in fiscal year 2005 and about \$4 billion over the 2005–2009 period. We estimate that about \$1 billion a year would be spent after 2009 for ongoing efforts to implement the national strategy on oceans. Enacting S. 2647 would have no impact on revenues or direct spending.

S. 2647 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: The estimated budgetary impact of S. 2647 is shown in the following table. The costs of this legislation fall within budget functions 050 (national defense), 250 (general science, space, and technology), and 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
Ocean Research:					
Estimated Authorization Level	200	300	400	500	650
Estimated Outlays	130	240	340	450	580
Ocean Exploration:					
Estimated Authorization Level	30	60	90	100	110
Estimated Outlays	20	40	70	90	100
Education, Technology, and Data Management:					
Estimated Authorization Level	40	200	200	200	200
Estimated Outlays	20	140	180	190	200
Vessel Acquisition and Other Infrastructure Costs:					
Estimated Authorization Level	280	280	280	280	280
Estimated Outlays	110	220	270	280	280
Total-National Strategy for Ocean Science, Education, and Technology:					
Estimated Authorization Level	550	840	970	1,080	1,240
Estimated Outlays	280	640	860	1,010	1,160
Council on Ocean Stewardship:					
Estimated Authorization Level	4	4	4	4	5
Estimated Outlays	2	3	4	4	4
NOAA Commissioned Corps:					
Estimated Authorization Level	4	5	7	7	7
Estimated Outlays	3	5	6	7	8
Total Spending Under S. 2647:					
Estimated Authorization Level	558	849	981	1,091	1,252
Estimated Outlays	285	648	870	1,021	1,172

Basis of Estimate: For this estimate, CBO assumes that S. 2647 will be enacted by the end of calendar year 2004, and that amounts specified by the bill and estimated to be necessary will be appropriated for each fiscal year. Outlays are estimated on the basis of historical patterns for similar programs carried out by NOAA and other Federal agencies involved in ocean science.

The estimate is based on information provided by NOAA, the Commission on Ocean Policy, and other Federal agencies.

Nation Strategy for Ocean Science, Education, and Technology

S. 2647 would direct a multiagency committee to develop a national strategy on ocean science, education, and technology. It would require the new strategy to incorporate the recommendations of the Commission on Ocean Policy as presented in its recent report “An Ocean Blueprint for the 21st Century.”¹ The strategy would include plans for increasing Federal spending for ocean exploration, technology development, and education and outreach, as well as for a doubling of Federal spending for ocean research over 5 years. CBO estimates that implementing the bill in accordance with the commission’s recommendations would require the appropriation of \$550 million in 2005 and nearly \$4.7 billion over the 2005–2009 period. Most of those amounts—\$200 million in 2005, rising to \$650 million annually—would be used to double the ocean research budgets of agencies such as NOAA, the NSF, and NASA. That sum also includes also includes \$30 million in 2005 and \$390 million over the 2005–2009 period that would be needed for new ocean exploration efforts to be carried out primarily by NOAA. Another \$40 million in 2005 and \$840 million over the 2005–2009 period would be needed for education and outreach, technology development, and data management. Finally, we estimated that about

¹ U.S. Commission on Ocean Policy, *An Ocean Blueprint for the 21st Century* (July 22, 2004), pp. G2–G12.

\$1.4 billion would be needed to acquire vessels and other equipment to support those activities. Assuming that such acquisitions would be made over a 5-year period, CBO estimates that NOAA and other agencies would need a total of \$280 million annually through 2009 for that purpose.

Council on Ocean Stewardship

Section 301 would establish the Council on Ocean Stewardship to help coordinate interagency planning, budgeting, public outreach and education, and other activities to protect oceans. For this purpose, the bill would authorize the appropriation of between \$4 million and \$5 million for each of fiscal years 2005 through 2010.

NOAA Commissioned Corps

Section 203 would raise the number of members in the NOAA Commissioned Officers Corps from the current maximum of 299 to a minimum of 250. CBO estimates that funding the additional positions would require additional appropriations of \$4 million in 2005 and \$30 million over the 2005–2009 period.

Intergovernmental and private-sector impact: S. 2647 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Gregory Waring; and Impact on the Private Sector: Karen Raupp.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

Most of the authorities that this Act would grant are currently held and exercised by the NOAA Administrator and would continue in force upon its enactment; therefore, the Committee does not expect that the authorities contained in this Act would subject those individuals or businesses that engage in activities related to conservation, management, or use of the oceans or atmosphere to new regulations.

Title II of this bill would grant certain authorities to the NOAA Administrator, including authorities vested in NOAA or the Secretary with respect to NOAA in effect immediately prior to enactment. In addition, the NOAA Administrator would have authority to: promulgate all necessary regulations to implement Title II; enforce the applicable provisions of any Act; enter into partnerships with academia, industry, conservation groups, educators, and other interested parties to improve the effectiveness of NOAA programs and activities; disseminate information and educate the public about oceans and atmosphere; enter into contracts and grants; receive bequests or donations; utilize or acquire the services of Federal, State, or local agencies; and construct facilities. It is possible that those individuals and businesses engaged in oceans-related ac-

tivities may become subject to some new regulations promulgated by the NOAA Administrator to carry out Title II in cases where existing authorities are, have not been previously granted or exercised.

ECONOMIC IMPACT

Section 307 would authorize new annual appropriations for the Council on Ocean Stewardship for Fiscal Years (FY) 2005 through FY2010, as follows: \$4,000,000 in FY 2005; \$4,120,000 in FY 2006; \$4,244,000 in FY 2007; \$4,371,000 in FY 2008; \$4,502,000 in FY 2009; and \$4,637,000 in FY 2010. This Act does not specifically authorize new appropriations for NOAA or its programs per se, but it does uphold the authorizations of appropriations established in those public laws related to oceans and atmosphere that NOAA implements through its programs and activities.

PRIVACY

The Committee does not expect that this legislation would have any adverse impact on the personal privacy of individuals or businesses.

PAPERWORK

This legislation would require the following reports:

- Within 9 months of enactment, the Administrator would be required to submit a plan and budget to Congress setting forth a proposal for program and agency reorganization that fully considers the recommendations of the U.S. Commission on Ocean Policy that will provide improved services to the nation. This plan would be published in the Federal register for public notice and comment at least 60 days prior to final submission to Congress.
- The Administrator would be directed to develop a 20-year integrated research plan for the agency setting forth its scientific goals and priorities, as well as programmatic actions to carry out those goals and priorities. The plan would be revised every 5-to-7 years.
- Beginning not later than 12 months after the date of enactment of this Act, the Administrator would be required to consult with relevant federal and state agencies, and submit to Congress a biennial report on the status and condition of the nation's ocean and atmospheric environments (including climate change); current foreseeable trends in the quality, management and utilization of such environments; and the effects of those trends of the social, economic, ecological and other requirements of the nation.
- Not later than 18 months after the date of enactment of the Act, the Administrator would be required to submit to Congress detailed recommendations on technical and conforming amendments to federal law necessary to carry out this Act.
- The Council on Ocean Stewardship that is created by this Act would be required to compile and submit to the President studies relating to the conditions and trends in the quality of the ocean and atmospheric environment. The Council also would be directed to review and appraise the various programs

and activities of the federal government and make recommendations to the President with respect to the effectiveness of these programs in achieving the policy set forth in this Act. The Council would also develop and issue recommendation and guidance for establishing mechanisms to assure the coordination of federal ocean, coastal and atmospheric programs and activities at the regional level. In addition, the Council would be directed to conduct an annual review and analysis of funding proposed for ocean and atmospheric research and management in all Federal agency budgets, and provide budget recommendations to the President, the agencies, and OMB

- Not later than 18 months after the enactment of this Act, the President would be directed to submit to Congress, through the Council on Ocean Stewardship, a biennial report on Federal ocean and atmospheric programs, priorities, and accomplishments.

- Within one year after the date of enactment of this Act and at least once every three years thereafter, the Chair of the National Science and Technology Council (NSTC), through the National Ocean Science Committee established by the Act, would be directed to develop a National Strategy for Ocean Science, Education, and Technology. Not later than 90 days before the Chair of the NSTC submits this strategy, and summary of the proposed strategy or revision shall be published in the Federal Register for a public comment period of not less than 60 days.

- Not later than 2 years after the issuance of the final report of the Commission on Ocean Policy, the President, in consultation with the Administrator and the Council on Ocean Stewardship would be required to submit to Congress recommendations on, and a plan and proposed schedule for the transfer of relevant oceanic or atmospheric programs, functions, services, and associated resources to NOAA from any other federal agency; consolidation or elimination of oceanic or atmospheric programs, functions, services, or resources within or among Federal agencies if their consolidation or elimination would not undermine the policy goals of the Act; and reorganization, including the establishment of NOAA as an independent agency, elevation of NOAA to departmental status, or the establishment of a new department that would provide increased national attention and resources to oceanic and atmospheric needs and priorities and promote an integrated ecosystem and watershed-based approach.

The reported bill may result in some new regulations that the NOAA Administrator would promulgate in accordance with implementation of Title II. Any new regulations may result in new paperwork responsibilities for those individuals or businesses subject to the regulations.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

Section 1 would establish the short title of the bill as the “National Ocean Policy and Leadership Act”.

Section 2. Table of Contents

Section 2 would provide the table of contents for the Act.

Section 3. Definitions

Section 3 would define key terms applicable to the bill.

TITLE I—NATIONAL OCEAN POLICY

Section 101. Findings

Section 101 would set forth the findings for the act.

Section 102. Purposes

Section 102 would set forth the purposes for the act, which would be to: (1) set forth a national policy relating to oceans and atmosphere; (2) establish NOAA, by statute, as the lead Federal ocean and atmospheric agency and identify its authorities, duties, and powers; (3) set forth the duties, responsibilities, and principal officers of the Administration; (4) establish a mechanism for Federal leadership, coordination, and action on national oceanic and atmospheric priorities; and (5) enhance Federal partnerships with State and local governments, as well as other stakeholders, with respect to ocean and atmospheric programs and activities.

Section 103. Policy and Implementation

Section 103 would state that it is the policy of the United States to establish and maintain for the benefit of the Nation a coordinated, comprehensive, and long-range national program of marine and atmospheric research, conservation, management, education, monitoring, and assessment that promotes a number of articulated goals. The President, under guidance from the Council on Ocean Stewardship, acting through NOAA and other Federal agencies with ocean and atmospheric responsibilities, would be directed to implement programs and activities to carry out the policy.

TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Section 201. Establishment

Section 201 would establish NOAA as an administration within the Department of Commerce, and states that it would be the lead civilian agency for oceanic, weather, atmospheric, and climate services and supporting research, conservation, management, and education for the Nation.

Section 202. Functions and Purposes

Section 202(a) would establish NOAA's major mission areas by setting forth the following functions and purposes of NOAA: (1) management, conservation, protection, and restoration of ocean resources; (2) observation, monitoring, assessment, forecasting, prediction, operations, and exploration for ocean and atmospheric environments; and (3) research, education and outreach, technical assistance, and technology development and innovation activities relating to ocean and atmospheric environments. These functions would be carried out in a coordinated, integrated, and ecosystem-based manner. Section 202(b) would ensure that NOAA programs and activities work with State and other Federal programs to en-

courage cooperation, coordination, and integration of State and Federal coastal, oceanic, and atmospheric programs.

Section 202(c) would provide that NOAA would cooperate to the fullest extent practicable with the Secretary of State in providing representation at all meetings and conferences relating to actions or activities described in this Act in which representatives of the United States and foreign countries participate, including treaties, agreements, and understandings with foreign nations and international organizations.

Section 202(d) would authorize the Administrator to promote, support, and enter into partnerships with academia, industry, conservation groups, educators, and other interested persons to improve the effectiveness of NOAA programs and activities, and enhance public awareness and understanding of NOAA's role and missions.

Section 203. National Oceanic and Atmospheric Administration

Section 203(a) would provide that NOAA would be administered by the Administrator of NOAA. The Administrator would be appointed by the President, by and with the advice of the Senate. The Administrator would be compensated at level II of the Executive Schedule under section 5313 of title 5, United States Code. The Administrator, under the supervision and direction of the Secretary, would be responsible for the exercise of all powers and the discharge of all duties of NOAA, including all personnel and activities thereof. The term of any individual to serve as Administrator would be five years.

Section 203(b) would establish a Deputy Administrator of NOAA. The Deputy Administrator would be appointed by the President to perform such functions and exercises as the Administrator may prescribe, by and with the advice of the Senate based on the individual's professional qualifications and without regard to political affiliation. The Deputy Administrator would be compensated at the rate of level III of the Executive Schedule under section 5314 of title 5, United States Code, and would be the Administrator's first assistant for purposes of subchapter III of chapter 33 of title 5, U.S.C.

Section 203(c) would provide that NOAA shall have a Chief Operating Officer, who would assume the responsibilities held by the Deputy Under Secretary of Commerce for Oceans and Atmosphere prior to enactment of this Act. This individual would be responsible for all aspects of NOAA operations and management and be a Senior Executive Service position.

Section 203(d) would provide that NOAA would have three Associate Administrators, who shall be responsible for each of the functions established by section 202(a). The Associate Administrators would be compensated at the rate of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

Section 203(e) would provide that NOAA would have Assistant Administrators, who shall perform such duties and exercise such powers as the Administrator may prescribe.

Section 203(f) would establish a NOAA General Counsel position that would be appointed by the President upon recommendation by the Administrator.

Section 203(g) would authorize NOAA to maintain at least 350 Commissioned Officers of NOAA on the lineal list, plus additional officers as necessary to support NOAA's mission. In addition, the President be able to appoint, by and with the advice of the Senate, two Commissioned Officers of NOAA to serve at any one time as the designated heads of two principal offices at NOAA, or the President may designate one officer as the head of one organizational entity and one as the head of the Commissioned Corps.

Section 203(h) would authorize the Secretary of the Navy, though the Oceanographer of the Navy, to detail a Navy Deputy to NOAA on an additional duty basis.

Section 204. Powers and Authorities

Section 204 would describe the various powers and authorities of the NOAA Administrator. In addition to any other authority provided to the Under Secretary of Oceans and Atmosphere by law or by delegation from the Secretary, the Administrator would have the certain authorities with respect to NOAA and the implementation of this Act. These would include all authorities vested in NOAA or the Secretary with respect to NOAA in effect immediately prior to enactment, specifically including Reorganization Plan Number 4 (establishing NOAA in 1970) and Reorganization Plan Number 2 (transferring the National Weather Service to Commerce) and the 1890 organic act for the National Weather Service. Other authorities would include rulemaking authority; information dissemination and education authority; contracting and granting authority; receipt of bequests or donations authority; use of services of Federal, State, or local agencies authority; acquisition authority; and construction authority.

Section 205. Enforcement

Section 205 would detail the authority of the Administrator to enforce the applicable provisions of any Act, including utilizing State personnel to carry out enforcement activities and entering into cooperative agreements with State authorities to ensure cooperative enforcement of State and Federal laws.

Section 206. Relationship to Secretary of Commerce

Section 206 would provide that NOAA would be subject to the policy direction of the Secretary of Commerce, but would otherwise retain responsibility for decisions regarding the management and administration of its operations and exercise independent control of its budget decisions. This responsibility would include the submission of annual budget requests by NOAA to the Director of OMB, who would examine NOAA budgets with those of other natural resource programs.

Section 207. NOAA Plan and Budget

Section 207(a) would direct the Administrator to submit to Congress a plan and budget setting forth a proposal for program and agency reorganization no later than 9 months after the date of enactment. This plan would: (1) implement title I and title II of this Act; (2) improve integration of NOAA programs and operations in accordance with the functions and purposes identified in section 202 (without undermining the missions or purposes of the National

Weather Service under its own organic act); (3) provide for a coherent, transparent, and accountable management and budgetary structure for all agency functions and purposes; (4) provide for ecosystem-based science and management; (5) organize research, operations, and services in a manner that supports regional and national needs; (6) support the development of regulatory management and incentive-based approaches designed to integrate multiple statutory mandates; (7) ensure crosscutting activities among missions in cooperation with other Federal and State agencies, and transfer products and services among the 3 agency functions set forth in Sec.202; and (8) maximize opportunities to work in partnership with States and other stakeholders to promote ecosystem-based science and management, develop effective education and outreach efforts, and enhance capacity to manage issues on an eco-regional basis.

Section 207(b) would provide that the plan would be developed in consultation with interested parties, including the States, academia, industry, conservation organizations, and labor organizations certified as representatives of Administrative employees. The draft plan shall be published in the Federal Register for public notice at least 60 days before final submission to Congress.

Section 208. Research Plan

Section 208 would provide that the NOAA Administrator shall develop an integrated research plan for the agency that would set forth scientific goals and priorities (and implementing programs) in 5-year phases; identify linkages between Administration research activities and missions; identify how Administration laboratories, institutes, and the extramural scientific community would participate and assist in achieving the research goals; consider reports published by the National Research Council; be developed in consultation with programmatic officers and the extramural scientific community; and be revised every 5-7 years. The research plan shall provide for ocean exploration; development of monitoring methods and instruments for oceans and atmospheric environments; basic and applied ocean and atmospheric research (including climate change); and education, training, and outreach.

Section 209. Science Advisory Board

Section 209(a) would provide for the establishment within the Administration a Science Advisory Board, which would provide scientific advice as may be requested by the Administrator or the Congress.

Section 209(b) would state that the purpose of the Science Advisory Board is to advise the Administrator and Congress (as requested) on long-range and short-range strategies for research, education, resource management, and environmental assessment and prediction.

Section 209(c) would describe the make-up of the Science Advisory Board, which shall consist of not more than 15 members appointed by the Administrator to ensure balanced representation among scientists, engineers, resource managers, educators, and science and ocean policy experts. Each member of the Board would be appointed for 3-year terms, which are renewable once. One

member of the Board will be designated chairperson by the Administrator.

Section 209(d) would provide administrative provisions for the Science Advisory Board. The Board would report to the Administrator and the appropriate requesting party. The Board would meet at least twice a year, and at any other time at the call of the Administrator or the Chairperson. Members of the Board would not be compensated but may be allowed travel expenses and per diem. If the Board finds it necessary, it may establish subcommittees, task forces, and working groups.

Section 209(e) would state that section 14 of the Federal Advisory Committee Act in title 5, United States Code, shall not apply to the Science Advisory Board.

Section 210. Conforming Amendments, Repeals and Transition

This section would repeal Reorganization Plan No. 4 of 1970 (5 U.S.C. App.), which has been incorporated by reference in the Act. It would also clarify that all references in law, rule, regulation, or other official document to NOAA, the Administrator, the Undersecretary, or other NOAA position refers to NOAA as established in this Act. It also would repeal existing statutory language setting forth the duties of the Under Secretary and Assistant Secretary.

Section 211. Report on Ocean and Atmospheric Conditions and Trends

Section 211 would require the NOAA Administrator, in consultation with relevant Federal and State agencies, to submit a biennial report to Congress describing the status and trends affecting the Nation's ocean, coastal, and atmospheric environments.

Section 212. Implementation

Section 212 would provide that, not later than 18 months after the date of enactment of this title, the Administrator shall promulgate all necessary regulations to implement this title and submit to Congress detailed recommendations on needed technical and conforming amendments to Federal law.

Section 213. Savings Provision

This section would ensure that all rules, regulations, standards, etc. resulting in the assignment of functions to the Secretary of Commerce, NOAA Administrator, or any other officer of NOAA shall continue in full force after enactment of the Act, unless the Act is modified or rescinded.

TITLE III—FEDERAL COORDINATION AND ADVICE

SUBTITLE A—COUNCIL ON OCEAN STEWARDSHIP

Section 301. Establishment

Section 301 would establish a Council on Ocean Stewardship in the Executive Office of the President.

Section 302. Membership

Section 302 would provide that the Council would be composed of 3 but no more than 5 members appointed by the President, by

and with the advice of the Senate, and would set forth member qualifications.

Section 303. Functions of the Council

Section 303(a) would establish the Council's functions, including: (1) providing a forum for improving the coordination of Federal ocean and atmospheric activities, particularly on crosscutting areas that require coordinated Federal action (nonpoint source pollution, observing systems, education, and ecosystem-based management); (2) gathering information on conditions and trends in ocean and atmospheric quality and health; (3) analyzing Federal ocean and atmospheric programs to determine their effectiveness to achieving the policy set forth in section 103; (4) identifying statutory and regulatory redundancies or omissions; (5) developing and issue recommendations and guidance for establishing mechanisms to assure the coordination of Federal ocean, coastal, and atmospheric programs and activities at the regional level that compliment State initiatives; (6) expanding research, education, and outreach efforts by all Federal agencies involved in ocean and atmospheric activities; and (7) conducting an annual review of Federal budgets and provide budget recommendations to the President that will achieve the policies of section 103 and improve coordination, cooperation, and effectiveness.

Section 303(b) would provide that the Council would be required to consult with the Administrator and outside groups, including State and local governments, industry, and conservation organizations. It would also utilize the expertise, capabilities, and information of public and private agencies, organizations, and individuals.

Section 303(c) would require the Council to prepare a biennial report, as outlined in section 305 of the Act, and provide other studies, reports, and recommendations as the President may request.

Section 304. Council Employees

Section 304 would establish that the Council may employ any officers and employees as necessary to carry out its functions and can accept and employ voluntary and uncompensated services. Federal agencies, in turn, would be required to provide assistance to the Council as needed, including detailing employees to the Council.

Section 305. Biennial Report to Congress

Section 305 would provide that the Council submit a biennial report to Congress, beginning not later than 18 months after enactment of the Act. The report would describe Federal ocean and atmospheric programs, priorities, and accomplishments, including an evaluation of the accomplishments in terms of the national ocean policy set forth in this Act. It would be transmitted to Congress by the President no later than December 31 of the year required and Federal agencies and Departments would be required to cooperate with the Council on this task.

Section 306. Presidential Panel of Advisers on Oceans, Atmosphere, and Climate Change

Section 306(a) would provide that President may establish a Presidential Panel of Advisers on Oceans, Atmosphere, and Climate Change which would advise the President and the Chair of

the Ocean Stewardship Council in identifying and fostering regional and national policies relating to the protection, management, and restoration of ocean and atmospheric environments, and in addition, continually review priority issues relating to national ocean and atmospheric policy.

Section 306(b) would state that the panel shall not consist of more than 25 members appointed by the President, with at least one representative nominated by a Governor from each of the coastal regions identified in the Report of the U.S. Commission on Ocean Policy. Each member would serve 3-year terms and the Chair of the Council on Ocean Stewardship would co-chair the Presidential Panel.

Section 307. Authorization of Appropriations

This section would authorize annual appropriations for the Council on Ocean Stewardship for Fiscal Years (FY) 2005 through FY 2010, as follows: \$4,000,000 in FY 2005; \$4,120,000 in FY 2006; \$4,244,000 in FY 2007; \$4,371,000 in FY 2008; \$4,502,000 in FY 2009; and \$4,637,000 in FY 2010.

SUBTITLE B—INTERAGENCY SCIENCE COORDINATION

Section 321. National Ocean Science Committee

Section 321(a) would authorize a National Ocean Science Committee, established by the Chair of the National Science and Technology Council, in consultation with the Chairperson of the Council on Ocean Stewardship.

Section 321(b) would state that the Committee would be composed of representatives from the following agencies and departments: the NOAA Administrator; the Secretary of the Navy; the Director of the National Science Foundation; the Administrator of the National Aeronautics and Space Administration; the Under Secretary of Energy for Energy, Science, and Environment; the EPA Administrator; the Under Secretary of Homeland Security for Science and Technology; the Commandant of the United States Coast Guard; the Director of the United States Geological Survey; the Director of the Minerals Management Service; the Commanding General of the Army Corps of Engineers; the Director of the National Institutes of Health; the Under Secretary of Agriculture for Research, Education, and Economics; the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs; the Director of the Defense Advanced Research Projects Agency; the Director of the Office of Science and Technology Policy; the Director of OMB; and the leadership of any other appropriate Federal agencies.

Section 321(c) would provide for a chair and vice chair of the Committee to be appointed every 2 years by a select subcommittee of the Committee.

Section 321(d) would set forth the responsibilities of the Committee, which include: (1) serving as the primary source of advice and support for the Council on Ocean Stewardship; (2) serving as the committee on ocean science for the Council on Science and Technology Policy; (3) improving cooperation among Federal agencies and departments with respect to ocean issues; (4) developing a strategy and oversee its implementation; (5) suggesting policies

and procedures and provide support for interagency ocean science programs; (6) overseeing implementation of an integrated and sustained ocean and coastal observing system; (7) establishing interagency subcommittees and working groups to develop comprehensive and balanced Federal programs and approaches to ocean science needs; (8) coordinating international ocean science efforts; and (9) carrying out any other activities the Council may require.

Section 322. National Strategy for Ocean Science, Education, and Technology

Section 322(a) would state that the National Science and Technology Council, through the Committee, shall develop a National Strategy for Ocean Science, Education, and Technology, which would be submitted to Congress within one year after the date of enactment of this title, with a revised strategy to be submitted at least once every three years thereafter.

Section 322(b) would provide for specific actions to be included in the strategy, which would include: (1) a doubling of the Federal investment in ocean science research over 5 years; (2) the identification of relevant programs and activities of the Committee members that contribute to the goals and priorities of the strategy; (3) the establishment of mechanisms for accelerating the transition of technologies across different sectors; (4) the appropriate consideration and use of reports and studies; (5) making recommendations for the coordination of Federal ocean science activities with the States, regional entities, foreign nations, and international organizations.

Section 322(c) would provide for elements to be included in the strategy, including: (1) global measurements on all relevant spatial and time scales; (2) partnerships among Federal agencies, States, academia, industries, and other members of the oceans science community; (3) oceanographic facility support; (4) focused research initiatives and competitive research grants; (5) technology and sensor development; (6) workforce and professional development; (7) ocean science education coordination and establishment of mechanisms to improve ocean literacy and public awareness of the oceans; and (8) informational management systems to produce readily available information for policymakers.

Section 322(d) would provide that the Committee shall consult with the Advisory Panel, academic, State, industry, and conservation groups when developing the strategy.

SUBTITLE C—FEDERAL PROGRAMS

Section 341. Federal Program Recommendations

This section would provide that not later than 24 months after the issuance of the final report of the Commission on Ocean Policy, the President shall submit to Congress recommendations for the following: (1) the transfer of relevant Federal ocean and atmospheric programs, services, and associated resources to NOAA; (2) consolidation or elimination of Federal agency programs that would not undermine the policy goals of the Act; and (3) make recommendations regarding Federal reorganization, including establishment of NOAA as an independent agency, elevation of NOAA to a Federal department, or establishment of a new department

that would provide increased National attention and resources to oceanic and atmospheric priorities, including ecosystem and watershed-based approaches.

Section 342. No Effect on Other Authorities

This section would establish that nothing in this Act shall be construed to modify the authority of the Administrator or the National Weather Service under any other provision of law.

CHANGES IN EXISTING LAW

In compliance with paragraph 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 material is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 99-659

SEC. 407. NOAA OFFICERS.

[15 U.S.C. 1503B]

[(a) UNDER SECRETARY.—There shall be in the Department of Commerce an Under Secretary of Commerce for Oceans and Atmosphere who shall serve as the Administrator of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) and perform such duties as the Secretary of Commerce shall prescribe. The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).]

[15 U.S.C. 1507C]

[(b) ASSISTANT SECRETARY.—There shall be in the Department of Commerce, in addition to the Assistant Secretaries of Commerce provided by law before the date of enactment of this Act [enacted Nov. 14, 1986], one additional Assistant Secretary of Commerce who shall have the title Assistant Secretary of Commerce for Oceans and Atmosphere and shall serve as the Deputy Administrator of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 1. (5 U.S.C. App. 1) and perform such duties and functions as the Under Secretary of Commerce for Oceans and Atmosphere shall prescribe. The Assistant Secretary for Oceans and Atmosphere shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).]

* * * * *

[REORGANIZATION PLAN NO. 4 OF 1970]

[NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION]

[§ 1. Transfers to Secretary of Commerce]

[The following are hereby transferred to the Secretary of Commerce:

[(a) All functions vested by law in the Bureau of Commercial Fisheries of the Department of the Interior or in its head, together with all functions vested by law in the Secretary of the Interior or the Department of the Interior which are administered through that Bureau or are primarily related to the Bureau, exclusive of functions with respect to (1) Great Lakes fishery research and activities related to the Great Lakes Fisheries Commission, (2) Missouri River Reservoir research, (3) the Gulf Breeze Biological Laboratory of the said Bureau at Gulf Breeze, Florida, and (4) Trans-Alaska pipeline investigations.

[(b) The functions vested in the Secretary of the Interior by the Act of September 22, 1959 (Public Law 86-359, 73 Stat. 642, 16 U.S.C. 760e-760g; relating to migratory marine species of game fish).

[(c) The functions vested by law in the Secretary of the Interior, or in the Department of the Interior or in any officer or instrumentality of that Department, which are administered through the Marine Minerals Technology Center of the Bureau of Mines.

[(d) All functions vested in the National Science Foundation by the National Sea Grant College and Program Act of 1966 (80 Stat. 998), as amended (33 U.S.C. 1121 et seq.).

[(e) Those functions vested in the Secretary of Defense or in any officer, employee, or organizational entity of the Department of Defense by the provision of Public Law 91-144, 83 Stat. 326 [unclassified], under the heading "Operation and maintenance, general" with respect to "surveys and charting of northern and northwestern lakes and connecting waters," or by other law, which come under the mission assigned as of July 1, 1969, to the United States Army Engineer District, Lake Survey, Corps of Engineers, Department of the Army and relate to (1) the conduct of hydrographic surveys of the Great Lakes and their outflow rivers, Lake Champlain, New York State Barge Canals, and the Minnesota-Ontario border lakes, and the compilation and publication of navigation charts, including recreational aspects, and the Great Lakes Pilot for the benefit and use of the public, (2) the conception, planning, and conduct of basic research and development in the fields of water motion, water characteristics, water quantity, and ice and snow, and (3) the publication of data and the results of research projects in forms useful to the Corps of Engineers and the public, and the operation of a Regional Data Center for the collection, coordination, analysis, and the furnishing to interested agencies of data relating to water resources of the Great Lakes.

[(f) So much of the functions of the transferor officers and agencies referred to in or affected by the foregoing provisions of this section as is incidental to or necessary for the perform-

ance by or under the Secretary of Commerce of the functions transferred by those provisions or relates primarily to those functions. The transfers to the Secretary of Commerce made by this section shall be deemed to include the transfer of authority, provided by law, to prescribe regulations relating primarily to the transferred functions.

§ 2. Establishment of Administration

[(a) There is hereby established in the Department of Commerce an agency which shall be known as the National Oceanic and Atmospheric Administration, hereinafter referred to as the "Administration."

[(b) There shall be at the head of the Administration the Administrator of the National Oceanic and Atmospheric Administration, hereinafter referred to as the "Administrator." The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

[(c) There shall be in the Administration a Deputy Administrator of the National Oceanic and Atmospheric Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

[(d) There shall be in the Administration a Chief Scientist of the National Oceanic and Atmospheric Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316). The Chief Scientist shall be the principal scientific adviser to the Administrator, and shall perform such other duties as the Administrator may direct. The Chief Scientist shall be an individual who is, by reason of scientific education and experience, knowledgeable in the principles of oceanic, atmospheric, or other scientific disciplines important to the work of the Administration.

[(e)(1) There shall be in the Administration a General Counsel and five Assistant Administrators, one of whom shall be the Assistant Administrator for Coastal Zone Management and one of whom shall be the Assistant Administrator for Fisheries. The General Counsel and each Assistant Administrator shall be appointed by the Secretary, subject to approval of the President, and shall be compensated at a rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

[(2) The General Counsel shall serve as the chief legal officer for all legal matters which may arise in connection with the conduct of the functions of the Administration.

[(3) The Assistant Administrator for Coastal Zone Management shall be an individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

[(4) The Assistant Administrator for Fisheries shall be responsible for all matters related to living marine resources which may arise in connection with the conduct of the functions of the Administration.

[(f) The President may appoint in the Administration, by and with the advice and consent of the Senate, two commissioned officers to serve at any one time as the designated heads of two principal constituent organizational entities of the Administration, or the President may designate one such officer as the head of such an organizational entity and the other as head of the commissioned corps of the Administration. Any such designation shall create a vacancy on the active list and the officer while serving under this subsection shall have the rank, pay, and allowances of a rear admiral (upper half).

[(g) Any commissioned officer of the Administration who has served under (d) or (f) and is retired while so serving or is retired after the completion of such service while serving in a lower rank or grade, shall be retired with the rank, pay, and allowances authorized by law for the highest grade and rank held by him; but any such officer, upon termination of his appointment in a rank above that of captain, shall, unless appointed or assigned to some other position for which a higher rank or grade is provided, revert to the grade and number he would have occupied had he not served in a rank above that of captain and such officer shall be an extra number in that grade.

[(§ 3. Performance of transferred functions]

[(The provisions of sections 2 and 4 of Reorganization Plan No. 5 of 1950 (64 Stat. 1263) shall be applicable to the functions transferred hereunder to the Secretary of Commerce.]

[(§ 4. Incidental transfers]

[(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Secretary of Commerce by this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Department of Commerce at such time or times as the Director shall direct.]

[(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.]

[(c) The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds of the Environmental Science Services Administration shall become personnel, property, records, and unexpended balances of the National Oceanic and Atmospheric Administration or of such other organizational entity or entities of the Department of Commerce as the Secretary of Commerce shall determine.]

[(d) The Commissioned Officer Corps of the Environmental Science Services Administration shall become the Commissioned Officer Corps of the National Oceanic and Atmospheric Administration, Members of the Corps, including those appointed hereafter, shall be entitled to all rights, privileges, and benefits heretofore

available under any law to commissioned officers of the Environmental Science Services Administration, including those rights, privileges, and benefits heretofore accorded by law to commissioned officers of the former Coast and Geodetic Survey.

[(e) Any personnel, property, records, and unexpended balances of appropriations, allocations, and other funds of the Bureau of Commercial Fisheries not otherwise transferred shall become personnel, property, records, and unexpended balances of such organizational entity or entities of the Department of the Interior as the Secretary of the Interior shall determine.]

[(§ 5. Interim officers]

[(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to provisions of this reorganization plan or by recess appointment, as the case may be.]

[(b) The President may similarly authorize any such person to act as Deputy Administrator and authorize any such person to act as Associate Administrator.]

[(c) The President may similarly authorize a member of the former Commissioned Officer Corps of the Environmental Science Services Administration to act as the head of one principal constituent organizational entity of the Administration.]

[(d) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.]

[(§ 6. Abolitions]

[(a) Subject to the provisions of this reorganization plan, the following, exclusive of any functions, are hereby abolished:]

[(1) The Environmental Science Services Administration in the Department of Commerce (established by Reorganization Plan No. 2 of 1965, 79 Stat. 1318), including the offices of Administrator of the Environmental Science Administration and Deputy Administrator of the Environmental Science Services Administration.]

[(2) The Bureau of Commercial Fisheries in the Department of the Interior (16 U.S.C. 742b), including the office of Director of the Bureau of Commercial Fisheries.]

[(b) Such provisions as may be necessary with respect to terminating any outstanding affairs shall be made by the Secretary of Commerce in the case of the Environmental Science Services Administration and by the Secretary of the Interior in the case of the Bureau of Commercial Fisheries.]