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111TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 111–439

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3650) TO ESTABLISH A NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA PROGRAM, TO DEVELOP AND COORDINATE A COMPREHENSIVE AND INTEGRATED STRATEGY TO ADDRESS HARMFUL ALGAL BLOOMS AND HYPOXIA, AND TO PROVIDE FOR THE DEVELOPMENT AND IMPLEMENTATION OF COMPREHENSIVE REGIONAL ACTION PLANS TO REDUCE HARMFUL ALGAL BLOOMS AND HYPOXIA

MARCH 11, 2010.—Referred to the House Calendar and ordered to be printed

Ms. PINGREE, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 1168]

The Committee on Rules, having had under consideration House Resolution 1168, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 3650, the "Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2009," under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology. The resolution waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The resolution provides that the amendment printed in part A of this report shall be considered as adopted. The bill, as amended, shall be considered as read. The resolution waives all points of order against the bill, as amended. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure). The resolution makes in order only the amendment printed in part B of this report if offered by Representative Flake of Arizona or his designee. The amendment shall be considered as read, shall be separately debatable for 10 minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to a demand for division of the question. The resolution waives all points of order against the amendment printed in part B of this report except those arising under clause

89–008

9 and 10 of rule XXI. Finally, the resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of the bill (except those arising under clause 9 or 10 of rule XXI), the Committee is not aware of any points of order. The waiver is prophylactic. The waiver of all points of order against provisions in the bill, as amended, is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 326

Date: March 11, 2010.
Measure: H.R. 3650.
Motion by: Mr. Dreier.
Summary of motion: To report an open rule.
Results: Defeated 3–7.
Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Arcuri—Nay; Perlmutter—Nay; Polis—Nay; Dreier—Yea; Sessions—Yea; Foxx—Yea; Slaughter—Nay.

SUMMARY OF AMENDMENT IN THE NATURE OF A SUBSTITUTE IN PART A TO BE CONSIDERED AS ADOPTED

A definition for "State" was added, and the duties of the Under Secretary are clarified to ensure its role is to coordinate the efforts of the Task Force. There also is language now to encourage international information sharing; coordinate existing education programs; and assist in regional, State, tribal and local efforts. The current language also clarifies the activities under the Freshwater Harmful Algal Blooms Program and the existing NOAA programs and activities. The bill has added language that integrates all coastal and ocean monitoring and observation data. There is also a consolidation of the reporting requirements and language to ensure extramural research activities. Finally, although the top line authorization level does not change, the breakdown of the authorization of appropriations for specific programs and activities is modified.

SUMMARY OF AMENDMENT IN PART B TO BE MADE IN ORDER

Flake, Jeff (AZ): Would prohibit earmarking in the funds authorized for appropriations in the legislation. (10 minutes)

PART A—TEXT OF AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BE CONSIDERED AS ADOPTED

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010".

SEC. 2. AMENDMENT OF HARMFUL ALGAL BLOOM AND HYPOXIA RESEARCH AND CONTROL ACT OF 1998.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451 note).

SEC. 3. DEFINITIONS.

(a) AMENDMENT.—The Act is amended by inserting after section 602 the following:

"SEC. 602A. DEFINITIONS.

"In this title:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) PROGRAM.—The term 'Program' means the National Harmful Algal Bloom and Hypoxia Program established under section 603A.

"(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, and any Indian tribe.

"(4) UNDER SECRETARY.—The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 2 of the Coast Guard Authorization Act of 1998 is amended by adding after the item relating to section 602 the following new item:

"Sec. 602A. Definitions.".

SEC. 4. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA PROGRAM.

(a) AMENDMENT.—The Act is amended by inserting after section 603 the following:

"SEC. 603A. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA PROGRAM.

"(a) IN GENERAL.—Except as provided in subsection (d), the Under Secretary, through the Task Force established under section 603(a), shall establish and maintain a National Harmful Algal Bloom and Hypoxia Program pursuant to this section.

"(b) DUTIES.—The Under Secretary, through the Program, shall coordinate the efforts of the Task Force to—

"(1) develop and promote a national strategy to understand, detect, predict, control, mitigate, and respond to marine and freshwater harmful algal bloom and hypoxia events;

"(2) integrate the research of all Federal programs, including ocean and Great Lakes science and management programs and centers, that address the chemical, biological, and physical components of marine and freshwater harmful algal blooms and hypoxia;

"(3) coordinate and work cooperatively with State, tribal, and local government agencies and programs that address marine and freshwater harmful algal blooms and hypoxia;

"(4) identify additional research, development, and demonstration needs and priorities relating to monitoring, prediction, prevention, control, mitigation, and response to marine and freshwater harmful algal blooms and hypoxia;

"(5) encourage international information sharing and research efforts on marine and freshwater harmful algal blooms and hypoxia, and encourage international mitigation, control, and response activities;

"(6) ensure the development and implementation of methods and technologies to protect the ecosystems affected by marine and freshwater harmful algal blooms;

"(7) integrate, coordinate, and augment existing education programs to improve public understanding and awareness of the causes, impacts, and mitigation efforts for marine and freshwater harmful algal blooms and hypoxia;

"(8) assist in regional, State, tribal, and local efforts to develop and implement appropriate marine and freshwater harmful algal bloom and hypoxia response plans, strategies, and tools;

"(9) provide resources for and assist in the training of State, tribal, and local water and coastal resource managers in the methods and technologies for monitoring, controlling, mitigating, and responding to the effects of marine and freshwater harmful algal blooms and hypoxia events;

"(10) oversee the development, implementation, review, and periodic updating of the Regional Research and Action Plans under section 603B; and

"(11) administer peer-reviewed, merit-based competitive grant funding to support—

"(A) the projects maintained and established by the Program; and

"(B) the research and management needs and priorities identified in the Regional Research and Action Plans.

"(c) COOPERATIVE EFFORTS.—The Under Secretary shall work cooperatively and avoid duplication of efforts with other offices, centers, and programs within the National Oceanic and Atmospheric Administration and other agencies represented on the Task Force established under section 603(a), States, tribes, and nongovernmental organizations concerned with marine and freshwater aquatic issues related to harmful algal blooms and hypoxia.

"(d) FRESHWATER PROGRAM.—With respect to the freshwater aspects of the Program, the Administrator and Under Secretary, through the Task Force, shall carry out the duties otherwise assigned to the Under Secretary under this section and section 603B, including the activities described in subsection (e). The Administrator's participation under this subsection shall include—

"(1) research on the ecology of freshwater harmful algal blooms;

"(2) monitoring and event response of freshwater harmful algal blooms in lakes, rivers, estuaries (including their tributaries), and reservoirs;

"(3) mitigation and control of freshwater harmful algal blooms; and

"(4) an identification in the President's annual budget request to Congress of how much funding is proposed in that request for carrying out the activities described in subsection (e).

"(e) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ACTIVITIES.—As part of the program under this section, the Under Secretary shall—

"(1) maintain and enhance existing competitive grant programs at the National Oceanic and Atmospheric Administration relating to marine and freshwater harmful algal blooms and hypoxia;

"(2) carry out marine and freshwater harmful algal bloom and hypoxia events response activities; and

"(3) enhance communication and coordination among Federal agencies carrying out marine and freshwater harmful algal bloom and hypoxia activities, and increase the availability to appropriate public and private entities of—

"(A) analytical facilities and technologies;

"(B) operational forecasts; and

"(C) reference and research materials.

"(f) INTEGRATED COASTAL AND OCEAN OBSERVATION SYSTEM.—All monitoring and observation data collected under this Act shall be collected in compliance with all data standards and protocols developed pursuant to the National Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601 et seq.), and such data shall be made available through the System established under that Act.

"(g) ACTION STRATEGY.—

"(1) IN GENERAL.—Not later than 12 months after the date of enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010, the Under Secretary, through the Task Force established under section 603(a), shall transmit to the Congress an action strategy that identifies—

"(A) the specific activities to be carried out by the Program and the timeline for carrying out such activities; and

"(B) the roles and responsibilities of each Federal agency in the Task Force established under section 603(a) in carrying out Program activities.

"(2) FEDERAL REGISTER.—The Under Secretary shall publish the action strategy in the Federal Register.

"(3) PERIODIC REVISION.—The Under Secretary shall periodically review and revise the action strategy prepared under this subsection as necessary.

"(h) REPORT.—Two years after the submission of the action strategy, the Under Secretary shall prepare and transmit to the Congress a report that describes—

"(1) the activities carried out under the Program and the Regional Research and Action Plans and the budget related to these activities;

"(2) the progress made on implementing the action strategy; and

"(3) the need to revise or terminate activities or projects under the Program.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 2 of the Coast Guard Authorization Act of 1998 is amended

by adding after the item relating to section 603 the following new item:

"Sec. 603A. National Harmful Algal Bloom and Hypoxia Program.".

SEC. 5. REGIONAL RESEARCH AND ACTION PLANS.

(a) AMENDMENT.—The Act is amended by inserting after section 603A the following:

"SEC. 603B. REGIONAL RESEARCH AND ACTION PLANS.

"(a) IN GENERAL.—The Under Secretary, through the Task Force established under section 603(a), shall—

"(1) identify the appropriate regions and subregions to be addressed by each Regional Research and Action Plan; and

"(2) oversee the development and implementation of the Regional Research and Action Plans.

"(b) CONTENTS.—The Plans developed under this section shall identify—

"(1) regional priorities for ecological, economic, and social research on issues related to the impacts of harmful algal blooms and hypoxia;

"(2) research, development, and demonstration activities needed to develop and advance technologies and techniques for minimizing the occurrence of harmful algal blooms and hypoxia and improving capabilities to prevent, predict, monitor, control, and mitigate harmful algal blooms and hypoxia;

"(3) ways to reduce the duration and intensity of harmful algal blooms and hypoxia, including in times of emergency;

"(4) research and methods to address human health dimensions of harmful algal blooms and hypoxia;

"(5) mechanisms, including the potential costs and benefits of those mechanisms, to protect vulnerable ecosystems that could be or have been affected by harmful algal blooms and hypoxia events;

"(6) mechanisms by which data, information, and products are transferred between the Program and State, tribal, and local governments and relevant research entities;

"(7) communication, outreach, and information dissemination methods that State, tribal, and local governments and stakeholder organizations can undertake to educate and inform the public concerning harmful algal blooms and hypoxia; and

"(8) the roles that Federal agencies can play to assist in the implementation of the Plan.

"(c) BUILDING ON AVAILABLE STUDIES AND INFORMATION.—In developing the Plans under this section, the Under Secretary shall—

"(1) utilize and build on existing research, assessments, and reports, including those carried out pursuant to existing law and other relevant sources; and

"(2) consider the impacts, research, and existing program activities of all United States coastlines and fresh and inland waters, including the Great Lakes, the Chesapeake Bay, and estuaries and tributaries.

"(d) DEVELOPMENT OF PLANS.—The Under Secretary shall develop Plans under this section with assistance from the individuals and entities described in subsection (f).

"(e) PLAN TIMELINE AND UPDATES.—The Under Secretary, through the Task Force established under section 603(a), shall en-

sure that the Plans developed under this section are completed not later than 24 months after the date of enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010, and updated once every 5 years thereafter.

"(f) COORDINATION AND CONSULTATION.—In developing the Plans under this section, as appropriate, the Under Secretary—

"(1) shall coordinate with State coastal management and planning officials;

"(2) shall coordinate with tribal resource management officials;

"(3) shall coordinate with water management and watershed officials from both coastal States and noncoastal States with water sources that drain into water bodies affected by harmful algal blooms and hypoxia; and

"(4) shall consult with—

"(A) public health officials;

"(B) emergency management officials;

"(C) science and technology development institutions;

"(D) economists;

"(E) industries and businesses affected by marine and freshwater harmful algal blooms and hypoxia;

"(F) scientists, with expertise concerning harmful algal blooms or hypoxia, from academic or research institutions; and

"(G) other stakeholders.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 2 of the Coast Guard Authorization Act of 1998 is amended by adding after the item relating to section 603A, as added by section 4(b) of this Act, the following new item:

"Sec. 603B. Regional research and action plans.".

SEC. 6. NORTHERN GULF OF MEXICO HYPOXIA.

Section 604 is amended to read as follows:

"SEC. 604. NORTHERN GULF OF MEXICO HYPOXIA.

"(a) TASK FORCE INITIAL PROGRESS REPORTS.—Not later than 12 months after the date of enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010, the Administrator, through the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force, shall complete and transmit to the Congress and the President a report on the progress made by Task Force-directed activities toward attainment of the goals of the Gulf Hypoxia Action Plan 2008.

"(b) TASK FORCE 2-YEAR PROGRESS REPORTS.—After the initial report required under subsection (a), the Administrator, through the Task Force, shall complete and transmit to Congress and the President a report every 2 years thereafter on the progress made by Task Force-directed activities toward attainment of the coastal goal of the Gulf Hypoxia Action Plan 2008.

"(c) CONTENTS.—The reports required by this section shall assess progress made toward nutrient load reductions, the response of the hypoxic zone and water quality throughout the Mississippi/Atchafalaya River Basin, and the economic and social effects. The reports shall—

"(1) include an evaluation of how current policies and programs affect management decisions, including those made by municipalities and industrial and agricultural producers;

"(2) evaluate lessons learned; and

"(3) recommend appropriate actions to continue to implement or, if necessary, revise the strategy set forth in the Gulf Hypoxia Action Plan 2008.".

SEC. 7. PACIFIC NORTHWEST, ESTUARIES, AND PUGET SOUND HYPOXIA.

(a) AMENDMENT.—The Act is amended by inserting after section 604 the following:

"SEC. 604A. PACIFIC NORTHWEST, ESTUARIES, AND PUGET SOUND HYPOXIA.

"(a) ASSESSMENT REPORT.—Not later than 12 months after the date of enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010, the Task Force established under section 603 shall complete and submit to Congress and the President an integrated assessment of hypoxia in the coastal and estuarine waters of the Pacific Northwest that examines the status of current research, monitoring, prevention, response, and control efforts.

"(b) PLAN.—The Task Force shall include in the regionally appropriate Regional Research and Action Plan developed under section 603B a plan, based on the integrated assessment submitted under subsection (a), for reducing, mitigating, and controlling hypoxia in the coastal and estuarine waters of the Pacific Northwest. In developing such plan, the Task Force shall consult with State, Indian tribe, and local governments, and academic, agricultural, industry, and environmental groups and representatives. Such plan shall include incentive-based partnership approaches. The plan shall also address the social and economic costs and benefits of the measures for reducing, mitigating, and controlling hypoxia.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 2 of the Coast Guard Authorization Act of 1998 is amended by adding after the item relating to section 604 the following new item:

"Sec. 604A. Pacific Northwest, estuaries, and Puget Sound hypoxia.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 605 is amended to read as follows:

"SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated—

"(1) to the Under Secretary to carry out sections 603A and 603B, $34,000,000 for each of fiscal years 2011 through 2015, of which, for each fiscal year—

"(A) $2,000,000 may be used for the development of the Regional Research and Action Plans and the reports required by section 604A;

"(B) $3,000,000 may be used for the research and assessment activities related to marine and freshwater harmful algal blooms at research laboratories of the National Oceanic and Atmospheric Administration;

"(C) $8,000,000 may be used to carry out the Ecology and Oceanography of Harmful Algal Blooms Program (ECOHAB);

"(D) $5,500,000 may be used to carry out the Monitoring and Event Response for Harmful Algal Blooms Program (MERHAB);

"(E) $1,500,000 may be used to carry out the Northern Gulf of Mexico Ecosystems and Hypoxia Assessment Program (NGOMEX);

"(F) $5,000,000 may be used to carry out the Coastal Hypoxia Research Program (CHRP);

"(G) $5,000,000 may be used to carry out the Prevention, Control, and Mitigation of Harmful Algal Blooms Program (PCM);

"(H) $1,000,000 may be used to carry out marine and freshwater harmful algal bloom and hypoxia events response activities; and

"(I) $3,000,000 may be used for increased availability, communication, and coordination activities; and

"(2) to the Administrator to carry out sections 603A, 603B, and 604, $7,000,000 for each of fiscal years 2011 through 2015.".

(b) EXTRAMURAL RESEARCH ACTIVITIES.—The Under Secretary shall ensure that a substantial portion of funds appropriated pursuant to subsection (a) that are used for research purposes are allocated to extramural research activities.

PART B—TEXT OF AMENDMENT TO BE MADE IN ORDER

At the end of the bill, add the following new section:

SEC. 9. PROHIBITION ON EARMARKS.

None of the funds appropriated pursuant to section 605 may be used for a Congressional earmark as defined in clause 9(e) of rule XXI of the Rules of the House of Representatives.

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