

106th Congress 2d Session

SENATE

Report

106 301

Calendar No. 568

OCEANS ACT OF 2000

R E P O R T

of the

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

on

S. 2327

May 23, 2000.--Ordered to be printed

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

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(II)

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May 23, 2000.--Ordered to be printed

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

REPORT

[To accompany S. 2327]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2327) "A bill to establish a Commission on Ocean Policy, and for other purposes", having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

S. 2327, as reported, calls for the development and implementation of a coherent, comprehensive, and long-range national policy to explore, protect, and use ocean and coastal resources. The bill as reported would establish a 16-member Commission on Ocean Policy (Commission) to provide recommendations for such a policy. Through the establishment of a national ocean policy, the bill would contribute substantially to national goals and objectives in the areas of education and research, economic development, and public safety.

BACKGROUND AND NEEDS

In 1966, 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 U.S. 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. Julius 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, and since unrepeated, investigation of this nation's relationship with the oceans.

The Stratton Commission and its congressional advisors, including Senators Warren G. Magnuson and Norris Cotton, worked together in a bipartisan fashion. In fact, The Stratton Commission was established and carried out its mandate in the Administration of Lyndon Johnson and saw significant findings implemented under President Richard Nixon. The commissioners heard and consulted over 1,000 people, visited every coastal area of the United States, and submitted 126 recommendations in a 1969 report to Congress entitled *Our Nation and the Sea*. Those recommendations led directly to the creation of the National Oceanic and Atmospheric Administration (NOAA) in 1970, 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 established priorities for federal ocean activities that have guided this nation for almost thirty years.

The nation and its uses of the oceans have changed in numerous ways since 1966. These changes have highlighted the need for a second national review of our ocean policy. During the last decade, this concern has been articulated by panels assembled by the National Research Council, as well as expert groups brought together under other auspices, particularly in preparation for the 1998 International Year of the Ocean activities. In sum, a variety of pressures that have continued and grown since 1966 have made it clear that the nation needs a coherent national system of governance for marine resources and the use of ocean space.

First, there has been a rapid migration of populations to the coast, and there are increasing pressures to develop ocean resources and space for economic benefit. Half of the U.S. population lives in coastal areas (less than 10 percent of our land area), and more than 30 percent of the Gross Domestic Product is generated in the coastal zone. Over 40 percent of new commercial and residential development is along the coast, and by the year 2025, about 75 percent of Americans will live in coastal areas. Marine-related industries play a significant role in our national economy. Ninety-five percent of our international trade is shipped on the ocean. By 2010, U.S. foreign trade in goods is projected to more

than double today's value, reaching \$5 trillion in constant dollars, with the volume of foreign trade cargo increasing by more than 30 percent to 1.7 billion metric tons. Another industry, travel and tourism, is the nation's largest employer and generates \$700 billion annually. Coastal tourism, with an ever-increasing 180 million visitors annually, currently accounts for eighty-five percent of tourism-related revenues. Significant oil and gas resources, found in the outer continental shelf, particularly natural gas, are vital to domestic energy supplies and national security needs, contributing 22 percent of domestic oil and 27 percent of natural gas production. In addition, a potential new long-term energy resource for nation, marine gas hydrates (methane and other gases existing in a frozen state below the ocean floor), has been identified for further evaluation. Finally, the fishing industry provides many economic benefits to the nation. In 1998, commercial fishermen in the United States landed roughly 9 billion pounds of fish with a value of \$3.1 billion. Their fishing related activities contributed over \$40 billion to the U.S. economy. During the same period, marine anglers contributed approximately \$25 billion.

Second, with the growth of ocean-related activities in the past thirty years, the U.S. legal and bureaucratic framework related to the oceans has become increasingly complex. In 1966, neither NOAA nor the Environmental Protection Agency (EPA) had been created. 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. In addition, since 1966 states have become more actively involved in ocean and coastal policy issues, in part because of the recommendations of the Stratton Commission. Today, people who work and live on the water, from fishermen to corporations, face a patchwork of confusing and sometimes contradictory Federal and State authorities and regulations. No mechanism exists for establishing a common vision or set of objectives. The national ocean commission established under S. 2327, as reported, would conduct a much needed review of the coordination and duplication of programs and policies developed under these laws. In addition, ocean use conflicts have increased and existing policies may not be able to adequately resolve such problems. The mandates of various agencies that implement and enforce existing systems often conflict with each other. This bill would help reduce these conflicts and achieve a reasonable balance among ocean interests.

Third, it is clear that living ocean and coastal resources once considered boundless actually have limits, and many marine and coastal habitats are threatened by pollution and human activities. In recent years, New England has struggled with the collapse of its traditional cod, haddock, and flounder fisheries. In other regions, overfished stocks include sharks, swordfish, monkfish, rockfishes, and bluefin

tuna. Finding effective solutions to these problems has been a subject of considerable public and congressional attention. In addition, the condition of many coastal habitats has also declined. Coastal areas are essential spawning, feeding, and nursery areas for over three-quarters of U.S. commercial fish catches. However, about 20,000 acres of coastal wetlands are disappearing each year. Louisiana alone has lost half a million acres of wetlands since the mid 1950s, and the Gulf of Mexico now suffers from a 7,700 square mile "dead zone", likely a result of pollution flowing from the Mississippi River which has led to significant impacts on important fisheries. NOAA estimates that \$200 million is lost annually in reduced fish catches alone due to ongoing habitat loss. As the intensity of the use of the marine environment grows, the lack of effective governance is rapidly becoming a critical problem requiring a re-evaluation of national priorities and consideration of new and innovative approaches.

Fourth, environmental threats to the oceans are growing increasingly complex. Unfortunately, problems that scientists know little about keep arising. In 1999, an unidentified pathogen killed tens of thousands of lobsters in Long Island Sound. The die-off, described as the worst to hit Long Island Sound in nearly a decade, has alarmed hundreds of lobstermen in New York, yet scientists do not know the source of the problem or the means to remedy it. In the past 30 years, occurrences of harmful algal blooms have increased in frequency and intensity across a wider geographic range. A recently released report of the National Research Council entitled *From Monsoons to Microbes: Understanding the Ocean's Role in Human Health* suggests that environmental threats such as these, as well as physical oceanographic processes that result in phenomena like El Niño and tsunamis, may have significant implications for the health of human populations.

Finally, recent technological discoveries offer important new economic and scientific opportunities for the nation to evaluate. Although only a small percentage of the ocean has been explored, what has been discovered is remarkable. For example, hydrothermal vents--hot water geysers on the deep ocean floor--were discovered just 20 years ago by oceanographers trying to understand the formation of the earth's crust. This discovery has since led to the identification of nearly 300 new types of marine animals with unknown pharmaceutical and biomedical potential. In recent years, scientists from 19 nations have joined in an international partnership, the Ocean Drilling Program, to explore the history and structure of the Earth beneath the ocean basins. Over the past 13 years, their vessel, the JOIDES Resolution, has recovered more than 115 miles of core samples through the world's oceans. While these efforts have furthered ocean exploration significantly, many ocean ecosystems, particularly the ocean's deepest regions, remain undiscovered and unexplored. Only four manned submersibles in the world,

none of which is operated by the United States, are capable of descending to half the ocean's maximum depth. The deepest-diving U.S. manned submersible currently operating can reach only an estimated 63 percent of the ocean floor. 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.

In addition, investing in a greater understanding of the ocean environment could also reduce the costs of natural hazards. The incidence and intensity of severe weather systems are affected by recurring climatic patterns known as El Niño/Southern Oscillation and the North Atlantic Oscillation. Advanced forecasts, for instance, could decrease the agricultural, economic, and social impacts resulting from such cyclical and extreme weather events. In 1997 and 1998, advanced warning derived from observing systems and climate predictions saved an estimated \$1 billion in California alone from losses related to El Niño. The effects of hurricanes demonstrate the detrimental consequences of marine-related natural hazards on public safety. Throughout the 1920s, hurricanes killed 2,122 Americans while causing about \$1.8 billion in property damages. By contrast, in the first five years of the 1990s, hurricanes killed only 111 Americans and resulted in damages of about \$35 billion. 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 they ever have been.

In light of these changes, increasing pressures, and opportunities, both the Senate and the House of Representatives passed legislation in the 105th Congress to establish an ocean commission (S. 1213 and H.R. 3445) patterned on the Stratton Commission, but action was not completed on a final bill prior to the close of the Congress. S. 2327, as reported, is intended to build upon the legislative efforts taken in the 105th Congress to create an independent national ocean commission to assist the nation in developing a comprehensive and coherent national ocean policy.

LEGISLATIVE HISTORY

Senator Hollings introduced S. 2327 on March 29, 2000, and the bill was referred to the Committee on Commerce, Science, and Transportation. S. 2327 is cosponsored by Senators Stevens, Snowe, Kerry, Breaux, Inouye, Boxer, Biden, Lautenberg, Akaka, Murray, Wyden, Feinstein, Lieberman, Landrieu, Moynihan, Sarbanes, Schumer, and Reed.

On April 13, 2000, S. 2327 was considered by the Committee in open executive session. No amendments were offered, and the Committee, without objection, ordered S. 2327 reported.

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:

U.S. Congress,

Congressional Budget Office,

Washington, DC, May 3, 2000.

Hon. John McCain, Chairman, Committee on Commerce, Science, and Transportation,

U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2327, the Oceans Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

Barry B. Anderson

(For Dan L. Crippen, Director).

Enclosure.

S. 2327--Oceans Act of 2000

Assuming appropriation of the authorized amount, CBO estimates that implementing S. 2327 would cost the federal government about \$6 million over fiscal years 2001 and 2002--of which \$3.5 million has already been appropriated. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 2327 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no significant costs on state, local, or tribal governments.

S. 2327 would establish a 16-member Commission on Ocean Policy. Within 18 months after being created, the commission would report to the Congress and the President on its findings and recommendations for a coordinated, comprehensive United States ocean policy. Within 120 days of receiving the report, the President would publish proposals to

implement the commission's recommendations. For these purposes, the bill would authorize a total of \$6 million over the 2001 2003 period. In 1999, \$3.5 million was appropriated for this effort but has not been spent. Therefore, CBO estimates that only an additional \$2.5 million would be needed to fully fund the commission's activities. Because the reports required by this bill would have to be submitted within the next two years, we estimate that most of those funds would be spent during that period.

The staff contact is Deborah Reis. This estimate was 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

This legislation is intended to aid in the development of an updated national ocean and coastal policy and improve coordination among Federal agencies. It does not require new regulations. However, among the Commission's responsibilities is to review the ocean and coastal activities of federal agencies and departments. Such a review could result in recommendations for changes in laws and regulations that may affect a number of individuals and businesses.

ECONOMIC IMPACT

Section 3(i) of the reported bill authorizes appropriations of up to \$6 million for the three year fiscal-year period beginning with FY 2001. This funding level is not expected to have an inflationary impact on the economy. By providing for better interagency coordination and cooperation, S. 2327 should improve the effectiveness of existing Federal programs and activities. The mandated budget coordination should prevent unnecessary duplication of effort and promote more cost-effective use of Federal funds.

PRIVACY

The reported bill will not have any adverse impact on the personal privacy of individuals.

PAPERWORK

The reported bill requires the preparation and submission of biennial reports to Congress on the implementation of the legislation.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section states the short title of the reported bill, the Oceans Act of 2000.

Section 2. Congressional findings; purpose and objectives

Subsection (a) of this section of the reported bill provides Congressional findings with regard to the oceans and coasts. The findings recognize that: (1) the oceans and coasts are of considerable physical, ecological, and economic importance; (2) ocean and coastal resources and the benefits they provide are affected by human activities; (3) it has been thirty years since the last comprehensive evaluation of ocean and coastal activities, and changes over the past three decades make a review of those activities necessary; (4) as the "International Year of the Ocean", 1998 brought significant attention to ocean policy issues; (5) an independent review building on work begun in 1998 is essential to the development of a sound and effective new policy; and (6) existing Federal programs would benefit from a coherent national ocean and coastal policy that reflects the need for cost-effective allocation of fiscal resources, improved interagency coordination, and strengthened partnerships with State, private, and international entities engaged in ocean and coastal activities.

Subsection (b) of this section specifies that the purpose of the reported bill is to develop a national ocean and coastal policy which will provide for: protection against natural and manmade hazards; responsible stewardship, including use, of ocean and coastal resources; marine environmental protection and prevention of pollution; enhancement of marine-related commerce, transportation, and the engagement of the private sector in innovative approaches for sustainable use of living marine resources; resolution of marine user conflicts; improved understanding and education and training programs related to the oceans; investment in marine technologies; better Federal coordination; and the preservation of U.S. ocean and coastal leadership.

Section 3. Commission on Ocean Policy

This section of the reported bill establishes a 16-member Commission on Ocean Policy. Subsection (a) establishes the Commission and exempts it from the Federal Advisory Committee Act, except for the administrative and record keeping requirements of sections 3, 7, and 12. Subsection (b) provides for the appointment of members to the Commission. Members may be drawn from State and local governments, ocean-related industry, academic and technical institutions, and public interest organizations involved with ocean and coastal activities. The reported bill specifies that the membership of the Commission shall be balanced geographically to the extent consistent with maintaining the highest level of expertise on the Commission.

The Commission members will be appointed by the President as follows:

(1) four will be appointed directly by the President; (2) four will be selected from a list of eight proposed members submitted by the Majority Leader of the Senate in consultation with the Chairman of the Senate Committee on Commerce, Science, and Transportation; (3) four will be selected from a list of eight proposed members submitted by the Speaker of the House of Representatives in consultation with the Chairmen of the House Committee on Resources and the House Committee on Science; (4) two will be selected from a list of four proposed members submitted by the Minority Leader of the Senate in consultation with the Ranking Member of the Senate Committee on Commerce, Science, and Transportation; and (5) two will be selected from a list of four proposed members submitted by the Minority Leader of the House of Representatives in consultation with the Ranking Members of the House Committee on Resources and the House Committee on Science. The Commission will select a Chairman who will be responsible for assignment of duties of staff personnel and the use and expenditure of funds available to the Commission. Any vacancy on the Commission is to be filled in the same manner as the original incumbent was appointed.

Subsection (c) requires the Commission to give appropriate consideration to recent reports prepared for the 1998 International Year of the Ocean and other reports on ocean policy, including Turning to the Sea: America's Ocean Future.

Finally, subsection (c) authorizes the Commission to secure information from Federal agencies or departments as it deems necessary to carry out its functions under this Act. This subsection also provides for staffing of the Commission and allows the Chairman to appoint an Executive Director and other personnel as necessary.

Subsection (d) provides the procedures for Commission meetings. All meetings shall be open to the public. Meetings will be preceded by timely notice, and minutes of all meetings will be recorded. The bill provides that the Commission shall hold its first meeting within 30 days after Commission members are appointed. Public meetings are required in Alaska and in the following regions: the Northeast, the Southeast, the Southwest, the Northwest, and the Gulf of Mexico.

Subsection (e) requires the Commission to report within 18 months to the Congress and the President on its findings and recommendations for a national ocean and coastal policy. This subsection outlines nine areas for Commission consideration: (1) existing and planned facilities and assets associated with ocean and coastal activities; (2) existing and planned activities of Federal entities and recommendations for changes to improve efficiency and reduce unnecessary duplication of Federal effort; (3) cumulative effect of Federal laws and regulations on U.S. ocean policy; (4) demand for ocean and coastal resources; (5) division of responsibility among the Federal, State, local, and private sectors for ocean and coastal activities; (6) marine-related technological or market opportunities; (7) previous and ongoing State and Federal efforts

to enhance the effectiveness and integration of ocean and coastal activities; (8) recommendations for modification to U.S. laws, regulations, and the administrative structure of Executive agencies; and (9) effectiveness and adequacy of existing interagency ocean policy coordination methods, and recommendations for improving such methods. In making these assessments and recommendations, the Commission is directed to give equal consideration to environmental, technical, economic, and other relevant factors. Further, in keeping with the breadth of inquiry, the Commission will not make recommendations specific to the lands or waters of any single state.

Subsections (f) through (h) relate to various technical aspects of the Commission and the Commission's report. Subsection (f) requires the Commission to publish a notice in the Federal Register that a draft report is available for public review and provide a draft copy to state Governors and relevant Congressional committees before submitting the final report to Congress. Governors' comments about activities within their states are required to be included in the final report. Subsection (g) exempts the preparation, review, or submission of the report and review of that report from various provisions of the Administrative Procedure Act. Subsection (h) provides that the Commission shall cease to exist 30 days after it submits its final report.

Subsection (i) authorizes \$6 million dollars for the three fiscal-year period beginning in fiscal year 2001, to remain available without limitation (within the three years) until expended to support the activities of the Commission.

Section 4. National ocean and coastal policy

This section of the reported bill requires the President, after considering the Commission's report, to submit to Congress proposals to implement or respond to its recommendations and findings concerning development and maintenance of a national ocean and coastal policy. This section is not intended to imply that the United States currently lacks national policies applicable in many specific areas related to the oceans and coasts such; nor should this section necessarily require proposals for substantial changes in such existing policies, but rather their integration into a single coordinated, comprehensive, and long-range national policy for responsible use and stewardship of ocean and coastal resources. However, the Commission's recommendations may indicate the need for substantive changes to existing policy, law, or administrative structure that the President should identify or otherwise address in his proposal to Congress. Finally, this section requires the President to work with State and local governments, individuals, and organizations outside the Federal government that are involved in ocean and coastal activities.

Section 5. Biennial report

This section requires the President to transmit a biennial report to Congress (beginning in January of 2001) that includes a detailed listing of all existing Federal programs related to ocean and coastal activities, a description of each program, the current funding for the program, linkages to other Federal programs, and a projection of the funding level for the program for each of the next five fiscal years beginning after the report is submitted.

Section 6. Definitions

This section of the reported bill defines the terms used throughout the bill. The term "coastal state" means states bordering on the Atlantic, Pacific, or Arctic Oceans, the Gulf of Mexico, or one or more Great Lakes. The term "marine environment" means the oceans, including coastal and offshore waters, the continental shelf, and the Great Lakes. The term "ocean and coastal resource" means significant historical and cultural resources in addition to living and non-living natural resources found within the marine environment. Finally, the term "Commission" means the Commission on Ocean Policy established by this bill.

Section 7. Effective date

This section of the reported bill delays the effective date of the Act until December 31, 2000. This provision is intended to enable the current Administration to complete its interagency ocean initiative under the Presidential Task Force established in August of 1999 before the end of the current term, and allow the incoming Administration time to evaluate the Commission nominees and make appointments.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.