

COASTAL COMMUNITY CONSERVATION ACT OF 1999

NOVEMBER 18, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 2669]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2669) to reauthorize the Coastal Zone Management Act of 1972, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Coastal Community Conservation Act of 1999”.

SEC. 2. AMENDMENT OF COASTAL ZONE MANAGEMENT ACT OF 1972.

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 Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

TITLE I—REAUTHORIZATION AND AMENDMENT OF COASTAL ZONE MANAGEMENT ACT OF 1972, GENERALLY

SEC. 101. PROGRAM DEVELOPMENT GRANTS.

Section 305(a) (16 U.S.C. 1454(a)) is amended—

(1) by striking “1997, 1998, and 1999” and inserting “2000, 2001, 2002, and 2003”; and

(2) by adding at the end the following: “No grant may be made under this section after September 30, 2003.”.

SEC. 102. COASTAL COMMUNITY CONSERVATION GRANTS.

(a) IN GENERAL.—Section 306A (16 U.S.C. 1455a) is amended by striking so much as precedes subsection (b) and inserting the following:

“COASTAL COMMUNITY CONSERVATION GRANTS

“SEC. 306A. (a)(1) The Secretary may make grants to any coastal State for the purpose of assisting local communities to carry out eligible coastal community conservation projects.

“(2) Grants under this section shall be allocated to coastal States in the same manner in which grants under section 306 are allocated under subsection (c) of that section.

“(3) A project shall be an eligible coastal community conservation project under this section if it—

“(A) is submitted to the Secretary by the State agency designated by the Governor pursuant to section 306(d)(6);

“(B) would be carried out in the coastal zone;

“(C) would achieve at least one of the coastal zone management objectives specified in section 303(2);

“(D) would achieve at least one of the objectives listed in subsection (b); and

“(E) is designed and carried out in conjunction with a qualified local entity.”.

(b) OBJECTIVES.—Section 306A(b) (16 U.S.C. 1455a(b)) is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

“(b) The objectives referred to in subsection (a)(3)(D) are the following:”;

(2) in paragraph (2) by inserting “or historic” after “urban”; and

(3) by striking paragraph (4) and inserting the following:

“(4) The preservation, restoration, enhancement, or creation of coastal habitats.

“(5) The preparation of plans that promote coastal community revitalization and the goal stated in section 303(1).

“(6) The provision of access to public beaches, other coastal areas, and coastal waters for individuals with disabilities.

“(7) The inventorying of existing points of public access to public beaches, other coastal areas, and coastal waters, and the posting, publication, and dissemination of informational material identifying and displaying those points.”.

(c) USE.—Section 306A(c)(2) (16 U.S.C. 1455a(c)(2)) is amended by striking “and” after the semicolon at the end of subparagraph (D), striking the period at the end of subparagraph (E) and inserting a semicolon, and adding at the end the following:

“(F) purchase and distribution of cultch material; and

“(G) work, resources, or technical support necessary to restore, enhance, or create coastal habitat or to prepare plans that promote coastal community revitalization and the goal stated in section 303(1).”.

(d) MISCELLANEOUS PROVISIONS.—Section 306A (16 U.S.C. 1455a) is amended by striking subsections (d), (e), and (f) and inserting the following:

“(d)(1) As a condition of providing a grant under this section to a coastal State, the Secretary shall require the coastal State to provide matching funds according to the ratio of Federal-to-State contributions that applies under section 306(a).

“(2) If the Secretary finds that a State or qualified local entity is not undertaking the actions it committed to under the terms of a grant under this section, the Secretary shall suspend the State or qualified local entity’s eligibility for further funding under this section for at least 1 year.

“(e)(1) With the approval of the Secretary, a coastal State may allocate to any qualified local entity amounts received by the State as a grant under this section.

“(2) A coastal State shall ensure that amounts allocated by the State under paragraph (1) are used by the qualified local entity in furtherance of the State’s approved management program.

“(f) The Secretary shall assist eligible coastal States and qualified local entities in those States in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (b).

“(g) For purposes of this section:

“(1) The term ‘qualified local entity’ means—

“(A) any local government;

“(B) any areawide agency referred to in section 204(a)(1) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334(a)(1));

“(C) any regional agency;

“(D) any interstate agency; and

“(E) any reserve established under section 315.

“(2) The term ‘eligible coastal State’ means a coastal State that for any fiscal year for which a grant is applied for under this section—

“(A) has a management program approved under section 306; and

“(B) is considered by the Secretary to be making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 302(2).

“(3) The term ‘urban or historic waterfront and port’ means any developed area that is densely populated or historically significant and is being used for, or has been used for, urban residential, recreational, commercial, shipping, or industrial purposes.”.

(e) CONFORMING AMENDMENT.—Section 303(2) (16 U.S.C. 1452(2)) is amended in the matter preceding subparagraph (A) by striking “the states” in the first line and inserting “State and local entities”.

SEC. 103. COASTAL ZONE MANAGEMENT FUND.

(a) IN GENERAL.—Section 308 (16 U.S.C. 1456a) is amended—

(1) in subsection (a) by striking paragraph (2) and inserting the following:

“(2) Loan repayments made pursuant to this subsection—

“(A) shall be retained by the Secretary and deposited into the Coastal Zone Management Fund established under subsection (b); and

“(B) subject to amounts provided in appropriation Acts, shall be available to the Secretary for purposes of this title and transferred to the Operations, Research and Facilities account to offset the costs of implementing this title.”; and

(2) in subsection (b)—

(A) by striking paragraphs (2) and (3); and

(B) by striking “(b)(1)” and inserting “(b)”.

(b) CONFORMING AMENDMENT.—Section 2(b)(2) of the Coastal Zone Protection Act of 1996 (Public Law 104–150; 110 Stat. 1380) is repealed.

SEC. 104. AMENDMENTS RELATING TO COASTAL ZONE ENHANCEMENT GRANTS.

Section 309 (16 U.S.C. 1456b) is amended—

(1) in subsection (a) by adding at the end the following:

“(10) The development of a coordinated process among State agencies to regulate and issue permits for aquaculture facilities in the coastal zone.

“(11) Addressing any issue that is identified by a coastal State, in consultation with the Secretary and relevant qualified local entities (as that term is defined in section 306A), to be a significant emerging coastal issue.”; and

(2) by striking subsections (c) through (g) and inserting the following:

“(c) As a condition of providing a grant under this section to a coastal State, the Secretary shall require the State to provide matching funds according to a 1-to-1 ratio of Federal-to-State contributions.

“(d) Grants under this section shall be allocated to coastal States in the same manner in which grants under section 306 are allocated under subsection (c) of that section.

“(e) If the Secretary finds that a coastal State is not taking actions committed to by the State under the terms of a grant to the State under this section, the Secretary shall suspend the eligibility of the State for further funding under this section for at least one year.”.

SEC. 105. AMENDMENTS RELATING TO WALTER B. JONES AWARDS FOR EXCELLENCE IN COASTAL ZONE MANAGEMENT.

Section 314 (16 U.S.C. 1460) is amended—

(1) by amending subsection (a) to read as follows:

“(a)(1) The Secretary may implement a program to promote excellence in coastal zone management by identifying and making awards acknowledging outstanding accomplishments in the field of coastal zone management. An award under this section shall be known as a ‘Walter B. Jones Award’.

“(2) Awards under this section may include, subject to the availability of appropriations—

“(A) cash awards of not more than \$5,000 each;

“(B) research grants; and

“(C) public ceremonies to acknowledge accomplishments in the field of coastal zone management.”;

(2) in subsection (b) in the matter preceding paragraph (1), by striking “shall elect annually” and inserting “may select annually for an award under this section”; and

(3) by repealing subsection (e).

SEC. 106. REPORTS.

Section 316 (16 U.S.C. 1462) is amended—

(1) by striking “to the President for transmittal”; and

(2) by striking clause (10) and redesignating clauses (11), (12), and (13) in order as clauses (10), (11), and (12).

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 318(a) (16 U.S.C. 1464(a)) is amended by striking “SEC. 318” and all that follows through subsection (a) and inserting the following:

“SEC. 318. (a) There are authorized to be appropriated to the Secretary, to remain available until expended—

“(1) for grants under section 305—

“(A) \$400,000 for fiscal year 2000; and

“(B) \$200,000 for each of fiscal years 2001, 2002, and 2003;

“(2) for grants under sections 306 and 309—

“(A) \$55,000,000 for fiscal year 2000;

“(B) \$56,000,000 for fiscal year 2001;

“(C) \$57,000,000 for fiscal year 2002;

“(D) \$58,000,000 for fiscal year 2003; and

“(E) \$59,000,000 for fiscal year 2004;

“(3) for grants under section 306A—

“(A) \$30,000,000 for fiscal year 2000;

“(B) \$32,500,000 for fiscal year 2001;

“(C) \$35,000,000 for fiscal year 2002;

“(D) \$40,000,000 for fiscal year 2003; and

“(E) \$45,000,000 for fiscal year 2004; and

“(4) for expenses incidental to the administration of this title and for awards under section 314, \$6,500,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004.”

(b) REVERSION OF GRANTS; PURCHASES FROM GOVERNMENT.—Section 318 (16 U.S.C. 1464) is amended by striking subsection (c) and inserting the following:

“(c) The amount of any grant, or portion of a grant, made to a State under any section of this title that is not obligated by the State within 3 years after the date it is first authorized to be obligated by the State shall revert to the Secretary. The Secretary shall add such reverted amount to the funds available for grants to States under this title.

“(d) Federal funds allocated under this title may be used by grantees to purchase Federal products and services not otherwise available.

“(e) Of the amounts appropriated under subsection (a)(2), no less than 10 percent and no more than 15 percent may be used to carry out section 309.”

(c) GRANTS FOR FACILITATING ACCESS.—Section 318 (16 U.S.C. 1464) is further amended by adding at the end the following:

“(f) In addition to amounts otherwise authorized by this title, there are authorized to be appropriated to the Secretary \$1,000,000 for each of fiscal years 2000, 2001, 2002, and 2003 for grants under section 306A for eligible coastal community conservation projects that would achieve either (or both) of the objectives set forth in paragraphs (6) and (7) of section 306A(b).”

(d) RESTRICTION ON USE OF AMOUNTS FOR PROGRAM, ADMINISTRATIVE, OR OVERHEAD COSTS.—Section 318 (16 U.S.C. 1464) is further amended by adding at the end the following:

“(g) Except for funds appropriated under paragraph (4) of subsection (a), amounts appropriated under this section shall be available only for grants to States and shall not be available for other program, administrative, or overhead costs of the National Oceanic and Atmospheric Administration or the Department of Commerce.”

(e) BARNEGAT BAY TASK FORCE.—Section 318 (16 U.S.C. 1464) is further amended by adding at the end the following:

“(h) In addition to the amounts otherwise authorized by this title, there are authorized to be appropriated to the Secretary \$500,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004 to provide financial assistance to the Barnegat Bay Personal Watercraft Task Force.”

SEC. 108. TECHNICAL CORRECTIONS.

The Coastal Zone Management Act of 1972 is amended—

- (1) in section 302(f) (16 U.S.C. 1451(f)) by striking the semicolon at the end and inserting a period;
- (2) in section 303(2) (16 U.S.C. 1452(2))—
 - (A) in subparagraph (B) by striking the period at the end and inserting a comma; and
 - (B) in subparagraph (J) by striking “agencies and State and wildlife” and inserting “and wildlife management”;
- (3) in section 304(5) (16 U.S.C. 1453(5)) by striking the semicolon and inserting a colon;
- (4) in section 306(d)(10)(A) (16 U.S.C. 1455(d)(10)(A)) by inserting a comma after “development”;
- (5) by striking “coastal state” each place it appears and inserting “coastal State”;
- (6) by striking “coastal states” each place it appears and inserting “coastal States”;
- (7) by striking “coastal state’s” each place it appears and inserting “coastal State’s”;
- (8) by striking the term “state” each place it appears in reference to a State of the United States (other than in the term “coastal state”) and inserting “State”;
- (9) by striking the term “states” each place it appears in reference to States of the United States (other than in the term “coastal states”) and inserting “States”;
- (10) by striking the term “state’s” each place it appears in reference to a State of the United States (other than in the term “coastal state’s”) and inserting “State’s”.

SEC. 109. COASTAL ZONE MANAGEMENT OUTCOME INDICATORS.

(a) **REPORT.**—Not later than 24 months after the first date amounts are available to carry out this section, the Secretary of Commerce shall submit a report to the Committee on Resources of the House of Representatives that contains recommendations for a common set of measurable outcome indicators that would provide a mechanism to evaluate the effectiveness of State coastal zone management programs in the achievement of the coastal management objectives specified in section 303(2)(A) through (J) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(2)(A)–(J)). In preparing the report the Secretary shall consult with and provide a copy of the draft report to the Governors of coastal States or the heads of State agencies designated by such Governors pursuant to section 306(d)(6) of that Act (16 U.S.C. 1455(d)(6)). The Secretary shall include in the final report any State comments on the draft report.

(b) **DRAFT LEGISLATION.**—Not later than 48 months after the first date amounts are available to carry out this section, the Secretary of Commerce shall submit to the Committee on Resources of the House of Representatives draft legislation that would authorize a national coastal zone management outcome monitoring and performance evaluation system.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section there are authorized to be appropriated to the Secretary of Commerce \$1,000,000 for each of fiscal years 2000 and 2001.

SEC. 110. PERSONAL WATERCRAFT STUDY.

(a) **GRANTS TO STUDY PERSONAL WATERCRAFT IMPACTS ON COASTAL HABITAT.**—Subject to the availability of appropriations, the Secretary shall award grants to support peer-reviewed research to study the impacts of personal watercraft and other motorized recreational vessels on coastal and marine habitats within the boundaries of the coastal zone of any State (as identified in the management program of the State pursuant to section 306(d)(2)(A) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(d)(2)(A))). The Secretary shall consider geographic and habitat diversity when selecting research projects. The Secretary shall require that each study funded under this section consider the impacts of personal watercraft and other motorized recreational vessels, including noise and uncombusted fuel, on the following:

- (1) Wildlife, including feeding, wading, nesting, or roosting birds, marine mammals, reptiles, amphibians, fish, and aquatic invertebrates.
- (2) Aquatic vegetation.
- (3) Suspended sediments.
- (4) Shoreline erosion.

(b) **REPORT.**—Not later than 48 months after the date of enactment of this Act, the Secretary shall submit a final report to the Committee on Resources of the House of Representatives that contains—

- (1) summaries of the research funded under this subsection; and
- (2) summaries of public comments received subsequent to publication of a draft report in the Federal Register.
- (c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$2,000,000 for each of fiscal years 2000, 2001, and 2002 for grants under this section. The Secretary may use up to 10 percent of the funds appropriated to administer this section.
- (d) DEFINITIONS.—In this section:
 - (1) OTHER MOTORIZED RECREATIONAL VESSEL.—The term “other motorized recreational vessel” means a motor vessel that is a recreational vessels (as those terms are defined in section 2101 of title 46, United States Code), and that—
 - (A) uses an inboard motor powering a water jet pump or caged propeller as its primary source of power; and
 - (B) is designed to be operated by a person sitting within the vessel.
 - (2) PERSONAL WATERCRAFT.—The term “personal watercraft” means a motor vessel that—
 - (A) uses an inboard motor powering a water jet pump or a caged propeller as its primary source of motive power; and
 - (B) is designed to be operated by a person standing on, kneeling on, or sitting astride the vessel.
 - (3) SECRETARY.—The term “Secretary” means the Secretary of Commerce.

SEC. 111. PROTECTION OF PRIVATE PROPERTY.

The Coastal Zone Management Act of 1972 is amended by adding at the end the following:

“SEC. 320. PROTECTION OF PRIVATE PROPERTY.

“The Secretary—

- “(1) shall not require a State, as a condition of any grant of funds under this title or the approval of a State plan under section 306, to take any action that would constitute a use of non-Federal property for a public purpose without payment of just compensation; and
- “(2) shall not under this title take private property for public use without payment of just compensation.”.

TITLE II—AMENDMENTS RELATING TO NATIONAL ESTUARINE RESERVES

SEC. 201. POLICIES AND PURPOSES.

(a) DECLARATION OF POLICY.—Section 303 (16 U.S.C. 1452) is amended by striking “and” after the semicolon in paragraph (5), by striking the period at the end of paragraph (6) and inserting a semicolon, and by adding at the end the following:

- “(7) to use Federal, State, and community partnerships developed through the system established by section 315 to improve the understanding, stewardship, and management of coastal areas; and
- “(8) to encourage the development, application, and transfer to local, State, and Federal resources managers of innovative coastal and estuarine resources management technologies and techniques that promote the long-term conservation of coastal and estuarine resources.”.

(b) PURPOSE.—

(1) IN GENERAL.—Section 315(a) of such Act (16 U.S.C. 1461(a)) is amended by adding at the end the following: “The purpose of each national estuarine reserve and of the System is to improve the understanding, stewardship, and management of coastal areas.”.

(2) DEFINITION.—Section 304(8) of such Act (16 U.S.C. 1453(8)) is amended to read as follows:

“(8) The term ‘national estuarine reserve’ means an area that is a national estuarine reserve under section 315.”.

SEC. 202. AREAS THAT MAY BE DESIGNATED.

Section 315(b) of such Act (16 U.S.C. 1461(b)) is amended by adding at the end the following:

“An area designated under this section may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, that constitutes, to the extent feasible, a natural unit.”.

SEC. 203. DONATIONS.

Section 315(e) of such Act (16 U.S.C. 1461(e)) is amended by adding at the end the following:

“(4)(A) The Secretary may—

“(i) enter into cooperative agreements or contracts, with, or make grants to, any nonprofit organization established to benefit a national estuarine reserve, authorizing the organization to solicit donations to carry out projects, other than general administration of the reserve or the System, that are consistent with the purpose of the reserve and the System; and

“(ii) accept donations of funds and services for use in carrying out projects, other than general administration of a national estuarine reserve or the System, that are consistent with the purpose of the reserve and the System.

“(B) Donations accepted under this paragraph shall be considered as a gift or bequest to or for the use of the United States for carrying out this section.”.

SEC. 204. EVALUATIONS.

Section 315(f)(1) of such Act (16 U.S.C. 1461(f)(1)) is amended by inserting “coordination with State programs established under section 306,” after “including”.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

Section 318(a) of such Act (16 U.S.C. 1464(a)) is further amended by striking “and” after the semicolon at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

“(5) for grants under section 315—

“(A) \$7,000,000 for fiscal year 2000;

“(B) \$8,000,000 for fiscal year 2001;

“(C) \$9,000,000 for fiscal year 2002;

“(D) \$10,000,000 for fiscal year 2003; and

“(E) \$11,000,000 for fiscal year 2004; and

“(6) for grants for construction projects at national estuarine reserves designated under section 315, \$12,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004.”.

PURPOSE OF THE BILL

The purpose of H.R. 2669 is to reauthorize the Coastal Zone Management Act of 1972, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Congress enacted the Coastal Zone Management Act (CZMA) in 1972 to establish a federal-state partnership for managing the coastal areas of U.S. states and territories. Under the CZMA, the Secretary of Commerce provides grants to coastal states to develop and implement federally-approved coastal zone management programs. The term “coastal state” is defined as a “state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes”, including Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territories of the Pacific Islands and American Samoa. Only these coastal states and territories are eligible for assistance under the CZMA. The CZMA gives coastal states with approved coastal zone management programs the right to review certain federal actions to ensure that these actions are consistent with state coastal zone management programs. To date, 33 of the 35 eligible coastal states have federally-approved programs, and two more are completing their proposed programs. The CZMA is administered by the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce. The authorization of appropriations for the CZMA expired on September 30, 1999.

The CZMA requires that state management programs include the following: (1) the boundaries of the coastal zone affected by the program; (2) an inventory and designation of areas of particular concern in the coastal zone; (3) a definition of permitted land and water uses that directly impact coastal waters; (4) an identification of how those uses will be controlled; (5) an outline of broad guidelines to determine priority of uses in coastal areas; (6) a description of the administrative structure that will operate the approved management program; (7) a definition of "beach" and a planning process for dealing with access to public coastal areas; (8) a planning process for energy facilities likely to be located in or significantly affect the coastal zone; and (9) a planning process for studying both the effects and alternatives for controlling coastal erosion.

Several sections of the CZMA authorize grant programs, including Sections 306, 306A and 309. Section 306 grants are known as administrative grants. Section 306 grants are used by the states to fund the administrative activities of their coastal zone management programs, including hiring personnel. Coastal states are required to provide a one-to-one match for 306 funds. States making satisfactory progress implementing their plans are also eligible for Section 306A resource management improvement grants. H.R. 2669 expands the 306A grants and renames the resource management improvement grants coastal community conservation grants. These grants assist states with on-the-ground projects within the coastal zone, including preserving or restoring coastal habitat, redeveloping urban waterfronts and ports, and providing access to public beaches and coastal waters. Section 306A grants must be matched by the state on a one-to-one basis. Under the new Section 306A coastal community conservation grants, states must find a qualified local sponsor for projects. This increased emphasis on community involvement is designed to increase local participation in and support for the coastal zone management program. Local sponsorship of 306A projects may be expressed in several forms to meet the goals and objectives of the CZMA, depending on what is appropriate for the particular project being considered. Local sponsorship may take the form of financial or in-kind contributions, or may be expressed as a resolution of support for a particular project from a local government with jurisdiction over the coastal area that is being considered for the project.

Finally, participating coastal states may compete for coastal zone enhancement grants under Section 309. These grants can be used to strengthen the state programs in emerging areas of concern, such as wetland protection and restoration, increased public access to coastal areas, control of development impacts and protection from coastal hazards. Under current law, no matching funds are required for these grants. H.R. 2669 would retain the Section 309 grant program, but requires the states to provide a one-to-one match, consistent with the other grant programs under the CZMA.

State grants under Sections 306, 306A and 309 were funded at a total \$54.7 million in Fiscal Year 1999. Of that amount, \$10 million was used for Section 309 grants. Each coastal state with an approved plan received federal coastal zone management grants totaling between \$635,000 and \$2.795 million in Fiscal Year 1999. The total amount of grants that each state is eligible for is deter-

mined by the state's coastal population and shoreline mileage, except that since 1993, Congress (in annual appropriations laws) has placed a cap on the maximum amount that may be given to any one state. H.R. 2669 reauthorizes the 306, 306A and 309 grant programs for five years.

Accountability and the lack of demonstrated progress within the federal and state coastal zone management programs is a concern of the Committee. In December 1997, the Department of Commerce Inspector General concluded that "only anecdotal evidence" can be cited "to demonstrate the accomplishments of the CZM program" and that "states have been unable to measure or evaluate 'on the ground' outcomes of the CZM program because the data necessary to make these decisions has not been collected." The Inspector General recommended that NOAA "develop a strategy to measure the effectiveness of the CZM program."

In response, NOAA commissioned a study to investigate the effectiveness of the coastal zone management program. The researchers concluded that state coastal zone management programs were effective in implementing a limited number of CZMA objectives they reviewed. However, they reached this conclusion based primarily on assessments of policies, processes and tools rather than actual outcome data. The researchers state "there are insufficient data for systematic, outcome based performance evaluation of state CZM programs, largely because of the lack of a common set of outcome indicators that would link state management activities and decisions to national CZMA objectives." The lead author of the study testified at a February 25, 1999, hearing recommending the development of such indicators and that Congress "initiate a national outcome monitoring and performance system" for the CZMA program. H.R. 2669 requires NOAA to submit a report to Congress that includes recommendations for a set of measurable performance and outcome indicators for state coastal zone management programs, and to submit draft legislation that would establish a coastal zone management outcome monitoring and performance evaluation system. The Committee expects that these outcome indicators will be quantitative, to the extent practicable, and allow the Secretary of Commerce to document the public benefits of the CZMA.

The CZMA also authorizes the National Estuarine Reserve System (NERS). The System is a partnership between coastal states and NOAA. NOAA establishes standards for designating and operating reserves, supports the operation of each reserve, undertakes projects that benefit the entire Reserve System and integrates information from individual reserves to support decision-making at the national level. The states are charged with the day-to-day management of the reserves. Under the CZMA, the Secretary of Commerce can make grants, not to exceed 50 percent of the cost of the project, which enable coastal states to acquire, develop, and operate estuarine reserves. Designation of an estuarine reserve requires state agreement for the long-term management of the site for research useful to coastal zone managers. Since the NERS program began in 1972, it has grown from a single 4,400-acre site in Oregon to a 25-site system managing over one million acres in 19 states and Puerto Rico. Table 1 lists the active and proposed NERS sites. More than half the System is made up of two reserves: Apalachi-

cola in Florida and Kachemak Bay in Alaska. Most of the land in the system is not owned by the reserve management agencies or NOAA. Instead, the majority of the land included in the reserves is held for conservation purposes by other state or federal agencies. H.R. 2669 would reauthorize appropriations for the NERS program for five years and provide increasing funds for operations and facilities.

COMMITTEE ACTION

H.R. 2669 was introduced on August 2, 1999, by Congressman Jim Saxton (R-NJ). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On February 25, 1999, the Subcommittee held a hearing on the reauthorization of the CZMA, where the witnesses testified in favor of reauthorization of the program and inclusion of nonpoint source pollution provisions within the CZMA.

On August 5, 1999, the Subcommittee met to mark up the bill. Subcommittee Chairman Jim Saxton offered an en bloc amendment to make technical corrections and expand the scope of the personal watercraft study to include other types of vessels. Congressman Wayne Gilchrest (R-MD) offered an amendment to the en bloc amendment that requires the Secretary to reserve a portion of the CZMA Section 306A grants for nonpoint source pollution plan implementation. The Gilchrest amendment was adopted by voice. The Saxton en bloc amendment, as amended, was then passed by voice vote. Congressman Frank Pallone (D-NJ) offered an amendment to allow the Secretary to retain a portion of deobligated grant funds for administrative expenses. The amendment was withdrawn. Congressmen Saxton offered an amendment to require states to enact enforceable policies regarding the operation of personal watercraft in coastal areas. The amendment was withdrawn. Finally, Congressman Richard Pombo (R-CA) offered an amendment to prohibit any restrictions on commercial or private use of private property, or any taking of private land, under the CZMA. The amendment failed on a rollcall vote of 8 to 4, as follows:

106th Congress
 COMMITTEE ON RESOURCES
 Subcommittee on Fisheries Conservation, Wildlife and Oceans

RECORDED VOTES

Date: August 5, 1999 Voice Vote: Passed: _____ Defeated: _____
 Bill Number(s): HR 2669 Division: Yeas: _____ Nays: _____
 Amendment Number: Private Property Rights Roll Call: Yeas: 4 Nays: 8
 Offered by: Mr. Pombo

(Republican in italics; Democrats in Roman)

Members	Roll Call Votes			Members	Roll Call Vote		
	Yea	Nay	Present		Yea	Nay	Present
<i>Mr. Saxton, Chairman</i>		✓		Mr. Faleomavaega			
<i>Mr. Tauzin</i>	✓			Mr. Vento		✓	
<i>Mr. Hansen</i>				Mr. DeFazio		✓	
<i>Mr. Gilchrest</i>		✓		Mr. Abercrombie		✓	
<i>Mr. Pombo</i>	✓			Mr. Ortiz			
<i>Mr. Jones</i>				Mr. Pallone		✓	
<i>Mr. Souder</i>				Mr. Romero-Barceló		✓	
<i>Mr. Hayes</i>	✓			Mr. Kennedy		✓	
<i>Mr. Simpson</i>	✓						
TOTAL	4	2		TOTAL	0	6	

The bill, as amended, was then ordered favorably reported to the Full Committee by voice vote.

On October 6, 1999, the Full Committee on Resources met to consider the bill. Congressman James V. Hansen (R-UT) offered an amendment to strike the nonpoint source pollution provisions added to the bill in Subcommittee that would have allowed the Transportation and Infrastructure Committee to request a sequential referral of the bill. The amendment was adopted by a rollcall vote of 26 to 15, with one member voting present, as follows:

Committee on Resources
U.S. House of Representatives
106th Congress

Full Committee

Date 10-6-99

Roll No. 2

Bill No. H.R. 2669 Short Title "Coastal Community Conservation Act of 1999".

Amendment or matter voted on: Amendment offered by Mr. Pombo

Member	Yea	Nay	Present	Excused	Not Voting	Yea	Nay	Present
Mr. Young (Chairman)	X				Mr. Miller		X	
Mr. Tauzin	X				Mr. Rahall		X	
Mr. Hansen	X				Mr. Vento		X	
Mr. Saxton			X		Mr. Kildee		X	
Mr. Gallegly	X				Mr. DeFazio		X	
Mr. Duncan	X				Mr. Faleomavaega			
Mr. Hefley					Mr. Abercrombie		X	
Mr. Doolittle	X				Mr. Ortiz	X		
Mr. Gilchrest			X		Mr. Pickett	X		
Mr. Calvert	X				Mr. Pallone		X	
Mr. Pombo	X				Mr. Dooley		X	
Mrs. Cubin	X				Mr. Romero-Barcelo			
Mrs. Chenoweth-Hage	X				Mr. Underwood			
Mr. Radanovich	X				Mr. Kennedy		X	
Mr. Jones			X		Mr. Smith		X	
Mr. Thornberry	X				Mr. John		X	
Mr. Cannon					Mrs. Christensen		X	
Mr. Brady	X				Mr. Kind		X	
Mr. Peterson	X				Mr. Inslee		X	
Mr. Hill	X				Mrs. Napolitano		X	
Mr. Schaffer	X				Mr. Tom Udall		X	
Mr. Gibbons	X				Mr. Mark Udall		X	
Mr. Souder	X				Mr. Crowley		X	
Mr. Walden	X				Mr. Holt		X	
Mr. Sherwood			X					
Mr. Hayes	X							
Mr. Simpson	X							
Mr. Tancredo	X				TOTAL	24	23	

Congressman Pombo offered an amendment that prohibited the Secretary of Commerce from: (1) requiring a state, as a condition of a grant under the CZMA or the approval of a state coastal zone management program, to take actions that would constitute a use of non-federal property for a public purpose without just compensation; and (2) taking private property for public use under the CZMA without payment of just compensation. The amendment was adopted by a rollcall vote of 24 to 23, as follows:

Committee on Resources
U.S. House of Representatives
106th Congress

Full Committee

Date 10-6-99

Roll No. 2

Bill No. H.R. 2669 Short Title "Coastal Community Conservation Act of 1999".

Amendment or matter voted on: Amendment offered by Mr. Pombo

Member	Yea	Nay	Present	Member	Yea	Nay	Present
Mr. Young (Chairman)	X			Mr. Miller		X	
Mr. Tauzin	X			Mr. Rahall		X	
Mr. Hansen	X			Mr. Vento		X	
Mr. Saxton		X		Mr. Kildee		X	
Mr. Gallegly	X			Mr. DeFazio		X	
Mr. Duncan	X			Mr. Faleomavaega			
Mr. Hefley				Mr. Abercrombie		X	
Mr. Doolittle	X			Mr. Ortiz	X		
Mr. Gilchrest		X		Mr. Pickett	X		
Mr. Calvert	X			Mr. Pallone		X	
Mr. Pombo	X			Mr. Dooley		X	
Mrs. Cubin	X			Mr. Romero-Barcelo			
Mrs. Chenoweth-Hage	X			Mr. Underwood			
Mr. Radanovich	X			Mr. Kennedy		X	
Mr. Jones		X		Mr. Smith		X	
Mr. Thornberry	X			Mr. John		X	
Mr. Cannon				Mrs. Christensen		X	
Mr. Brady	X			Mr. Kind		X	
Mr. Peterson	X			Mr. Insee		X	
Mr. Hill	X			Mrs. Napolitano		X	
Mr. Schaffer	X			Mr. Tom Udall		X	
Mr. Gibbons	X			Mr. Mark Udall		X	
Mr. Souder	X			Mr. Crowley		X	
Mr. Walden	X			Mr. Holt		X	
Mr. Sherwood		X					
Mr. Hayes	X						
Mr. Simpson	X						
Mr. Tancredo	X			TOTAL	24	23	

The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title of H.R. 2669 is the Coastal Community Conservation Act of 1999.

Section 2. Amendment of Coastal Zone Management Act of 1972

Except as otherwise provided, all references to an amendment or repeal in H.R. 2669 refer to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

TITLE I—REAUTHORIZATION AND AMENDMENT OF THE COASTAL ZONE MANAGEMENT ACT OF 1972, GENERALLY

Section 101. Program development grants

Program development grants under Section 305 of the CZMA assist states to develop coastal zone management programs. The authority for Section 305 grants expired on October 1, 1999. Section 101 amends Section 305 to extend program development grants through Fiscal Year 2003 to allow the last two remaining eligible states, Indiana and Illinois, to develop their programs. After 2003, federal funds will not be available for program development.

Section 102. Coastal community conservation grants

Section 102 replaces an existing grant program, the resource management improvement grant program (CZMA Section 306A grants), with a new coastal community conservation grant program. The new grant program promotes greater community involvement in coastal management by requiring local community sponsors for projects funded under the grants. Under this program, the Secretary of Commerce is authorized to make grants to coastal states for the purpose of assisting local communities carry out eligible conservation projects. Funds appropriated under this section must be allocated to the states according to the same formula used to allocate administrative grants under Section 306 of the CZMA. States are required to provide one-to-one matching for all federal dollars allocated under this section. The Secretary can suspend a state's eligibility for up to one year if that state does not fulfill the obligations of a grant made under this section.

To be an eligible coastal community project, the project must be submitted by the state coastal zone management program, be carried out in the coastal zone, achieve at least one of the existing objectives established in Section 303(2) of the CZMA (the Congressional declaration of policy), achieve at least one of the objectives of the grant program established in Section 306A(b), and be designed and carried out with a qualified local entity. "Qualified local entity" is a defined term, and means any local government, area wide planning agency described in the Demonstration Cities and Metropolitan Development Act of 1966, regional agency, interstate agency or National Estuarine Reserve.

Section 102 requires that coastal community conservation projects funded under this grant program meet one or more objectives specified in Section 306A(b). The new grant program incorporates the objectives of the old Section 306A resource management improvement grant program. In addition, several new objectives are added to the list. These include: the redevelopment of historic waterfronts and ports; the preservation, restoration, enhancement or creation of coastal habitats; the preparation of plans that promote coastal community revitalization; the provision of access to public beaches and coastal areas for persons with disabilities; and the inventorying of existing points of public access to coastal areas. These new objectives will allow the states greater flexibility in implementing their coastal zone management programs, expand the scope of coastal community involvement in the program, and improve the success of on-the-ground projects that get funded under the CZMA.

A provision allowing states to use Section 306A funds for the development of coordinated processes among state agencies for the regulation and permitting of aquaculture is removed from the objectives list because the new grant program requires a local partner for all Section 306A projects. Local governments are not involved in coordinating permits among state agencies. A similar aquaculture coordination provision is added as an objective of the program enhancement grants established under Section 309 of the CZMA in Section 104 of H.R. 2669.

In addition to meeting the stated objectives of this section, grants made under the coastal community conservation grant program must be used for the specific purposes which are enumerated in Section 306A(c). Section 102 adds two new uses of the coastal community conservation grants. The first new use is the purchase and distribution of cultch material for oyster beds to promote shellfish production. The second new use allows states to use the grants to cover the cost of work needed to restore, enhance or create coastal habitat or to prepare plans that promote coastal community revitalization and that lead to construction of projects that are eligible funding under the coastal community grant program. This allows Section 306A money to be used to design projects that will be carried with future grants under this section.

Section 103. Coastal zone management fund

Section 103 requires that loan repayments under the coastal zone management fund established under Section 308 of the CZMA be used to offset federal administrative costs for this title. The coastal zone management fund receives loan repayments from the defunct Coastal Energy Impact Assistance Loan Program. Current law allows the fund to be used for program administration and other expenses. The balance of the fund is declining, and the fund is expected to receive its last payment within four years. Recent language in Department of Commerce appropriations laws has limited the use of these funds for program administration. Funds generated under this section will now be transferred directly to NOAA's Operations, Research and Facilities account to offset the expenses of carrying out the CZMA program.

Section 104. Amendments relating to coastal zone enhancement grants

Section 104 amends the grant program established under Section 309 of the CZMA. This program is known as the coastal zone enhancement grant program. The coastal zone enhancement grant program allows states to revise, update and improve their coastal zone management programs to address emerging new coastal issues. Under existing law, states are not required to match federal grant dollars. Section 104 requires the states to provide one-to-one matching funds for these grants, which is consistent with other grant programs established under the CZMA. Section 104 adds several new areas under which states may make enhancements to their programs, including the coordination of aquaculture permitting among state agencies and the ability to address significant emerging coastal issues that are of concern both nationally and locally. The “significant, emerging coastal issues” provision is intended to give the states the incentive to revise their plans to address the concerns of coastal communities within their boundaries. Section 104 requires that the Section 309 grants be allocated to the states under the same formula used to allocate the base program funding under Section 306 of the CZMA. The Secretary may suspend the eligibility of a state for at least one year if the Secretary finds that the state is not taking the actions committed to under the terms of the grant.

Section 105. Amendments relating to Walter B. Jones awards for Excellence in Coastal Zone Management

Section 105 amends the existing Walter B. Jones Excellence in Coastal Zone Management awards program authorized under Section 314 of the CZMA. Under existing law, the Secretary is directed to implement an awards program to promote excellence in coastal zone management. The awards program was funded by receipts in the Coastal Zone Management Fund, which will soon be depleted. This section makes the program permissive instead of mandatory and clarifies that funding for the awards should come out of the funds appropriated for the general administration of the CZMA.

Section 106. Reports

The Secretary of Commerce is required to submit a report every two years describing the administration of the CZMA program. Section 106 makes two changes to the report. First, the Secretary is no longer required to submit the report to the President prior to transmittal to Congress. Instead, the report can be submitted directly to Congress. Second, the requirement to report on the economic, environmental and social consequences of energy development in the coastal zone is removed, because this section was tied to the provision of economic assistance under the Coastal Energy Impact Assistance Fund established under Section 308 of the CZMA. This fund expired in 1988, and was repealed as part of the Coastal Zone Reauthorization Act of 1990. Congress has already received reports documenting the effectiveness of the Coastal Energy Impact Assistance Fund.

Section 107. Authorization of appropriations

Table 2 lists the amounts that are authorized to be appropriated to carry out the purposes, policies and grant programs established under the CZMA. Section 107 contains several additional provisions related to appropriations and grants made under this title. Coastal states are given up to three years to obligate any grant funds received under this title, after which the funds revert to the Secretary for future grants. Section 107 allows states to use grants received under this title to purchase federal services not available elsewhere or from the private sector, such as technical assistance or Geographic Information System support from the Coastal Services Center in South Carolina. Section 107 requires that at least 10 percent but no more than 15 percent of the amounts appropriated to carry out Sections 306 and 309 of the CZMA be used for the coastal zone enhancement program under Section 309. This section also restricts NOAA from using any of the funds appropriated to carry out Sections 306, 306A, or 309 for administrative purposes. H.R. 2669 provides an explicit authorization of appropriations for administrative costs that is sufficient to meet the federal needs of this program. In addition, funding is authorized for the Barnegat Bay Personal Watercraft Task Force.

Section 108. Technical corrections

Section 108 makes several technical corrections to the CZMA, including amending the phrase “coastal state” to appear consistently throughout the CZMA.

Section 109. Coastal zone management outcome indicators

Section 109 requires the Secretary to submit to Congress a proposal for establishing a mechanism to measure the effectiveness of the state coastal zone management programs. Within two years, the Secretary of Commerce must provide Congress with a report containing a common set of measurable outcome indicators to evaluate the effectiveness of coastal zone management programs. The Secretary must provide the Governors of coastal states with a copy of the report and include their comments in the report. Within four years, the Secretary must submit recommendations for a national coastal zone management monitoring and performance evaluation system. This program is intended to improve the CZMA program by determining where the program is most successful and by identifying areas that need to be addressed to fully meet the purposes and policies of the CZMA. This section authorizes appropriations of \$1 million for each of Fiscal Years 2000 and 2001 to develop the performance monitoring system.

Section 110. Personal watercraft study

Section 110 authorizes the Secretary to make grants to support peer-reviewed research to investigate the impacts of personal watercraft and other motorized recreational jet-powered vessels on coastal aquatic habitat. This section authorizes up to \$2 million each year for Fiscal Years 2000, 2001, and 2002 to study the impacts of these vessels on wildlife, fish, other aquatic organisms, aquatic vegetation, water quality and shoreline stability. The Secretary is required to report back to Congress within 48 months on

the results of the research and to summarize public comments based on a draft report published in the Federal Register.

The scope of the study is limited to the impacts of these vessels on marine habitat in the coastal zone, including the effects of noise and pollution. Personal watercraft are defined as “vessels that use an in-board motor that powers a water jet pump or a caged propeller and are designed to be operated by a person standing on, kneeling on, or sitting astride the vessel”. This definition includes personal watercraft that can carry more than a single person. Other motorized recreational vessels are defined as vessels that use an in-board motor powering a water jet pump or caged propeller and are designed to be operated by a person sitting within the vessel. The Secretary has the discretion to determine which projects will be funded and should consider the technical merits of the proposals before making grants. Grants made under this section should result in research that is peer-reviewed and likely to be accepted for publication in widely distributed technical literature.

Section 111. Protection of private property

Section 111 creates a new Section 320 of the CZMA, Protection of Private Property. This provision prohibits the Secretary of Commerce from: (1) Requiring a state, as a condition of a grant under the CZMA or the approval of a state coastal zone management program, to take actions that would constitute a use of non-federal property for a public purpose without just compensation; and (2) taking private property for public use under the CZMA without payment of just compensation.

The intent of Section 111 is to protect private property from federal actions that would result in a taking of the property for a public use without just compensation. Under this section, state and local governments are not prohibited from enacting restrictions on private property, such as local zoning ordinances, but the Secretary cannot require these types of restrictions as a condition of the CZMA grants or program approval. The prohibition also affects grants under the NERS program.

TITLE II—AMENDMENTS RELATING TO NATIONAL
ESTUARINE RESERVES

Section 201. Policies and purposes

Section 201 clarifies the policies of the CZMA as they pertain to the National Estuarine Reserve System (NERS). The term “National Estuarine Reserve” is adopted as the official title for NERS units. Section 201 amends Section 303 of the CZMA to state that it is the policy of the NERS to develop federal, state and community partnerships to improve the understanding, management and stewardship of coastal areas and to encourage the development, application and transfer of innovative coastal management technologies to local, state and federal resource managers. Section 201 also replaces the definition of the term “estuarine sanctuary” with “national estuarine reserve” in Section 304 of the CZMA.

Section 202. Areas that may be designated

Section 202 amends Section 315 of the CZMA to clarify that areas designated as estuarine reserves may include estuaries, islands, transitional lands, and adjoining upland to the extent that this land constitutes a natural ecosystem unit, such as a watershed.

Section 203. Donations

Section 203 amends CZMA Section 315 to authorize the Secretary to enter into cooperative agreements and contracts with, or make grants to, any nonprofit organization established to benefit a National Estuarine Reserve, to the extent that such activities are consistent the purposes of the NERS. The Secretary is also authorized to accept donations to carry out research and education projects at the reserves. This change allows the estuarine reserves to use volunteers and donations, and is consistent with existing law pertaining to National Marine Sanctuaries and National Wildlife Refuges.

Section 204. Evaluations

Under existing law, the Secretary of Commerce is required to periodically evaluate the operations and activities of the NERS. Section 204 amends the CZMA to require the Secretary to include an evaluation of efforts to coordinate reserve activities with state coastal zone management programs established under the CZMA.

Section 205. Authorization of appropriations

Section 205 amends Section 318 of the CZMA to authorize the following appropriations to administer the NERS program: \$7 million in Fiscal Year 2000; \$8 million in Fiscal Year 2001; \$9 million in Fiscal Year 2002; \$10 million in Fiscal Year 2003; and \$11 million in Fiscal Year 2004. This section also authorizes \$12 million for construction at the reserves for each of Fiscal Years 2000 through 2004.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill pre-

pared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, because the bill allows the Secretary of Commerce to accept and spend donations of funds for estuarine reserve projects, enactment of this bill could increase government receipts and direct spending, but “any additional receipts and resulting direct spending would be minimal and largely offsetting.”

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 21, 1999.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2669, the Coastal Community Conservation Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for federal costs), and Shelley Finlayson (for the state and local impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 2669—Coastal Community Conservation Act of 1999

Summary: H.R. 2669 would amend the Coastal Zone Management Act of 1972, which governs federal and state environmental management of coastal areas. The bill would extend the authorization of appropriations for state grants and other coastal zone management (CZM) programs administered by the National Oceanic and Atmospheric Administration (NOAA). H.R. 2669 would authorize appropriations totaling about \$115 million for fiscal year 2000 and \$620 million over the 2000–2004 period. Roughly half of each year’s authorization would be for funding of existing programs that received appropriations of about \$58 million in 1999.

Assuming appropriation of the authorized amounts, CBO estimates that the federal government would spend about \$20 million in fiscal year 2000 and a total of \$450 million over the 2000–2004

period on programs authorized by H.R. 2669. (About \$170 million would be spend after fiscal year 2004.) Enacting the bill could increase governmental receipts and direct spending; therefore, pay-as-you-go procedures would apply. CBO estimates, however, that any additional receipts and resulting direct spending would be minimal and largely offsetting.

H.R. 2669 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs to state governments would be the result of complying with grant conditions.

Estimated cost to the Federal Government; The estimated budgetary impact of H.R. 2669 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal years, in millions of dollars—				
	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION					
Authorization level ¹	115	120	123	128	134
Estimated outlays	20	75	109	120	126

¹ NOAA has not yet received a full-year appropriation for 2000.

Basis of estimate

Spending subject to appropriation

For purposes of this estimate, CBO assumes that H.R. 2669 will be enacted early in fiscal year 2000 and that the entire amounts authorized will be appropriated for for each fiscal year. Outlays are based on historical spending patterns of CZM programs.

Title I would authorized appropriations for CZM programs. The legislation would authorize the appropriation of \$6.5 million annually over the 2000–2004 period to NOAA for the costs of administering CZM grant programs. Annual amounts between \$87 million and \$105 million would be authorized for CZM grants over this period. This title also would authorize appropriations totaling \$8 million through fiscal year 2002 for new studies to be conducted by NOAA or its grantees.

Title II would authorize annual funding for the National Estuarine Research System, which is also administered by NOAA. Specifically, the bill would authorize the appropriation of between \$7 million and \$11 million for each of fiscal years 2000 through 2004 for state grants for acquisition and management of estuarine reserves. For this same period, the bill would authorize \$12 million a year for new state grants for construction projects at these reserves.

Property rights

Section 110 would prohibit NOAA from requiring any state, as a condition of a grant, to take any action that would constitute a use of nonfederal property for public use without payment of just compensation. CBO estimates that this provision would have no significant budgetary impact. We expect that NOAA would likely refrain from knowingly making conditions for grants that would violate the prohibition. If, however, NOAA did make grant condi-

tions that are deemed by a court to cause a state to take property, either the condition would be altered or eliminated or the federal government would compensate the owner—all of which could happen under existing law as well.

This section also would prohibit NOAA from taking private property for public use without payment of just compensation. This provision restates current law and would therefore have no impact on the federal budget.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Title II would authorize NOAA to accept and spend donations of funds from the public for estuarine reserve projects. Such donations are recorded in the budget as governmental receipts, and spending of the gifts would be considered new direct spending. Based on information provided by the agency, CBO estimates that this provision would have a budgetary impact of less than \$500,000 annually.

Intergovernmental and private-sector impact: H.R. 2669 contains no intergovernmental or private-sector mandates as defined in UMRA. Much of the funding authorized by the bill would fund grant programs that require matching funds from participating state governments. States would be able to allocate a portion of the grant funds received under the program to qualified local entities to further their coastal management programs. Any costs to state governments from the requirements of this program would be incurred voluntarily.

Previous CBO estimate: On July 1, 1999, CBO transmitted a cost estimate for H.R. 1243, the National Marine Sanctuaries Enhancement Act of 1999, as ordered reported by the House Committee on Resources on June 9, 1999. These bills would authorize the appropriation of different amounts of money and the cost estimates reflect those differences.

Estimate prepared by: Federal costs: Deborah Reis. Impact on State, local, and tribal governments: Shelley Finlayson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

This bill is not intended to preempt any State, local, or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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 matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

COASTAL ZONE MANAGEMENT ACT OF 1972

TITLE III—MANAGEMENT OF THE COASTAL ZONE

SHORT TITLE

SEC. 301. This title may be cited as the “Coastal Zone Management Act of 1972”.

CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds that—

(a) * * *

* * * * *

(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, exclusive economic zone, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters[;].

* * * * *

(h) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present [state] *State* and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.

(i) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the [states] *States* to exercise their full authority over the lands and waters in the coastal zone by assisting the [states] *States*, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

(j) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet [state] *State* and local needs resulting from new or expanded energy activity in or affecting the coastal zone.

* * * * *

(l) Because global warming may result in a substantial sea level rise with serious adverse effects in the coastal zone, coastal [states] *States* must anticipate and plan for such an occurrence.

(m) Because of their proximity to and reliance upon the ocean and its resources, the coastal [states] *States* have substantial and significant interests in the protection, management, and development of the resources of the exclusive economic zone that can only be served by the active participation of coastal [states] *States* in all Federal programs affecting such resources and, wherever appropriate, by the development of [state] *State* ocean resource plans as part of their federally approved coastal zone management programs.

CONGRESSIONAL DECLARATION OF POLICY

SEC. 303. The Congress finds and declares that it is the national policy—

(1) * * *

(2) to encourage and assist [the states] *State and local entities* to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development, which programs should at least provide for—

(A) * * *

(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas likely to be affected by or vulnerable to sea level rise, land subsidence, and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands[.],

* * * * *

(J) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management [agencies and State and wildlife] *and wildlife management agencies, and*

* * * * *

(4) to encourage the participation and cooperation of the public, [state] *State* and local governments, and interstate and other regional agencies, as well as the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title;

(5) to encourage coordination and cooperation with and among the appropriate Federal, State, and local agencies, and international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States; [and]

(6) to respond to changing circumstances affecting the coastal environment and coastal resource management by encouraging States to consider such issues as ocean uses potentially affecting the coastal zone[.];

(7) *to use Federal, State, and community partnerships developed through the system established by section 315 to improve the understanding, stewardship, and management of coastal areas; and*

(8) *to encourage the development, application, and transfer to local, State, and Federal resources managers of innovative*

coastal and estuarine resources management technologies and techniques that promote the long-term conservation of coastal and estuarine resources.

DEFINITIONS

SEC. 304. For the purposes of this title—

(1) The term “coastal zone” means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal [states] *States*, and includes, islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749), the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 (48 U.S.C. 1681 note), or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705), as applicable. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(2) The term “coastal resource of national significance” means any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal [state] *State* to be of substantial biological or natural storm protective value.

* * * * *

(4) The term “coastal [state] *State*” means a [state] *State* of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa.

(5) The term “coastal energy activity” means any of the following activities if, and to the extent that (A) the conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion, or operation of any equipment or facility; and (B) any technical requirement exists which, in the determination of the Secretary, necessitates that the siting, construction, expansion, or operation of such equipment or facility be carried out in, or in close proximity to, the coastal zone of any coastal [state;] *State*:

- (i) Any outer Continental Shelf energy activity.
- (ii) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas.

(iii) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deepwater port, as defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(10))).

For purposes of this paragraph, the siting, construction, expansion, or operation of any equipment or facility shall be “in close proximity to” the coastal zone of any coastal [state] State if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

* * * * *

[(8) The term “estuarine sanctuary” means a research area which may include any part or all of an estuary and any island, transitional area, and upland in, or adjacent to such estuary, and which constitutes to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.]

(8) The term “national estuarine reserve” means an area that is a national estuarine reserve under section 315.

* * * * *

(11) The term “local government” means any political subdivision of, or any special entity created by, any coastal [state] State which (in whole or part) is located in, or has authority over, such [state’s] State’s coastal zone and which (A) has authority to levy taxes, or to establish and collect user fees, or (B) provides any public facility or public service which is financed in whole or part by taxes or user fees. The term includes but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

(12) The term “management program” includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the [state] State in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

* * * * *

(14) The term “person” means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any [state] State; the Federal Government; any [state] State, regional, or local government; or any entity of any such Federal, [state] State, regional, or local government.

(15) The term “public facilities and public services” means facilities or services which are financed, in whole or in part, by any [state] State or political subdivision thereof, including, but not limited to, highways and secondary roads, parking, mass transit, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care. Such term may also include any other facility or service so financed which the Secretary finds will support increased population.

* * * * *

SUBMITTAL OF STATE PROGRAM FOR APPROVAL

SEC. 305. Any coastal [state] State which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 306.

ADMINISTRATIVE GRANTS

SEC. 306. (a) The Secretary may make grants to any coastal [state] State for the purpose of administering that State's management program, if the State matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

(1) * * *

* * * * *

(10) The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(A) to administer land use and water use regulations to control development, to ensure compliance with the management program, and to resolve conflicts among competing uses; and

* * * * *

(b) The Secretary may make a grant to a coastal [state] State under subsection (a) only if the Secretary finds that the management program of the coastal [state] State meets all applicable requirements of this title and has been approved in accordance with subsection (d).

(c) Grants under this section shall be allocated to coastal [states] States with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Secretary shall establish, after consulting with the coastal [states] States, maximum and minimum grants for any fiscal year to promote equity between coastal [states] States and effective coastal management.

(d) Before approving a management program submitted by a coastal [state] State, the Secretary shall find the following:

(1) * * *

* * * * *

(e) A coastal [state] State may amend or modify a management program which it has submitted and which has been approved by the Secretary under this section, subject to the following conditions:

(1) * * *

(2) Within 30 days after the date the Secretary receives any proposed amendment, the Secretary shall notify the State whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days after the date the Secretary received the proposed amendment. The Secretary may extend this period only

as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If the Secretary does not notify the coastal **[state]** *State* that the Secretary approves or disapproves the amendment within that period, then the amendment shall be conclusively presumed as approved.

(3)(A) Except as provided in subparagraph (B), a coastal **[state]** *State* may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Secretary under this subsection.

* * * * *

[RESOURCE MANAGEMENT IMPROVEMENT GRANTS

[SEC. 306A. (a) For purposes of this section—

[(1) The term “eligible coastal state” means a coastal state that for any fiscal year for which a grant is applied for under this section—

[(A) has a management program approved under section 306; and

[(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2)(A) through (K).

[(2) The term “urban waterfront and port” means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

[(b) The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:]

COASTAL COMMUNITY CONSERVATION GRANTS

SEC. 306A. (a)(1) The Secretary may make grants to any coastal State for the purpose of assisting local communities to carry out eligible coastal community conservation projects.

(2) Grants under this section shall be allocated to coastal States in the same manner in which grants under section 306 are allocated under subsection (c) of that section.

(3) A project shall be an eligible coastal community conservation project under this section if it—

(A) is submitted to the Secretary by the State agency designated by the Governor pursuant to section 306(d)(6);

(B) would be carried out in the coastal zone;

(C) would achieve at least one of the coastal zone management objectives specified in section 303(2);

(D) would achieve at least one of the objectives listed in subsection (b); and

(E) is designed and carried out in conjunction with a qualified local entity.

(b) The objectives referred to in subsection (a)(3)(D) are the following:

(1) The preservation or restoration of specific areas of the [state] State that (A) are designated under the management program procedures required by section 306(d)(9) because of their conservation recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance, or for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reef tracts.

(2) The redevelopment of deteriorating and underutilized urban or historic waterfronts and ports that are designated in the [state's] State's management program pursuant to section 306(d)(2)(C) as areas of particular concern.

(3) The provision of access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 306(d)(2)(G).

[(4) The development of a coordinated process among State agencies to regulate and issue permits for aquaculture facilities in the coastal zone.]

(4) *The preservation, restoration, enhancement, or creation of coastal habitats.*

(5) *The preparation of plans that promote coastal community revitalization and the goal stated in section 303(1).*

(6) *The provision of access to public beaches, other coastal areas, and coastal waters for individuals with disabilities.*

(7) *The inventorying of existing points of public access to public beaches, other coastal areas, and coastal waters, and the posting, publication, and dissemination of informational material identifying and displaying those points.*

(c)(1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

(2) Grants made under this section may be used for—

(A) * * *

* * * * *

(D) engineering designs, specifications, and other appropriate reports; [and]

(E) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section[.];

(F) *purchase and distribution of cultch material; and*

(G) *work, resources, or technical support necessary to restore, enhance, or create coastal habitat or to prepare plans that promote coastal community revitalization and the goal stated in section 303(1).*

(d)(1) The Secretary may make grants to any coastal [state] State for the purpose of carrying out the project or purpose for which such grants are awarded, if the [state] State matches any such grant according to the following ratios of Federal to [state] State contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.

(2) Grants provided under this section may be used to pay a coastal [state's] State's share of costs required under any other

Federal program that is consistent with the purposes of this section.

(3) The total amount of grants made under this section to any eligible coastal [state] *State* for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

(e) With the approval of the Secretary, an eligible coastal [state] *State* may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that [state] *State* of the responsibility for ensuring that any funds so allocated are applied in furtherance of the [state's] *State's* approved management program.

(f) In addition to providing grants under this section, the Secretary shall assist eligible coastal [states] *States* and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section.

COORDINATION AND COOPERATION

SEC. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) The Secretary shall not approve the management program submitted by a [state] *State* pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered.

(c)(1) * * *

(2) Any Federal agency which shall undertake any development project in the coastal zone of a [state] *State* shall insure that the project is, to the maximum extent practicable, consistent with the enforceable policies of approved [state] *State* management programs.

(3)(A) After final approval by the Secretary of a [state's] *State's* management program, any applicant for a required Federal license or permit to conduct an activity, inside or outside the coastal zone, affecting any land or water use or natural resource of the coastal zone of that [state] *State* shall provide in the applicant to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the [state's] *State's* approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the [state] *State* or its designated agency a copy of the certification, with all necessary information and data. Each coastal [state] *State* shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the [state] *State* or its designated agency shall notify the Federal agency concerned that the [state] *State* concurs with or objects to the applicant's certification. If the [state] *State* or its designated agency fails to furnish the required

notification within six months after receipt of its copy of the applicant's certification, the [state's] *State's* concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the [state] *State* or its designated agency has concurred with the applicant's certification or until, by the [state's] *State's* failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the [state] *State*, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

(B) After the management program of any coastal [state] *State* has been approved by the Secretary under section 306, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land or water use or natural resource of the coastal zone of such [state] *State*, attach to such plan a certification that each activity which is described in detail in such plan complies with the enforceable policies of such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such [state] *State* or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until—

(i) such [state] *State* or its designated agency, in accordance with the procedures required to be established by such [state] *State* pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

(ii) concurrence by such [state] *State* with such certification is conclusively presumed as provided for in subparagraph (A), except if such [state] *State* fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such [state] *State* shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such [state] *State* with such certification shall be conclusively presumed; or

(iii) the Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

If a [state] *State* concurs or is conclusively presumed to concur, or if the Secretary makes such a finding, the provisions of subparagraph (A) are not applicable with respect to such person, such [state] *State*, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the

coastal zone of such [state] *State* which is described in detail in the plan to which such concurrence or finding applies. If such [state] *State* objects to such certification and if the Secretary fails to make a finding under clause (iii) with respect to such certification, or if such person fails substantially to comply with such plan as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.

(d) State and local governments submitting applications for Federal assistance under other Federal programs, in or outside of the coastal zone, affecting any land or water use of natural resource of the coastal zone shall indicate the views of the appropriate [state] *State* or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with the enforceable policies of a coastal [state's] *State's* management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

(e) Nothing in this title shall be construed—

(1) to diminish either Federal or [state] *State* jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more [states] *States* or of two or more [states] *States* and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

* * * * *

(f) Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal Government or by any [state] *State* or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

(g) When any [state's] *State's* coastal zone management program, submitted for approval or proposed for modification pursuant to section 306 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

(h) In case of serious disagreement between any Federal agency and a coastal **[state]** *State*—

(1) * * *

* * * * *

COASTAL ZONE MANAGEMENT FUND

SEC. 308. (a)(1) The obligations of any coastal **[state]** *State* or unit of general purpose local government to repay loans made pursuant to this section as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, and any repayment schedule established pursuant to this title as in effect before that date of enactment, are not altered by any provision of this title. Such loans shall be repaid under authority of this subsection and the Secretary may issue regulations governing such repayment. If the Secretary finds that any coastal **[state]** *State* or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such State or unit, take any of the following actions:

- (A) Modify the terms and conditions of such loan.
- (B) Refinance the loan.
- (C) Recommend to the Congress that legislation be enacted to forgive the loan.

[(2) Loan repayments made pursuant to this subsection shall be retained by the Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under subsection (b).]

(2) *Loan repayments made pursuant to this subsection—*

(A) *shall be retained by the Secretary and deposited into the Coastal Zone Management Fund established under subsection (b); and*

(B) *subject to amounts provided in appropriation Acts, shall be available to the Secretary for purposes of this title and transferred to the Operations, Research and Facilities account to offset the costs of implementing this title.*

(b)[(1)] The Secretary shall establish and maintain a fund, to be known as the “Coastal Zone Management Fund” which shall consist of amounts retained and deposited into the Fund under subsection (a) and fees deposited into the Fund under section 307(i)(3).

[(2) Subject to amounts provided in appropriation Acts, amounts in the Fund shall be available to the Secretary for use for the following:

[(A) Expenses incident to the administration of this title, in an amount not to exceed for each of fiscal years 1997, 1998, and 1999 the higher of—

[(i) \$4,000,000; or

[(ii) 8 percent of the total amount appropriated under this title for the fiscal year.

[(B) After use under subparagraph (A)—

[(i) projects to address management issues which are regional in scope, including interstate projects;

[(ii) demonstration projects which have high potential for improving coastal zone management, especially at the local level;

[(iii) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

[(iv) appropriate awards recognizing excellence in coastal zone management as provided in section 314; and

[(v) to provide financial support to coastal states for use for investigating and applying the public trust doctrine to implement State management programs approved under section 306.

[(3) On December 1 of each year, the Secretary shall transmit to the Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund in the preceding fiscal year.]

COASTAL ZONE ENHANCEMENT GRANTS

SEC. 309. (a) For purposes of this section, the term "coastal zone enhancement objective" means any of the following objectives:

(1) * * *

* * * * *

(10) *The development of a coordinated process among State agencies to regulate and issue permits for aquaculture facilities in the coastal zone.*

(11) *Addressing any issue that is identified by a coastal State, in consultation with the Secretary and relevant qualified local entities (as that term is defined in section 306A), to be a significant emerging coastal issue.*

(b)(1) Subject to the limitations and goals established in this section, the Secretary may make grants to coastal [states] States to provide funding for development and submission for Federal approval of program changes that support attainment of one or more coastal zone enhancement objectives.

* * * * *

[(c) The Secretary shall evaluate and rank State proposals for funding under this section, and make funding awards based on those proposals, taking into account the criteria established by the Secretary under subsection (d). The Secretary shall ensure that funding decisions under this section take into consideration the fiscal and technical needs of proposing States and the overall merit of each proposal in terms of benefits to the public.

[(d) Within 12 months following the date of enactment of this section, and consistent with the notice and participation requirements established in section 317, the Secretary shall promulgate regulations concerning coastal zone enhancement grants that establish—

[(1) specific and detailed criteria that must be addressed by a coastal state (including the State's priority needs for improvement as identified by the Secretary after careful consulta-

tion with the State) as part of the State's development and implementation of coastal zone enhancement objectives;

[(2) administrative or procedural rules or requirements as necessary to facilitate the development and implementation of such objectives by coastal states; and

[(3) other funding award criteria as are necessary or appropriate to ensure that evaluations of proposals, and decisions to award funding, under this section are based on objective standards applied fairly and equitably to those proposals.

[(e) A State shall not be required to contribute any portion of the cost of any proposal for which funding is awarded under this section.

[(f) Beginning in fiscal year 1991, not less than 10 percent and not more than 20 percent of the amounts appropriated to implement sections 306 and 306A of this title shall be retained by the Secretary for use in implementing this section, up to a maximum of \$10,000,000 annually.

[(g) If the Secretary finds that the State is not undertaking the actions committed to under the terms of the grant, the Secretary shall suspend the State's eligibility for further funding under this section for at least one year.]

(c) As a condition of providing a grant under this section to a coastal State, the Secretary shall require the State to provide matching funds according to a 1-to-1 ratio of Federal-to-State contributions.

(d) Grants under this section shall be allocated to coastal States in the same manner in which grants under section 306 are allocated under subsection (c) of that section.

(e) If the Secretary finds that a coastal State is not taking actions committed to by the State under the terms of a grant to the State under this section, the Secretary shall suspend the eligibility of the State for further funding under this section for at least one year.

* * * * *

REVIEW OF PERFORMANCE

SEC. 312. (a) The Secretary shall conduct a continuing review of the performance of coastal [states] *States* with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the [state] *State* has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 303(2)(A) and (K), and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

(b) In evaluating a coastal [state's] *State's* performance, the Secretary shall conduct the evaluation in an open and public manner, and provide full opportunity for public participation, including holding public meetings in the State being evaluated and providing opportunities for the submission of written and oral comments by the public. The Secretary shall provide the public with at least 45 days' notice of such public meetings by placing a notice in the Federal Register, by publication of timely notices in newspapers of general circulation within the State being evaluated, and by commu-

nications with persons and organizations known to be interested in the evaluation. Each evaluation shall be prepared in report form and shall include written responses to the written comments received during the evaluation process. The final report of the evaluation shall be completed within 120 days after the last public meeting held in the State being evaluated. Copies of the evaluation shall be immediately provided to all persons and organizations participating in the evaluation process.

(c)(1) The Secretary may suspend payment of any portion of financial assistance extended to any coastal [state] State under this title, and may withdraw any unexpended portion of such assistance, if the Secretary determines that the coastal [state] State is failing to adhere to (A) the management program or a State plan developed to manage a national estuarine reserve established under section 315 of this title, or a portion of the program or plan approved by the Secretary, or (B) the terms of any grant or cooperative agreement funded under this title.

(2) Financial assistance may not be suspended under paragraph (1) unless the Secretary provides the Governor of the coastal [state] State with—

(A) written specifications and a schedule for the actions that should be taken by the State in order that such suspension of financial assistance may be withdrawn; and

(B) written specifications stating how those funds from the suspended financial assistance shall be expended by the coastal [state] State to take the actions referred to in subparagraph (A).

* * * * *

(e) Management program approval and financial assistance may not be withdrawn under subsection (d), unless the Secretary gives the coastal [state] State notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d), the Secretary shall provide the coastal [state] State with written specifications of the actions that should be taken, or not engaged in, by the [state] State in order that such withdrawal may be canceled by the Secretary.

* * * * *

WALTER B. JONES EXCELLENCE IN COASTAL ZONE MANAGEMENT AWARDS

SEC. 314. [(a) The Secretary shall, using sums in the Coastal Zone Management Fund established under section 308 and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315), implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the field.]

(a)(1) *The Secretary may implement a program to promote excellence in coastal zone management by identifying and making awards acknowledging outstanding accomplishments in the field of coastal zone management. An award under this section shall be known as a "Walter B. Jones Award".*

(2) Awards under this section may include, subject to the availability of appropriations—

(A) cash awards of not more than \$5,000 each;

(B) research grants; and

(C) public ceremonies to acknowledge accomplishments in the field of coastal zone management.

(b) The Secretary [shall elect annually] may select annually for an award under this section—

(1) * * *

* * * * *

(c) In making selections under subsection (b)(2) the Secretary shall solicit nominations from the coastal [states] *States*, and shall consult with experts in local government planning and land use.

(d) In making selections under subsection (b)(3) the Secretary shall solicit nominations from coastal [states] *States* and the National Sea Grant College Program.

[(e) Using sums in the Coastal Zone Management Fund established under section 308 and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315), the Secretary shall establish and execute appropriate awards, to be known as the “Walter B. Jones Awards”, including—

[(1) cash awards in an amount not to exceed \$5,000 each;

[(2) research grants; and

[(3) public ceremonies to acknowledge such awards.]]

NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM

SEC. 315. (a) ESTABLISHMENT OF THE SYSTEM.—There is established the National Estuarine Research Reserve System (hereinafter referred to in this section as the “System” that consists of—

(1) each estuarine sanctuary designated under this section as in effect before the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and

(2) each estuarine area designated as a national estuarine reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve. *The purpose of each national estuarine reserve and of the System is to improve the understanding, stewardship, and management of coastal areas.*

(b) DESIGNATION OF NATIONAL ESTUARINE RESERVES.—After the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985, the Secretary may designate an estuarine area as a national estuarine reserve if—

(1) the Government of the coastal [state] *State* in which the area is located nominates the area for that designation; and

(2) the Secretary finds that—

(A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

(B) the law of the coastal [state] *State* provides long-term protection for reserve resources to ensure a stable environment for research;

(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

(D) the coastal [state] *State* in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

An area designated under this section may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, that constitutes, to the extent feasible, a natural unit.

* * * * *

(e) FINANCIAL ASSISTANCE.—(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

(A) to a coastal [state] *State*—

(i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,

(ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or

(iii) for purposes of conducting educational or interpretive activities; and

(B) to any coastal [state] *State* or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c).

(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal [states] *States* to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

* * * * *

(4)(A) *The Secretary may—*

(i) enter into cooperative agreements or contracts, with, or make grants to, any nonprofit organization established to benefit a national estuarine reserve, authorizing the organization to solicit donations to carry out projects, other than general administration of the reserve or the System, that are consistent with the purpose of the reserve and the System; and

(ii) accept donations of funds and services for use in carrying out projects, other than general administration of a national estuarine reserve or the System, that are consistent with the purpose of the reserve and the System.

(B) Donations accepted under this paragraph shall be considered as a gift or bequest to or for the use of the United States for carrying out this section.

(f) EVALUATION OF SYSTEM PERFORMANCE.—(1) The Secretary shall periodically evaluate the operation and management of each

national estuarine reserve, including *coordination with State programs established under section 306*, education and interpretive activities, and the research being conducted within the reserve.

* * * * *

COASTAL ZONE MANAGEMENT REPORT

SEC. 316. (a) The Secretary shall consult with the Congress on a regular basis concerning the administration of this title and shall prepare and submit **to the President for transmittal** to the Congress a report summarizing the administration of this title during each period of two consecutive fiscal years. Each report, which shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to (1) an identification of the **State** State programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the **States** States participating in the provisions of this title and a description of the status of each **State's** State's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal **States** States and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any **State** State programs which have been reviewed and disapproved, and a statement of the reasons for such action; (5) a summary of evaluation findings prepared in accordance with subsection (a) of section 312, and a description of any sanctions imposed under subsections (c) and (d) of section 312; (6) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved **State** State management program; (7) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (8) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, **State** State, and local responsibilities and functions therein; (9) a summary of outstanding problems arising in the administration of this title in order of priority; **[(10) a description of the economic, environmental, and social consequences of energy activity affecting the coastal zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences; (11)] (10) a description and evaluation of applicable interstate and regional planning and coordination mechanisms developed by the coastal **States** States; **[(12)] (11) a summary and evaluation of the research, studies, and training conducted in support of coastal zone management; and **[(13)] (12) such other information as may be appropriate.******

* * * * *

RULES AND REGULATIONS

SEC. 317. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, **State** State agencies, local governments, regional organizations, port au-

thorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

[SEC. 318. (a) There are authorized to be appropriated to the Secretary, to remain available until expended—

[(1) for grants under sections 306, 306A, and 309—

[(A) \$47,600,000 for fiscal year 1997;

[(B) \$49,000,000 for fiscal year 1998; and

[(C) \$50,500,000 for fiscal year 1999; and

[(2) for grants under section 315—

[(A) \$4,400,000 for fiscal year 1997;

[(B) \$4,500,000 for fiscal year 1998; and

[(C) \$4,600,000 for fiscal year 1999.]

SEC. 318. (a) There are authorized to be appropriated to the Secretary, to remain available until expended—

(1) for grants under section 305—

(A) \$400,000 for fiscal year 2000; and

(B) \$200,000 for each of fiscal years 2001, 2002, and 2003;

(2) for grants under sections 306 and 309—

(A) \$55,000,000 for fiscal year 2000;

(B) \$56,000,000 for fiscal year 2001;

(C) \$57,000,000 for fiscal year 2002;

(D) \$58,000,000 for fiscal year 2003; and

(E) \$59,000,000 for fiscal year 2004;

(3) for grants under section 306A—

(A) \$30,000,000 for fiscal year 2000;

(B) \$32,500,000 for fiscal year 2001;

(C) \$35,000,000 for fiscal year 2002;

(D) \$40,000,000 for fiscal year 2003; and

(E) \$45,000,000 for fiscal year 2004;

(4) for expenses incidental to the administration of this title and for awards under section 314, \$6,500,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004;

(5) for grants under section 315—

(A) \$7,000,000 for fiscal year 2000;

(B) \$8,000,000 for fiscal year 2001;

(C) \$9,000,000 for fiscal year 2002;

(D) \$10,000,000 for fiscal year 2003; and

(E) \$11,000,000 for fiscal year 2004; and

(6) for grants for construction projects at national estuarine reserves designated under section 315, \$12,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004.

(b) Federal funds received from other sources shall not be used to pay a coastal [state's] State's share of costs under section 306 or 309.

[(c) The amount of any grant, or portion of a grant, made to a State under any section of this Act which is not obligated by such State during the fiscal year, or during the second fiscal year after the fiscal year, for which it was first authorized to be obligated by such State shall revert to the Secretary. The Secretary shall add

such reverted amount to those funds available for grants under the section for such reverted amount was originally made available.】

(c) The amount of any grant, or portion of a grant, made to a State under any section of this title that is not obligated by the State within 3 years after the date it is first authorized to be obligated by the State shall revert to the Secretary. The Secretary shall add such reverted amount to the funds available for grants to States under this title.

(d) Federal funds allocated under this title may be used by grantees to purchase Federal products and services not otherwise available.

(e) Of the amounts appropriated under subsection (a)(2), no less than 10 percent and no more than 15 percent may be used to carry out section 309.

(f) In addition to amounts otherwise authorized by this title, there are authorized to be appropriated to the Secretary \$1,000,000 for each of fiscal years 2000, 2001, 2002, and 2003 for grants under section 306A for eligible coastal community conservation projects that would achieve either (or both) of the objectives set forth in paragraphs (6) and (7) of section 306A(b).

(g) Except for funds appropriated under paragraph (4) of subsection (a), amounts appropriated under this section shall be available only for grants to States and shall not be available for other program, administrative, or overhead costs of the National Oceanic and Atmospheric Administration or the Department of Commerce.

(h) In addition to the amounts otherwise authorized by this title, there are authorized to be appropriated to the Secretary \$500,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004 to provide financial assistance to the Barnegat Bay Personal Watercraft Task Force.

* * * * *

SEC. 320. PROTECTION OF PRIVATE PROPERTY.

The Secretary—

(1) shall not require a State, as a condition of any grant of funds under this title or the approval of a State plan under section 306, to take any action that would constitute a use of non-Federal property for a public purpose without payment of just compensation; and

(2) shall not under this title take private property for public use without payment of just compensation.

SECTION 2 OF THE COASTAL ZONE PROTECTION ACT OF 1996

SEC. 2. FINANCIAL ASSISTANCE FOR DEVELOPMENT OF STATE COASTAL PROGRAMS.

(a) * * *

(b) TERMINATION OF PROGRAM.—

(1) * * *

【(2) CONFORMING AMENDMENTS.—Section 308(b)(2)(B) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1457(b)(2)(B)) is amended—

【(A) in clause (iv) by adding “and” after the semicolon;

[(B) by striking clause (v); and
[(C) by redesignating clause (vi) as clause (v).]

* * * * *

DISSENTING VIEWS

As ordered reported by the subcommittee on Fisheries Conservation, Wildlife, and Oceans on August 5, 1999, H.R. 2669 provided a straightforward reauthorization of the Coastal Zone Management Act (CZMA). The CZMA is popular with States and—until this year—was noncontroversial in Congress; as recently as 1996, the House voted unanimously to reauthorize the program. Democrats on the Committee on Resources have consistently stated our commitment to pass a clean reauthorization bill this Congress. This position was reiterated in correspondence sent to Chairman Young dated July 26 and September 21 (attached).

During the October 6 Committee on Resources mark-up of the bill, Majority Members offered and prevailed on two amendments—one deleting authorizing language for States to begin implementation of their coastal nonpoint pollution control programs, and a second attaching a sweeping property rights provision that would require payment of compensation for any use of non-Federal land. According to initial analyses by the Department of Commerce, these amendments seriously undermine the integrity of the CZMA. As a result, this bill as amended is extremely controversial and should not become law.

Pollution from diffuse, or nonpoint, sources—from urban streets and parking areas, agriculture, forest harvesting activities, marinas and boating activities, and dam or channel construction and maintenance—has become the number one problem in coastal areas. State programs have been developed—with \$22 million in Federal funds—to help address individual State concerns.

Degraded water quality resulting from nonpoint sources of pollution directly impacts fisheries and the habitats that support robust fish populations, swimmers at our beaches and estuaries, and public health. The proportion of valuable shellfish beds that have been closed to harvesting due to coastal pollution increased 40 percent between 1966 and 1990.

This has been a record year for beach closures. Visits to Los Angeles beaches have been cut in half since 1983 because people are worried about water quality and news stories suggest that public concerns are justified. Huntington Beach in Orange County, California—famous among surfers worldwide—was closed for swimming for much of this past summer because of high bacterial counts. Viruses from urban runoff have been discovered in coastal waters between Santa Barbara, California, and the Mexican border, with unknown effects on the people that use the resource.

Nonpoint source pollution from the Mississippi River watershed has contributed to formation of a “dead zone” extending 7000 square miles within the Gulf of Mexico. Similarly, runoff flowing into waters along the U.S. East Coast leads to seasonally low oxygen and sometimes outbreaks of *Pfiesteria*—a microbe that induces

lesions then death in fish and neurological disorders in humans. This Fall, several separate areas along the Florida coastline have been besieged by harmful algal blooms or “red tides,” causing fish kills and eye and respiratory irritation in beachgoers.

The nonpoint pollution language in H.R. 2669 addressed water quality and could have triggered a sequential referral to the Committee on Transportation and Infrastructure. Nonetheless, given the magnitude of the nonpoint pollution problem nationwide, this program has become central to implementation of the Coastal Zone Management Act. Congress authorized the States to develop nonpoint pollution control programs in sec. 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (P.L. 101-508) because an existing nonpoint demonstration program under Section 319 of the Clean Water Act was not meeting the needs of coastal areas. Degraded coastal waters were an acute problem that needed concentrated efforts. This remains true today.

During the markup, the Chairman argued for removal of the nonpoint language not on the basis of substance, but to prevent a referral to the Committee on Transportation and Infrastructure that could indeterminately delay floor consideration. However, the Speaker clearly has authority under the Rules of the House to limit the time under which a second Committee may consider a sequentially referred bill. There was no need to delete the crucial nonpoint source language for this reason.

Ironically, after voting to remove the nonpoint source language, the Committee voted to adopt a property rights language offered by Mr. Pombo that was vigorously opposed by state and local governments, the Clinton Administration, environmental organizations and others, and whose inclusion in a final bill would prevent enactment of this measure. A views letter from the Department of Commerce dated October 6, 1999, declared that the Secretary of Commerce would recommend a Presidential veto should the property rights amendment be adopted.

We oppose Mr. Pombo’s property rights amendment on both substantive and procedural grounds. It will have a dramatic impact on implementation of the Coastal Zone Management Act and on application of the 5th Amendment’s Takings Clause. The amendment prevents the Secretary of Commerce from requiring State plans to “take any action that would constitute a use of non-Federal property for a public purpose without payment of just compensation.” The word “use” applies to any activity—not merely physical encroachment—on private property. It also lowers the standard from “taking”—which implies substantial economic loss—to every “use.” This language greatly expands the scope of private property rights beyond the protections afforded by the U.S. Constitution.

Taken literally, if grant approval conditions impose any restrictions on non-Federal property, payment of just compensation must occur in every case. The amendment would pre-empt the standards currently applied to the Takings Clause by requiring compensation much more often than the 5th Amendment. The practical effect would be to nullify or inhibit state and local implementation of coastal programs and create disincentives for States to enforce provisions because compensation payments to property owners would

quickly exceed the amount of Federal funding received by the State to implement its program.

It is unfortunate that a non-controversial bill to reauthorize a successful and voluntary Federal-State partnership program has become burdened with highly controversial language that jeopardizes its enactment, while simultaneously stripped of the nonpoint source pollution provision that would enable states to address one of the most severe environmental problems confronting coastal zones. We cannot support the legislation in this form, but will vigorously support amendments on the floor to rectify these mistakes by the Committee.

GEORGE MILLER.
 GRACE NAPOLITANO.
 RUSH HOLT.
 DONNA M. CHRISTENSEN.
 DALE E. KILDEE.
 PETER DEFazio.
 TOM UDALL.
 PATRICK J. KENNEDY.
 NEIL ABERCROMBIE.
 JOSEPH CROWLEY.
 RON KIND.
 ENI FALEOMAVAEGA.
 CARLOS ROMERO BARCELO.
 MARK UDALL.
 FRANK PALLONE, Jr.
 ADAM SMITH.
 BRUCE F. VENTO.
 ROBERT A. UNDERWOOD.
 JAY INSLEE.

HOUSE OF REPRESENTATIVES,
 COMMITTEE ON RESOURCES,
Washington, DC, September 21, 1999.

Hon. DON YOUNG,
*Chairman, House Committee on Resources, Longworth House Office
 Building, Washington, DC.*

DEAR CHAIRMAN YOUNG: On July 26, 1999, sixty-six Democratic members of the House of Representatives sent a letter to you and Mr. Saxton, urging the Committee to consider legislation to reauthorize the Coastal Zone Management Act (CZMA) during this session of Congress.

We were pleased that on August 5, 1999, Mr. Saxton responded to that request, and the Subcommittee on Fisheries Conservation, Wildlife, and Oceans approved an amended version of H.R. 2669. We support many of the provisions of Mr. Saxton's bill and hope that it will quickly be brought before the full Committee. We are particularly pleased that, as amended, H.R. 2669 authorizes implementation of State coastal nonpoint pollution programs.

Polluted runoff remains the largest unaddressed cause of impaired water quality along our coasts. A quick glance at recent press can attest to the dramatic negative impact runoff has on fisheries, recreation, and human health. The New York Times ran a story last week stating that farm runoff contributed to the largest

E. coli outbreak in New York history. Similarly, the Los Angeles Times wrote that the famous surfing mecca—Huntington Beach in Orange County, California—was closed for swimming this summer because of high bacterial counts. Viruses from urban runoff have been discovered in coastal waters between Santa Barbara, California, and the Mexico border with unknown effects on the people that use the resource. Runoff from the Mississippi River watershed may have deprived 7000 square miles within the Gulf of Mexico of the oxygen required to sustain marine life. Fishkills along the U.S. East Coast each summer are also attributed to runoff, resulting in oxygen depletion—or worse—*Pfisteria*, a microbe causing lesions in fish and neurological disorders in humans.

With 30 percent of our gross national product linked to coastal activities, we can ill afford to ignore the problems caused by nonpoint source pollution. In 1990, Congress had the foresight to direct the States to develop nonpoint pollution control plans. To facilitate implementation of these plans, the States are still waiting for the program to be fully authorized within CZMA. Therefore, with this reauthorization, we must ensure that program funds can be used to improve water quality along our coasts. It would be irresponsible of Congress to ignore this very real threat to our fisheries, to swimmers at our beaches and estuaries, and to public health.

On behalf of our nation's coastal constituencies, we urge you to expedite the Committee's consideration of CZMA reauthorization legislation. We thank you for your serious attention to this request, and we look forward to working with you to move H.R. 2996 through the Committee and bring it before the full House this session.

Sincerely,

Representatives George Miller; Eni Faleomavaega; Neil Abercrombie; Donna Christensen; Joseph Crowley; Peter DeFazio; Rush Holt; Jay Inslee; Patrick Kennedy; Dale Kildee; Ron Kind; Grace Napolitano; Frank Pallone; Owen Pickett; Carlos Romero-Barcelo; Adam Smith; Mark Udall; Tom Udall; Robert Underwood; Bruce Vento.

CONGRESS OF THE UNITED STATES,
Washington, DC, July 26, 1999.

Hon. DON YOUNG,
Chairman, House Committee on Resources, Longworth House Office Building, Washington, DC.

Hon. JIM SAXTON,
Chairman, House Subcommittee on Fisheries Conservation, Wildlife, and Oceans, O'Neill House Office Building, Washington, DC.

DEAR CHAIRMAN YOUNG AND CHAIRMAN SAXTON: We are writing concerning a matter of critical importance to the coastal districts that we represent. Specifically, we request your leadership in expediting the committee's consideration of Coastal Zone Management Act (CZMA) reauthorization legislation.

Over 60 percent of all Americans live within 50 miles of the ocean or one of the Great Lakes. The population density within the coastal areas that we represent is approximately four times the national average. Since population in these areas is expected to grow an additional 15 percent over the next two decades, we will confront substantial increases in the already considerable demands on our coastal resources. Moreover, sound management of these areas should be of national concern, given the fact that thirty percent of our gross national product can be linked to activities associated with our nation's shorelines.

First enacted in 1972, the CZMA established a comprehensive program to manage the increasingly competitive uses of and impacts on our fragile coasts. It is unique among Federal programs in that it employs a voluntary, flexible framework to effectively coordinate all levels of government—Federal, state, and local—to manage our valuable coastal resources. Today, 34 of 35 eligible states and territories participate in the CZM program—including Alaska and New Jersey—and 32 have implemented federally approved management plans. Successful implementation of management plans, however, depends upon continued availability of funding to sustain Federal and state technical expertise.

As you know, the current CZMA authorization for appropriations expires at the end of fiscal year 1999. As evidenced by testimony heard from witnesses this spring in the Subcommittee on Fisheries Conservation, Wildlife, and Oceans and by Congress' near-unanimous votes for reauthorization of the program only 3 years ago, the CZMA has been both popular and successful. We are concerned that without action by the Committee on Resources, renewal of this statute becomes increasingly unlikely during this session of Congress. On behalf of our coastal constituencies, we urge you to expedite the Committee's consideration of CZMA reauthorization legislation. We thank you for your serious attention to this request, and we look forward to working with you on the timely reauthorization of this very important statute.

Sincerely,

FRANK PALLONE, Jr.,
*Co-Chair, Congressional
Coastal Caucus.*

GEORGE MILLER,
*Ranking Minority Member,
Committee on Resources.*

ENI FALEOMAVAEGA,
*Ranking Minority Member,
Subcommittee on Fisheries
Conservation, Wildlife,
and Oceans.*

Also signed by 63 other Representatives.

THE SECRETARY OF COMMERCE,
Washington, DC, November 10, 1999.

Hon. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am writing to express the Department's views on H.R. 2669, entitled the Coastal Community Conservation Act of 1999, as amended at the House Resources Committee markup on October 6, 1999. The Department strongly opposes H.R. 2669, as amended. I would recommend that the President veto the bill if it is presented to him with the property rights amendment.

The Department, therefore, respectfully urges you to pass H.R. 2669, but without the property rights amendment and with the Coastal Nonpoint Pollution Control Program provisions that were removed at the October 6 markup.

The reauthorization of the Coastal Zone Management Act (CZMA) is of great importance to the Department and provides a unique opportunity to guide coastal and ocean resources management in the next century. H.R. 2669 contained important provisions that would help coastal States to address the severe impacts to the coastal zone from polluted runoff and would provide much needed support at the local level to revitalize coastal communities. These provisions, and the CZMA in general, have the support of the Department, the coastal States, local government groups, and the environmental community, as well as substantial bi-partisan support in Congress. In fact, the CZMA has had strong bi-partisan support for over 27 years and was unanimously reauthorized by the 104th Congress in 1996.

The property rights amendment (introduced by Representative Richard Pombo) would require that in order for States to: (1) qualify for CZMA grants; (2) implement their Federally approved coastal management programs; or (3) use the CZMA Federal consistency requirements, they provide compensation for public "uses" of property under a State's coastal management program, even if those uses do not rise to the level of a taking compensable under the Fifth and Fourteenth Amendments. The so-called Pombo amendment is an attempt to impede State and local government land use management and zoning by establishing the principle that any regulation of private property for public purposes, or "uses," must be compensated by State and local governments.

The Pombo amendment is not only directed at actions "required" by the Secretary. The effectiveness of the CZMA is dependent on State and local government authority to protect the public's interest in the coastal zone for the benefit of all citizens. For example, State and local CZMA programs are effectively saving lives and property by protecting the coastal wetlands, beaches and dunes that are necessary for flood control, reducing polluted runoff, erosion control, storm protection, and sustaining the viability of commercial and recreational fisheries.

To implement the CZMA, States develop Coastal Management Programs (CMPs) which are approved by the Secretary. The State CMPs contain State and local laws and other authorities. While participation in the national CZMA program is voluntary, once a State CMP is approved, to obtain CZMA funds and other CZMA

benefits, States are required to implement their approved CMPs. If States do not implement the CMPs as approved, the Secretary may impose financial or program sanctions. Thus, the requirement for compensation under the Pombo amendment would apply to all State and local government actions taken pursuant to a State's CMP. The Pombo amendment would prevent States and local government from protecting the public's interest through zoning and other laws unless they pay each landowner for every land use and zoning decision, or refuse to participate in the CZMA.

The Pombo amendment would, as a result and for all practical purposes, render the national and State CZMA programs non-existent and ineffective. Further, the amendment would subject the Department and the States to endless litigation and would place an enormous financial burden on the States, local governments, and the Federal Government. If this amendment is adopted, there would effectively no longer be a coastal management program in the United States as envisioned in the CZMA.

We also continue to note that section 109(b) imposes a requirement on the Executive Branch that violates the Recommendations Clause of the Constitution. *See* U.S. Const., Art. II, § 3. The Clause precludes Congress from either requiring the Executive Branch to make, or prohibiting the Executive Branch from making, legislative recommendations to Congress. The Department therefore recommends that section 109(b) be amended by inserting the words: “, if any,” after the words “House of Representatives draft legislation”.

For similar reasons, which we understand are developed in more detail in a letter that the Department of Justice is submitting on H.R. 2669, the Department also recommends that section 109(a) be amended to clarify that Congress does not intend to compel the Secretary of Commerce to file a report containing policy recommendations in addition to technical information. Specifically, we suggest that the first sentence of section 109(a) be revised to require the Secretary of Commerce to submit a report that “evaluates the possibility of using a common set of measurable outcome indicators to evaluate the effectiveness of State coastal zone management programs in achieving the coastal management objectives specified in section 303(2)(A) through (J) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(A)–(J)), and, if the Secretary deems it appropriate, to recommend such a set of outcome indicators.”

The Department also strongly recommends that H.R. 2669 section 107(e), Restriction on Use of Amounts for Program, Administrative or Overhead Costs, be deleted. Section 107(e) states that except for funds appropriated under CZMA section 318(a)(4), amounts appropriated shall be available only for grants to States and shall not be available for other programs, administrative or overhead costs. However, CZMA section 318(a)(4), as revised by H.R. 2669 section 107(a), authorizes only \$6.5 million for not only Walter B. Jones Awards for accomplishments in the field of coastal zone management (as proposed by H.R. 2669 section 105 amending CZMA section 314), but also for expenses incidental to the administration of the CZMA.

This authorization for expenses incidental to the administration of the CZMA will only cover personnel and associated operational costs such as travel, supplies, equipment, etc. directly related to administration of the State coastal management program as well as the National Estuarine Research Reserve System. It does not cover other shared National Oceanic and Atmospheric Administration (NOAA) costs, such as grants administration, legal counsel, security, etc., that are just as necessary to support an effective program, but are more efficiently provided through a centralized source. When these corporate costs rise faster than can be supported through NOAA's administrative line item, they must be paid for somehow, and the most equitable way is by the programs that they support.

The restriction as proposed in section 107(e) of H.R. 2669 would severely hamper the flexibility required to equitably meet these necessary costs. The Department suggests that a sufficient amount of budget authority be added to the amount in CZMA subsection 318(a)(4) to cover these costs in future years. This would allow the entire amount of the section 306 grants to be awarded to the States, while still allowing NOAA to meet its necessary expenses.

The Department also notes that the total authorization levels in H.R. 2669 section 107 should be amended to conform to the President's fiscal year 2000 budget request.

The Office of Management and Budget has advised the Department that there is no objection to the submission of this letter to the Congress from the standpoint of the Administration's program.

Sincerely,

WILLIAM M. DALEY.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, November 4, 1999.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC

DEAR MR. SPEAKER: This letter provides you the Environmental Protection Agency's views on H.R. 2669, entitled the Coastal Community Conservation Act of 1999, to reauthorize the Coastal Zone Management Act of 1972 (CZMA). Although legislation to reauthorize and strengthen the CZMA would be of tremendous value, I believe that the bill as amended in the Committee on Resources would be a serious step backward for efforts to protect coastal waters. I would recommend that the President veto this legislation if it is enacted with the "takings" amendment.

By 2010, nearly one-half of the population in the United States will live in coastal regions that make up only 10 percent our country's land area. The CZMA has been, and continues to be, essential to protecting coastal waters and estuaries. Coastal zone management programs complement and enhance the water quality and wetlands protection programs that EPA implements under the Clean Water Act. A strong and effective CZMA is essential to continued progress in reducing water pollution and restoring the health of coastal waters.

I am especially concerned with the amendment offered by Congressman Pombo, and approved by the Committee. The amendment could be interpreted to require that coastal States, in order to obtain the benefits of participation in the coastal zone management program, adhere to an extremely broad requirement for compensation of coastal property owners who comply with coastal protection requirements. The benefits of participation in the CZMA program include federal funds, and a requirement that federal agencies comply with the provisions of State plans. The Administration recognizes the constitutional obligation to provide governmental compensation for "takings" consistent with current law and judicial decisions. The amendment approved by the Committee, however, could be interpreted to go far beyond constitutional requirements and thus could serve to undermine the current balance between the property rights of individuals and the rights of society more generally to promote the common good. Protecting the unique qualities of coastal areas and preventing impairment of our coastal waters are widely recognized as important goals. Enactment of the "takings" amendment could dramatically reduce the effectiveness of CZMA programs and put coastal waters at serious risk of degradation.

In addition, H.R. 2669 as passed by the Committee removes authorization for funding for Section 6217, the Coastal Nonpoint Pollution Reduction Program, that was requested by the Administration. Currently, 29 coastal states and territories have conditionally approved coastal nonpoint source control programs. These programs are a critical element of our efforts to restore and protect coastal water quality.

I look forward to working with you to resolve this important matter in a way that will protect our vital coastal waters.

Sincerely,

CAROL M. BROWNER.

STATE OF CALIFORNIA,
OFFICE OF THE ATTORNEY GENERAL,
Sacramento, CA, October 29, 1999.

Re Pombo amendment to H.R. 2669 (Reauthorization of Coastal Zone Management Act).

CALIFORNIA CONGRESSIONAL DELEGATION,
U.S. Capitol,
Washington, DC.

DEAR MEMBERS OF THE CALIFORNIA DELEGATION: On behalf of the California Coastal Commission and in my capacity as Attorney General of the State of California, I write to express our strong opposition to amendments to H.R. 2669 which the House Resources Committee adopted at its October 6, 1999, markup of the bill. H.R. 2669 provides for the reauthorization of the Federal Coastal Zone Management Act ("CZMA"), and in general we are in support of this reauthorization. However, the Resources Committee amended H.R. 2669 to eliminate provisions regarding non-point source pollution control and water quality and to add a provision sponsored by Representative Pombo regarding restrictions on the use of private

property. While we disagree with the deletion of the pollution and water quality provisions as a matter of policy, I write to specifically explain the basis for our objections to the proposed private property use amendment.

As amended, H.R. 2669 would prevent the Secretary of Commerce from requiring a State “as a condition of any grant of funds under this title or the approval of a State plan under section 306, to take any action that would constitute a use of non-Federal property for a public purpose without payment of just compensation.” We understand that Representative Pombo has asserted this amendment would ensure that the states would respect private property rights by compensating owners for restrictions placed on the use of their property. This amendment represents an unwarranted federal intrusion into state land use regulation. As explained in greater detail below, it would greatly increase the exposure of coastal states to lawsuits for inverse condemnation, would seriously inhibit coastal planning and regulation, and represents an immense departure from both established “takings” jurisprudence and the very purpose and intent of the CZMA. For these reasons and the reasons stated below, we urge the House of Representatives to delete this amendment when the legislation is considered on the House floor. We additionally urge the Senate not to include similar language in its legislation reauthorizing the CZMA.

In enacting the CZMA, Congress found and declared that it is the national policy to preserve, protect, develop and where possible, to restore or enhance the Nation’s coastal zone for this and succeeding generations. To this end, Congress has encouraged and assisted the states in the development of coastal management programs which regulate coastal property, including private property. These coastal management programs serve a vital purpose. They insure protection of the Nation’s coasts for tourism, commerce, fisheries, recreation, and resource management. Our coasts are a major economic engine, providing tourist dollars, jobs, port-related commerce and coastal industry. In the CZMA, Congress created a federal and state partnership for management of our coastal resources and coastal property. This partnership is now in serious jeopardy because of the Pombo amendment.

Current takings jurisprudence holds that government may not restrict all reasonable economic use of property unless either background principles of state property law would not allow the proposed use or the proposed use would constitute a nuisance. (*Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003.) Government may, however, impose restrictions on the use of property. These restrictions may be in the form of conditions requiring exactions of property or fees where there is a sufficient nexus between the impacts of the project and the condition sought to be imposed and where the condition would further legitimate state interests. (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825.) Further, such conditions must be roughly proportional to the impacts of the project. (*Dolan v. City of Tigard* (1994) 512 U.S. 374.) Aside from such exactions, the United States Supreme Court never has found that a mere restriction on the use of property alone for a public purpose would constitute a taking. To the contrary, long established case law holds that restrictions on the use of property

for a public purpose are valid where the property otherwise retains a reasonable use. For example, restrictions on aesthetics, such as landscaping requirements and limitations on building color, set back requirements, prohibitions on the filling of wetlands or other sensitive resources, and similar restrictions which serve a public purpose and still allow a use of the private property have all been found to be legitimate and to pass constitutional muster. (*Euclid v. Amber Realty* (1926) 272 U.S. 365; *Concrete Pipe & Prods. v. Const. Laborers Pension Trust* (1993) 508 U.S. 624; *United States v. Riverside Bayview Homes* (1985) 474 U.S. 121.) Such regulations are intended to protect communities and the quality of life enjoyed by their inhabitants as well as the Nation's resources, and as such they benefit all property owners.

The amendment goes too far, and it is unnecessary. As Representative Pombo interprets his amendment, it imposes far greater restrictions on government regulation of private property than the Takings Clause of the Constitution because it would require compensation for all restrictions on the use of private property. As noted above, the Supreme Court has never interpreted the Takings Clause to require compensation in this manner. Moreover, the states already must conform their regulatory activities to the Takings Clause of the Constitution, as interpreted and applied by the Supreme Court. No justification has been provided to show why it is necessary for Congress to impose restrictions on the states which go beyond the Supreme Court's Takings Clause jurisprudence.

At a minimum, the amendment will engender confusion because its bounds are not at all clear. While an expansive interpretation of the amendment has been asserted, the actual language might be read in a more narrow fashion. This lack of clarity in the language necessarily creates a huge amount of ambiguity and that ambiguity will generate litigation in which the courts will have to attempt to determine the scope of the language. The states should not be forced to bear the brunt of such confusion or of the costly litigation which will follow especially when the Supreme Court has already provided standards in this area.

This type of legislation also is contrary to accepted principles of federalism. The Pombo amendment attempts to move beyond accepted constitutional restrictions to dictate or control the states' ability to regulate coastal property within their borders. This federal intrusion into the purview of the states should not be authorized. The federal-state partnership long fostered by the CZMA should be continued without this unwarranted intrusion into states' rights.

We strongly support the CZMA and the cooperative relationship between the federal government and the states which it has fostered. The Pombo amendment places both the CZMA and that cooperative relationship at risk. Thus, we urge the California members of the House of Representatives to do all that they can to insure that the amendment is removed from H.R. 2669. We further urge Senators Feinstein and Boxer to do all that they can to insure

that the Senate version of CZMA reauthorization does not include the proposed Pombo language.

Sincerely,

BILL LOCKYER,
Attorney General.

COASTAL STATES ORGANIZATION,
Washington, DC, October 5, 1999.

Hon. GEORGE MILLER,
Committee on Resources, House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE MILLER: On Wednesday, October 6th, the House Resources Committee is scheduled to consider H.R. 2669, the Coastal Community Conservation Act of 1999. This bill would amend and reauthorize the Coastal Zone Management Act of 1972 (CZMA). The CZMA sets forth a federal-state partnership to protect and restore the nation's coastal resources by providing a flexible framework for states to develop programs that support a wide range of environmental and economic objectives. The CZMA is unique in providing that states set the priorities consistent with the broad national goals set out in the Act. I urge you to support H.R. 2669, report the bill out of the Resources Committee, and urge passage of CZMA reauthorization this year.

States with approved coastal management programs are eligible to receive federal assistance, matched by the states, to help implement and enhance their CZM programs. In addition, Federal activities must be consistent with state coastal zone management policies. The CZMA also authorizes the National Estuarine Research System—a network of estuarine areas protected for research, monitoring and environmental education. These programs have been instrumental in assisting coastal states to balance the many competing uses of resources in the coastal zone.

We understand that an amendment may be offered to address protection of private property rights. While coastal Governors believe that government decision-makers should carefully evaluate the effect of their actions on Constitutionally protected private property, they also believe that the interpretation of the so-called "takings" clause of the U.S. Constitution is the province of the Courts. CSO opposes any amendment that would limit or interfere with legitimate state and local government coastal management, land use or regulatory authority, or otherwise undermine the state prerogatives that are the basis of the federal-state CZMA partnership.

Please call me with any questions you may have or further information. Thank you for your consideration.

Sincerely,

TONY MACDONALD,
Executive Director.

CALIFORNIA COASTAL COMMISSION,
San Francisco, CA, October 28, 1999.

Re Representative Saxton amendments to Federal Coastal Zone
 Management Act (CZMA) Reauthorization Bill H.R. 2669.

Hon. GEORGE MILLER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MILLER: On behalf of the California Coastal Commission, I respectfully request your support for amendments to be offered by Representative Jim Saxton to H.R. 2669 that would delete two provisions added by the Resources Committee at the request of Representative Pombo.

Specifically, Mr. Saxton's amendment would reinstate vital provisions that help coastal states deal with polluted runoff that is the major cause of ocean water contamination. His amendment would also delete a provision that threatens to cripple state coastal management programs by creating a new cause of action for coastal property owners to sue state and local governments over coastal land use decisions. Since its initial enactment in 1972, the CZMA has achieved a remarkable record of success around the country. Its reauthorization is vital to all coastal states and coastal local governments who have worked closely with our federal partners to protect coastal resources for the benefit of current and future generations. In our view, the unfortunate insertion of the two provisions to H.R. 2669 in Committee has fatally flawed the bill.

Please contact your House Leadership colleagues in support of Representative Saxton's attempts to move the bill to the Floor under an open rule, and then urge your fellow members to support his proposed amendments. If you or your staff have any questions, please give me a call.

Sincerely,

PETER M. DOUGLAS,
Executive Director.

NATIONAL ASSOCIATION OF COUNTIES,
October 5, 1999.

DEAR REPRESENTATIVE MILLER: The National Association of Counties (NACo) would like to express our views concerning an amendment to the Coastal Zone Management Act (CZMA) that may come before the Committee on Resources tomorrow. NACo strongly supports HR 2669 that reauthorizes the CZMA through FY 2005. We particularly support the new Coastal Community Conservation Grants program that would provide additional revenues to local governments for managing coastal areas. Because of the CZMA, county governments in coastal areas have been able to manage natural resources, protect public health and safety, and guide sustainable growth and development.

We understand that passage of the bill by the Committee on Resources may be threatened by the introduction of a takings/private property rights amendment. The amendment would prohibit the CZMA from placing "restrictions on commercial or private use of private property" within a coastal area. This language is extremely

broad, potentially barring a local government receiving a coastal grant from applying a local ordinance or safety regulation on any type of private property for any reason.

Such an amendment would, we believe, prevent states, counties and other local governments from controlling damaging pollutants from entering estuaries through stormwater runoff, providing public access to coastal waters and controlling overdevelopment in delicate tidal plains and flood-prone areas. It could also prevent local governments from protecting public safety, for example by prohibiting a county from temporarily barring access to a private beach or commercial area while dangerous marine debris from a hurricane is removed.

We urge you to please make every effort to attend the Committee markup of HR 2669, resist any property rights amendments to the bill, and allow the CZMA to continue to protect our coastal communities.

Very truly yours,

LARRY E. NAAKE,
Executive Director.

CENTER FOR MARINE CONSERVATION, AMERICAN OCEANS
CAMPAIGN, CLEAN OCEAN ACTION, COAST ALLIANCE,
CHESAPEAKE BAY FOUNDATION, NATURAL RESOURCES
DEFENSE COUNCIL,

September 1, 1999.

Hon. GEORGE MILLER,
Ranking Minority Member, Committee on Resources, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MILLER: The House Resources Committee will soon be taking up Chairman Saxon's bill to reauthorize the Coastal Zone Management Act (H.R. 2669). We urge you to approve this bill and send it to the House floor as soon as possible to help communities develop local solutions to the nation's leading cause of water pollution—polluted runoff.

According to data from the states, polluted runoff—or nonpoint source pollution—accounts for more than 60% of water quality impairment including runoff from crops, grazing and feedlots.

A recent three-part series in the Washington Post (enclosed) notes that more than 600 million chickens are raised along Eastern Shore of the Chesapeake Bay, turning out more than 750,000 tons of manure—more waste than produced by a city of 4 million people! This waste contains high concentrations of nitrogen and phosphorous and is washed into the Chesapeake Bay, depleting oxygen levels, causing algal blooms, killing seagrasses, fish and shellfish, and ruining local economies. Scientists also suggest that a toxic microbe called *Pfiesteria*, which makes people sick and kills hundreds of thousands of fish, feeds on the excess nitrogen and phosphorous produced from the overabundant chicken waste.

Some states are taking action to prevent the over-application of chicken manure, and reduce the quantities of nitrogen and phosphorous entering stressed water bodies. But they need help. It is time for the federal government to step up to the plate.

Chairman Saxton's CZMA reauthorization bill (H.R. 2669) addresses the economic and environmental problems caused by polluted runoff. It incorporates state coastal nonpoint pollution control programs into the CZMA, makes such programs eligible for funding under the CZMA, and ensures that funds are dedicated to implementing nonpoint control programs.

Please take a moment to review the enclosed articles on the number one threat to our nation's water quality, and support H.R. 2669 to reauthorize the CZMA and the coastal nonpoint pollution control program. If you have any questions you can contact the following persons: Tim Eichenberg, Center for Marine Conservation; Kelli McGee, American Oceans Campaign; Jackie Savitz, Coast Alliance.

Thank you for your support.

Sincerely,

Tim Eichenberg, Center for Marine Conservation, Washington, DC; Jackie Savitz, Coastal Alliance, Washington, DC; Sarah Chasis, Natural Resources Defense Council, New York, NY; Barbara Jeanne Polo, American Oceans Campaign, Washington, DC; Cindy Zipf, Clean Ocean Action, Sandy Hook, NJ; Dr. Michael Hirshfield, Chesapeake Bay Foundation, Annapolis, MD.

APPENDICES

Table 1: Existing and Proposed National Estuarine Reserves

SITE NAME	LOCATION	SIZE (Acres)	DATE EST.	AGENCY PARTNER
ACE Basin	SC	140,312	1992	South Carolina Department of Natural Resources
Apalachicola	FL	193,758	1979	Florida Department of Environmental Protection
Chesapeake Bay - VA	VA	4,435	1991	Virginia Institute of Marine Science of the College of William and Mary
Chesapeake Bay - MD	MD	4,820	1985	Maryland Department of Natural Resources
Delaware	DE	911	1993	Delaware Department of Natural Resources and Environmental Control
Elkhorn Slough	CA	1,400	1979	California Department of Fish and Game
Grand Bay	MS	15,000	1999	Mississippi Department of Marine Resources and Mississippi State University
Great Bay	NH	5,280	1989	New Hampshire Fish and Game Department
Guanata-Tolomato-Matanzas	FL	55,000	1999	Florida Department of Environmental Protection
Hudson River	NY	4,838	1982	New York State Department of Environmental Conservation
Jobos Bay	PR	2,883	1981	Department of Natural and Environmental Resources of Puerto Rico
Kachemak Bay	AK	365,000	1999	Alaska Dept. of Fish and Game
Mullica River - Great Bay (Jacques Cousteau)	NJ	156,000	1997	Institute of Marine and Coastal Sciences, Rutgers University and New Jersey Department of Environmental Protection
Narragansett Bay	RI	4,950	1980	Rhode Island Department of Environmental Management
North Inlet - Winyah Bay	SC	11,500	1992	Belle W. Baruch Institute for Marine Biology and Coastal Research, University of South Carolina

SITE NAME	LOCATION	SIZE (Acres)	DATE EST.	AGENCY PARTNER
North Carolina	NC	10,000	1985	North Carolina Division of Coastal Management
Old Woman Creek	OH	571	1980	Ohio Department of Natural Resources Division of Natural Areas and Preserves
Padilla Bay	WA	11,200	1980	Washington State Dept. of Ecology
Rookery Bay	FL	12,500	1978	Florida Department of Environmental Protection
<i>San Francisco Bay*</i>	CA	<i>8,647</i>	<i>In progress</i>	<i>San Francisco State University</i>
Sapelo Island	GA	17,950	1976	Georgia Department of Natural Resources
South Slough	OR	4,700	1974	Oregon Division of State Lands
<i>St. Lawrence River*</i>	NY	<i>5,728</i>	<i>In progress</i>	<i>New York State Department of State</i>
Tijuana River	CA	2,500	1982	California Department of Parks and Recreation
Waquoit Bay	MA	2,250	1988	Massachusetts Department of Environmental Management - Division of Forest & Parks
Weeks Bay	AL	3,000	1986	Alabama Department of Economic and Community Affairs
Wells	ME	1,600	1986	Maine Reserve Management Authority

* Italics Denote Proposed Designation

Table 2: H.R. 2669 Authorization of Appropriations (in thousands of \$):

Program	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
Section 305 (program development grants)	400	200	200	200	0
Sections 306 & 309 (administrative grants to states & program enhancement grants)	55,000	56,000	57,000	58,000	59,000
Section 306A (community conservation grants)	30,000	32,500	35,000	40,000	45,000
Section 306A (disabled persons and coastal access)	1,000	1,000	1,000	1,000	0
NOAA (administration of CZMA)	6,500	6,500	6,500	6,500	6,500
NOAA (Barnegat Bay Task Force)	500	500	500	500	500