

TO REAUTHORIZE THE NATIONAL ESTUARY PROGRAMS,
AND FOR OTHER PURPOSES

NOVEMBER 12, 2014.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5266]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom
was referred the bill (H.R. 5266) to reauthorize the National Estu-
ary Programs, and for other purposes, having considered the same,
report favorably thereon with an amendment and recommend that
the bill as amended do pass.

CONTENTS

	Page
Purpose of the Legislation	2
Background and Need for the Legislation	2
Hearings	3
Legislative History and Consideration	4
Committee Votes	4
Committee Oversight Findings	4
New Budget Authority and Tax Expenditures	4
Congressional Budget Office Cost Estimate	4
Performance Goals and Objectives	6
Advisory of Earmarks	6
Duplication of Federal Programs	6
Disclosure of Directed Rule Makings	6
Federal Mandates Statement	6
Preemption Clarification	7
Advisory Committee Statement	7
Applicability to the Legislative Branch	7
Section-by-Section Analysis of the Legislation	7
Changes in Existing Law Made by the Bill, as Reported	8

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. COMPETITIVE AWARDS.

Section 320(g) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)) is amended by adding at the end the following:

“(4) COMPETITIVE AWARDS.—

“(A) IN GENERAL.—Of the amount made available under subsection (i)(2)(B), the Administrator shall make competitive awards under this paragraph.

“(B) APPLICATION FOR AWARDS.—The Administrator shall solicit applications for awards under this paragraph from State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

“(C) SELECTION OF RECIPIENTS.—In selecting award recipients under this paragraph, the Administrator shall select recipients that are best able to address urgent and challenging issues that threaten the ecological and economic well-being of coastal areas. Such issues shall include—

“(i) extensive seagrass habitat losses resulting in significant impacts on fisheries and water quality;

“(ii) recurring harmful algae blooms, unusual marine mammal mortalities;

“(iii) invasive exotic species which can threaten wastewater systems and cause other damage;

“(iv) jellyfish proliferation limiting community access to water during peak tourism seasons;

“(v) flooding which may be related to sea level rise or wetland degradation or loss; or

“(vi) low dissolved oxygen conditions in estuarine waters and related nutrient management.”.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) is amended by striking subsection (i) and inserting the following:

“(i) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to the Administrator \$27,000,000, for each of fiscal years 2014 through 2018 for—

“(A) expenses relating to the administration of grants or awards by the Administrator under this section, including the award and oversight of grants and awards, except that such expenses shall not exceed 5 percent of the amount appropriated under this subsection; and

“(B) making grants and awards under subsection (g).

“(2) ALLOCATIONS.—

“(A) CONSERVATION AND MANAGEMENT PLAN.—The Administrator shall provide not less than 80 percent of the amounts made available for this section for each fiscal year referred to in paragraph (1) for the development, implementation, and monitoring of each conservation and management plan eligible for grant assistance under subsection (g)(2).

“(B) COMPETITIVE AWARDS.—The Administrator shall provide not less than 15 percent of the amounts made available for this section in each fiscal year to make competitive awards described in subsection (g)(4).”.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 5266 is to amend section 320 of the Federal Water Pollution Control Act (the Clean Water Act) to reauthorize the National Estuary Program within the Environmental Protection Agency (EPA).

BACKGROUND AND NEED FOR THE LEGISLATION

Estuaries, which are partially enclosed waterbodies where freshwater from land drainage through rivers or streams flows into an open sea or the ocean, are unique and highly productive waters that are important to the ecological and economic bases of our nation. In particular, fisheries, wildlife, recreation, and tourism are heavily dependent on healthy estuarine systems. Yet, despite their value, most estuaries in the United States are experiencing stress

from physical alteration and pollution, often resulting from development and rapid population growth in coastal cities and counties. In the mid-1980s, Congress recognized the importance of, and the need to protect the natural functions of, estuaries. As a result, in 1987, as part of P.L. 100-4, the 1987 amendments to the Clean Water Act, Congress added a new section 320 to the Clean Water Act to establish the National Estuary Program (NEP).

The NEP is designed to promote comprehensive planning for long-term protection of nationally significant estuaries in the United States that are deemed to be threatened by pollution, development, or overuse, through collaborative voluntary efforts of federal, state, local, non-profit, and private interests. The NEP aims to address water quality problems in, and promote the ecological integrity of, estuaries. The NEP coordinates and provides funding for long-term planning and management activities to address the complex factors that contribute to the degradation of estuaries.

Once a governor nominates an estuary for inclusion in the NEP, and if EPA determines the estuary is “nationally significant,” it is accepted, and becomes eligible for technical assistance and grant funding. Then a collaborative decision-making process begins where stakeholders develop and implement long-term management plans, called “Comprehensive Conservation and Management Plans” (CCMPs). A CCMP is a long-term plan that contains specific targeted actions designed to address water quality and ecological challenges in the estuary’s watershed. A CCMP is to recommend priority actions and schedules to protect the estuary, restore and maintain its chemical, physical, and biological integrity, and control pollution sources.

Each estuary program in the NEP has a Management Conference (MC) made up of diverse stakeholders. Using a consensus-building approach and collaborative decision-making process instead of a regulatory approach, each MC works closely together to implement the CCMP. The MC ensures that the CCMP is uniquely tailored to the local environmental conditions, is based on local input, and supports local priorities.

Stakeholders may include citizens, state and local governments, federal agencies, private and non-profit interests, industrial, recreational, or other user groups, and academic or scientific experts. The goal is for the stakeholders to be partners in developing and implementing the CCMPs.

There are approximately 130 estuaries in the United States. Twenty-eight of these estuaries, located along the Atlantic, Gulf, and Pacific coasts and in Puerto Rico, have been incorporated into the NEP. Once EPA has accepted an estuary into the NEP, EPA supports the effort with technical assistance and grants. Each estuary program in the NEP has completed its planning process and is implementing its CCMP.

In 2004, in P.L. 108-399, Congress reauthorized section 320 of the CWA through fiscal year 2010. Section 320 of the Clean Water Act most recently authorized the NEP at \$35 million per year.

HEARINGS

No hearings were held on H.R. 5266 in the 113th Congress.

LEGISLATIVE HISTORY AND CONSIDERATION

On July 30, 2014, Representative Frank LoBiondo of New Jersey introduced H.R. 5266, a bill to reauthorize the National Estuary Program.

On September 17, 2014, the Committee on Transportation and Infrastructure met in open session to consider H.R. 5266, and ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

Representative Frank LoBiondo offered an amendment in Committee. The amendment removed a provision from the bill that would give priority for competitive award grants to estuary programs that are not part of the geographic programs identified in the Fiscal Year 2014 Consolidated Appropriations Act, and also makes a technical correction in the bill. The amendment was accepted by voice vote with a quorum present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no record votes taken in connection with consideration of H.R. 5266, or ordering the bill, as amended, reported. A motion to order H.R. 5266, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 5266 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 19, 2014.

Hon. BILL SHUSTER,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5266, a bill to reauthorize the National Estuary Programs, and for other purposes.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 5266—A bill to reauthorize the National Estuary Programs,
and for other purposes*

Summary: H.R. 5266 would authorize the appropriation of \$27 million annually over the 2015–2018 period for the Environmental Protection Agency’s (EPA’s) National Estuary Program. The legislation also would amend the Clean Water Act to require that grants awarded to state, local, and private entities by EPA are awarded in a competitive manner. CBO estimates that implementing this legislation would cost \$104 million over the 2015–2019 period, assuming appropriation of the authorized amounts.

Enacting H.R. 5266 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 5266 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs incurred by state, local, or tribal governments, including matching contributions, would result from participation in a voluntary federal program.

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

	By fiscal year, in millions of dollars—					
	2015	2016	2017	2018	2019	2015–2019
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	27	27	27	27	0	108
Estimated Outlays	12	23	27	27	15	104

Basis of estimate: CBO assumes that H.R. 5266 will be enacted near the start of 2015 and that the amounts authorized will be appropriated each fiscal year. Estimated outlays are based on historical spending patterns for the National Estuary Program. The authorization for this program expired in 2010, but \$25 million was appropriated for the program in 2014. Under the National Estuary Program, EPA develops plans for attaining or maintaining water quality in an estuary.

Intergovernmental and private-sector impact: H.R. 5266 contains no intergovernmental or private-sector mandates as defined in UMRA. Any costs incurred by state, local, or tribal governments,

including matching contributions, would result from participation in a voluntary federal program.

Previous CBO estimate: On April 10, 2014, CBO transmitted a cost estimate for S. 2042, the Clean Estuaries Act of 2014, as ordered reported by the Senate Committee on Environment and Public Works on April 3, 2014. Both S. 2042 and H.R. 5266 would reauthorize the National Estuary Program, although S. 2042 would authorize the appropriation of \$35 million annually over the 2015–2019 period.

Estimate prepared by: Federal Costs: Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Jon Sperl; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to reauthorize the National Estuary Program.

ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill, as amended, includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(j) of H. Res. 5, 113th Cong. (2013), the Committee finds that no provision of H.R. 5266, as amended, establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(k) of H. Res. 5, 113th Cong. (2013), the Committee estimates that enacting H.R. 5266, as amended, does not specifically direct the completion of any specific rulemakings within the meaning of section 551 of title 5, United States Code.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (P.L. 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 5266, as amended, does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation, as amended.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation, as amended, does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (P.L. 104–1).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Competitive awards

Section 1 amends section 320(g) of the Clean Water Act to add a new paragraph (4). New paragraph (4) authorizes the EPA Administrator to make competitive awards to states, interstate, and regional water pollution control agencies and entities, state coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals, and allocates a portion of available NEP funds for such competitive awards.

The EPA Administrator is to solicit applications for such awards, and select award recipients that are best able to address urgent and challenging issues that threaten the water quality, ecological, and economic well-being of coastal areas. Such issues are to include:

- (i) extensive seagrass habitat losses resulting in significant impacts on fisheries and water quality;
- (ii) recurring harmful algae blooms, unusual marine mammal mortalities;
- (iii) invasive exotic species which can threaten wastewater systems and cause other damage;
- (iv) jellyfish proliferation limiting community access to water during peak tourism seasons;
- (v) flooding which may be related to sea level rise or wetland degradation or loss; or
- (vi) low dissolved oxygen conditions in estuarine waters and related nutrient management.

Section 2. Authorization of appropriations

Section 2 strikes section 320(i) of the Clean Water Act (entitled “Authorization of Appropriations”) and replaces it with a new subsection (i) (entitled “Authorization of Appropriations”) that extends the authorization of appropriations for the NEP for each of fiscal years 2014 through 2018, at an amount of \$27 million per year.

New subsection (i) also allocates the funds that are made available in each fiscal year for section 320.

New subsection (i) authorizes appropriations for expenses relating to the administration of grants or awards by the EPA Administrator under section 320, including the award and oversight of grants and awards, and specifies that expenses relating to the administration of grants or awards shall not exceed 5 percent of the amount appropriated under new subsection (i).

In addition, new subsection (i) specifies that the EPA Administrator shall provide, for the development, implementation, and monitoring of each conservation and management plan eligible for grant assistance under subsection (g)(2) of section 320, not less than 80 percent of the amounts made available in each fiscal year for section 320.

Further, new subsection (i) specifies that the EPA Administrator shall provide not less than 15 percent of the amounts made available in each fiscal year for section 320 for making competitive awards described in subsection (g)(3) of section 320.

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):

FEDERAL WATER POLLUTION CONTROL ACT

* * * * *

TITLE III—STANDARDS AND ENFORCEMENT

* * * * *

SEC. 320. NATIONAL ESTUARY PROGRAM.

(a) * * *

* * * * *

(g) GRANTS.—

(1) * * *

* * * * *

(4) COMPETITIVE AWARDS.—

(A) *IN GENERAL.*—Of the amount made available under subsection (i)(2)(B), the Administrator shall make competitive awards under this paragraph.

(B) *APPLICATION FOR AWARDS.*—The Administrator shall solicit applications for awards under this paragraph from State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

(C) *SELECTION OF RECIPIENTS.*—In selecting award recipients under this paragraph, the Administrator shall select recipients that are best able to address urgent and challenging issues that threaten the ecological and economic well-being of coastal areas. Such issues shall include—

- (i) *extensive seagrass habitat losses resulting in significant impacts on fisheries and water quality;*
- (ii) *recurring harmful algae blooms, unusual marine mammal mortalities;*
- (iii) *invasive exotic species which can threaten wastewater systems and cause other damage;*
- (iv) *jellyfish proliferation limiting community access to water during peak tourism seasons;*
- (v) *flooding which may be related to sea level rise or wetland degradation or loss; or*
- (vi) *low dissolved oxygen conditions in estuarine waters and related nutrient management.*

* * * * *

[(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator not to exceed \$35,000,000 for each of fiscal years 2001 through 2010 for—

[(1) expenses related to the administration of management conferences under this section, not to exceed 10 percent of the amount appropriated under this subsection;

[(2) making grants under subsection (g); and

[(3) monitoring the implementation of a conservation and management plan by the management conference or by the Administrator, in any case in which the conference has been terminated.

The Administrator shall provide up to \$5,000,000 per fiscal year of the sums authorized to be appropriated under this subsection to the Administrator of the National Oceanic and Atmospheric Administration to carry out subsection (j).]

(i) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—*There is authorized to be appropriated to the Administrator \$27,000,000, for each of fiscal years 2014 through 2018 for—*

(A) expenses relating to the administration of grants or awards by the Administrator under this section, including the award and oversight of grants and awards, except that such expenses shall not exceed 5 percent of the amount appropriated under this subsection; and

(B) making grants and awards under subsection (g).

(2) **ALLOCATIONS.**—

(A) CONSERVATION AND MANAGEMENT PLAN.—*The Administrator shall provide not less than 80 percent of the amounts made available for this section for each fiscal year referred to in paragraph (1) for the development, implementation, and monitoring of each conservation and management plan eligible for grant assistance under subsection (g)(2).*

(B) COMPETITIVE AWARDS.—*The Administrator shall provide not less than 15 percent of the amounts made available for this section in each fiscal year to make competitive awards described in subsection (g)(4).*

* * * * *