111TH CONGRESS 1ST SESSION

H. R. 367

To establish a national integrated system of ocean, coastal, and Great Lakes observing systems, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

January 9, 2009

Mrs. Capps (for herself, Mr. Farr, Ms. Bordallo, Mr. Inslee, Mr. Thompson of California, Mr. Hastings of Florida, Mr. Waxman, Mr. Grijalva, Mr. Moran of Virginia, Mr. Pallone, Mr. Delahunt, and Ms. Castor of Florida) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a national integrated system of ocean, coastal, and Great Lakes observing systems, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Integrated Coastal and
- 5 Ocean Observation System Act of 2009".
- 6 SEC. 2. PURPOSES.
- 7 The purposes of this Act are to—

1 (1) establish a national integrated System of 2 ocean, coastal, and Great Lakes observing systems, 3 comprised of Federal and non-Federal components coordinated at the national level by the National 5 Ocean Research Leadership Council and at the re-6 gional level by a network of regional information co-7 ordination entities, and that includes in situ, remote. 8 and other coastal and ocean observation, tech-9 nologies, and data management and communication 10 systems, and is designed to address regional and national needs for ocean information, to gather specific 12 data on key coastal, ocean, and Great Lakes vari-13 ables, and to ensure timely and sustained dissemina-14 tion and availability of these data to—

- (A) support national defense, marine commerce, navigation safety, weather, climate, and marine forecasting, energy siting and production, economic development, ecosystem-based marine, coastal, and Great Lakes resource management, public safety, and public outreach training and education;
- (B) promote greater public awareness and stewardship of the Nation's ocean, coastal, and Great Lakes resources and the general public welfare; and

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- 1 (C) enable advances in scientific under-2 standing to support the sustainable use, con-3 servation, management, and understanding of 4 healthy ocean, coastal, and Great Lakes re-5 sources;
 - (2) improve the Nation's capability to measure, track, explain, and predict events related directly and indirectly to weather and climate change, natural climate variability, and interactions between the oceanic and atmospheric environments, including the Great Lakes; and
 - (3) authorize activities to promote basic and applied research to develop, test, and deploy innovations and improvements in coastal and ocean observation technologies, modeling systems, and other scientific and technological capabilities to improve our conceptual understanding of weather and climate, ocean-atmosphere dynamics, global climate change, physical, chemical, and biological dynamics of the ocean, coastal and Great Lakes environments, and to conserve healthy and restore degraded coastal ecosystems.
- 23 SEC. 3. DEFINITIONS.
- 24 In this Act:

- 1 (1) ADMINISTRATOR.—The term "Adminis-2 trator" means the Under Secretary of Commerce for 3 Oceans and Atmosphere in the Under Secretary's 4 capacity as Administrator of the National Oceanic 5 and Atmospheric Administration.
 - (2) COUNCIL.—The term "Council" means the National Ocean Research Leadership Council established by section 7902 of title 10, United States Code.
 - (3) FEDERAL ASSETS.—The term "Federal assets" means all relevant non-classified civilian coastal and ocean observations, technologies, and related modeling, research, data management, basic and applied technology research and development, and public education and outreach programs, that are managed by member agencies of the Council.
 - (4) Interagency ocean Observation Committee.—The term "Interagency Ocean Observation Committee" means the committee established under section 4(c)(2).
 - (5) Non-federal assets.—The term "non-federal assets" means all relevant coastal and ocean observation technologies, related basic and applied technology research and development, and public education and outreach programs that are integrated

into the System and are managed through States,
regional organizations, universities, nongovernmental
organizations, or the private sector.

- (6) REGIONAL INFORMATION COORDINATION ENTITIES.—
 - (A) IN GENERAL.—The term "regional information coordination entity" means an organizational body that is certified or established by contract or memorandum by the lead Federal agency designated in section 4(c)(3) of this Act and coordinates State, Federal, local, and private interests at a regional level with the responsibility of engaging the private and public sectors in designing, operating, and improving regional coastal and ocean observing systems in order to ensure the provision of data and information that meet the needs of user groups from the respective regions.
 - (B) CERTAIN INCLUDED ASSOCIATIONS.—
 The term "regional information coordination entity" includes regional associations described in the System Plan.
- (7) Secretary.—The term "Secretary" means the Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration.

1	(8) System.—The term "System" means the
2	National Integrated Coastal and Ocean Observation
3	System established under section 4.
4	(9) System Plan.—The term "System Plan"
5	means the plan contained in the document entitled
6	"Ocean.US Publication No. 9, The First Integrated
7	Ocean Observing System (IOOS) Development
8	Plan", as updated by the Council under this Act.
9	SEC. 4. INTEGRATED COASTAL AND OCEAN OBSERVING
10	SYSTEM.
11	(a) Establishment.—The President, acting
12	through the Council, shall establish a National Integrated
13	Coastal and Ocean Observation System to fulfill the pur-
14	poses set forth in section 2 of this Act and the System
15	Plan and to fulfill the Nation's international obligations
16	to contribute to the Global Earth Observation System of
17	Systems and the Global Ocean Observing System.
18	(b) System Elements.—
19	(1) In general.—In order to fulfill the pur-
20	poses of this Act, the System shall be national in
21	scope and consist of—
22	(A) Federal assets to fulfill national and
23	international observation missions and prior-
24	ities;

1	(B) non-Federal assets, including a net
2	work of regional information coordination enti
3	ties identified under subsection (c)(4), to fulfil
4	regional observation missions and priorities;
5	(C) data management, communication, and
6	modeling systems for the timely integration and
7	dissemination of data and information products
8	from the System;
9	(D) a research and development program
10	conducted under the guidance of the Council
11	consisting of—
12	(i) basic and applied research and
13	technology development to improve under
14	standing of coastal and ocean systems and
15	their relationships to human activities and
16	to ensure improvement of operational as
17	sets and products, including related infra
18	structure, observing technologies, and in
19	formation and data processing and man
20	agement technologies; and
21	(ii) large scale computing resources
22	and research to advance modeling of coast
23	al and ocean processes.
24	(2) Enhancing administration and man
25	AGEMENT.—The head of each Federal agency that

- 1 has administrative jurisdiction over a Federal asset 2 shall support the purposes of this Act and may take 3 appropriate actions to enhance internal agency administration and management to better support, in-5 tegrate, finance, and utilize observation data, prod-6 ucts, and services developed under this section to 7 further its own agency mission and responsibilities.
 - (3) AVAILABILITY OF DATA.—The head of each Federal agency that has administrative jurisdiction over a Federal asset shall make available data that are produced by that asset and that are not otherwise restricted for integration, management, and dissemination by the System.
 - (4) Non-Federal assets.—Non-Federal assets shall be coordinated, as appropriate, by the Interagency Ocean Observing Committee or by regional information coordination entities.
- 18 (c) Policy Oversight, Administration, and Re-19 GIONAL COORDINATION.—
- 20 (1) COUNCIL FUNCTIONS.—The Council shall serve as the policy and coordination oversight body 22 for all aspects of the System. In carrying out its re-23 sponsibilities under this Act, the Council shall—
- 24 (A) approve and adopt comprehensive Sys-25 tem budgets developed and maintained by the

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1	Interagency Ocean Observation Committee to
2	support System operations, including operations
3	of both Federal and non-Federal assets;
4	(B) ensure coordination of the System with
5	other domestic and international earth observ-
6	ing activities including the Global Ocean Ob-
7	serving System and the Global Earth Observing
8	System of Systems, and provide, as appropriate,
9	support for and representation on United
10	States delegations to international meetings on
11	coastal and ocean observing programs; and
12	(C) encourage coordinated intramural and
13	extramural research and technology develop-
14	ment, and a process to transition developing
15	technology and methods into operations of the
16	System.
17	(2) Interagency ocean observation com-
18	MITTEE.—The Council shall establish or designate
19	an Interagency Ocean Observation Committee which
20	shall—
21	(A) prepare annual and long-term plans
22	for consideration and approval by the Council
23	for the integrated design, operation, mainte-
24	nance, enhancement and expansion of the Sys-

tem to meet the objectives of this Act and the System Plan;

- (B) develop and transmit to Congress at the time of submission of the President's annual budget request an annual coordinated, comprehensive budget to operate all elements of the System identified in subsection (b), and to ensure continuity of data streams from Federal and non-Federal assets;
- (C) establish required observation data variables to be gathered by both Federal and non-Federal assets and identify, in consultation with regional information coordination entities, priorities for System observations;
- (D) establish protocols and standards for System data processing, management, and communication;
- (E) develop contract certification standards and compliance procedures for all non-Federal assets, including regional information coordination entities, to establish eligibility for integration into the System and to ensure compliance with all applicable standards and protocols established by the Council, and ensure that

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1	regional observations are integrated into the
2	System on a sustained basis;
3	(F) identify gaps in observation coverage
4	or needs for capital improvements of both Fed-
5	eral assets and non-Federal assets;
6	(G) subject to the availability of appropria-
7	tions, establish through one or more partici-
8	pating Federal agencies, in consultation with
9	the System advisory committee established
10	under subsection (d), a competitive matching
11	grant or other programs—
12	(i) to promote intramural and extra-
13	mural research and development of new,
14	innovative, and emerging observation tech-
15	nologies including testing and field trials;
16	and
17	(ii) to facilitate the migration of new,
18	innovative, and emerging scientific and
19	technological advances from research and
20	development to operational deployment;
21	(H) periodically review and recommend to
22	the Council, in consultation with the Adminis-
23	trator revisions to the System Plan:

1	(I) ensure collaboration among Federal
2	agencies participating in the activities of the
3	Committee; and
4	(J) perform such additional duties as the
5	Council may delegate.
6	(3) Lead federal agency.—The National
7	Oceanic and Atmospheric Administration shall func-
8	tion as the lead Federal agency for the implementa-
9	tion and administration of the System, in consulta-
10	tion with the Council, the Interagency Ocean Obser-
11	vation Committee, other Federal agencies that main-
12	tain portions of the System, and the regional infor-
13	mation coordination entities, and shall—
14	(A) establish an Integrated Ocean Observ-
15	ing Program Office within the National Oceanic
16	and Atmospheric Administration utilizing to the
17	extent necessary, personnel from member agen-
18	cies participating on the Interagency Ocean Ob-
19	servation Committee, to oversee daily operations
20	and coordination of the System;
21	(B) implement policies, protocols, and
22	standards approved by the Council and dele-
23	gated by the Interagency Ocean Observing
24	Committee;

- 1 (C) promulgate program guidelines to cer2 tify and integrate non-Federal assets, including
 3 regional information coordination entities, into
 4 the System to provide regional coastal and
 5 ocean observation data that meet the needs of
 6 user groups from the respective regions;
 - (D) have the authority to enter into and oversee contracts, leases, grants or cooperative agreements with non-Federal assets, including regional information coordination entities, to support the purposes of this Act on such terms as the Administrator deems appropriate;
 - (E) implement a merit-based, competitive funding process to support non-Federal assets, including the development and maintenance of a network of regional information coordination entities, and develop and implement a process for the periodic review and evaluation of all non-Federal assets, including regional information coordination entities;
 - (F) provide opportunities for competitive contracts and grants for demonstration projects to design, develop, integrate, deploy, and support components of the System;

- 1 (G) establish efficient and effective admin2 istrative procedures for allocation of funds
 3 among contractors, grantees, and non-Federal
 4 assets, including regional information coordina5 tion entities in a timely manner, and contingent
 6 on appropriations according to the budget
 7 adopted by the Council;
 - (H) develop and implement a process for the periodic review and evaluation of regional information coordination entities:
 - (I) formulate an annual process by which gaps in observation coverage or needs for capital improvements of Federal assets and non-Federal assets of the System are identified by the regional information coordination entities, the Administrator, or other members of the System and transmitted to the Interagency Ocean Observing Committee;
 - (J) develop and be responsible for a data management and communication system, in accordance with standards and protocols established by the Council, by which all data collected by the System regarding ocean and coastal waters of the United States including the Great Lakes, are processed, stored, inte-

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1	grated, and made available to all end-user com-
2	munities;
3	(K) implement a program of public edu-
4	cation and outreach to improve public aware-
5	ness of global climate change and effects on the
6	ocean, coastal, and Great Lakes environment;
7	(L) report annually to the Interagency
8	Ocean Observing Committee on the accomplish-
9	ments, operational needs, and performance of
10	the System to contribute to the annual and
11	long-term plans developed pursuant to sub-
12	section (e)(2)(A)(i); and
13	(M) develop a plan to efficiently integrate
14	into the System new, innovative, or emerging
15	technologies that have been demonstrated to be
16	useful to the System and which will fulfill the
17	purposes of this Act and the System Plan.
18	(4) REGIONAL INFORMATION COORDINATION
19	ENTITIES.—
20	(A) In general.—To be certified or es-
21	tablished under this Act, a regional information
22	coordination entity shall be certified or estab-
23	lished by contract or agreement by the Adminis-
24	trator, and shall agree to meet the certification
25	standards and compliance procedure guidelines

1	issued by the Administrator and information
2	needs of user groups in the region while adher-
3	ing to national standards and shall—
4	(i) demonstrate an organizational
5	structure capable of gathering required
6	System observation data, supporting and
7	integrating all aspects of coastal and ocean
8	observing and information programs within
9	a region and that reflects the needs of
10	State and local governments, commercial
11	interests, and other users and beneficiaries
12	of the System and other requirements
13	specified under this Act and the System
14	Plan;
15	(ii) identify gaps in observation cov-
16	erage needs for capital improvements of
17	Federal assets and non-Federal assets of
18	the System, or other recommendations to
19	assist in the development of the annual
20	and long-term plans created pursuant to
21	subsection (c)(2)(A)(i) and transmit such
22	information to the Interagency Ocean Ob-
23	serving Committee via the Program Office;
24	(iii) develop and operate under a stra-
25	tegic operational plan that will ensure the

1	efficient and effective administration of
2	programs and assets to support daily data
3	observations for integration into the Sys-
4	tem, pursuant to the standards approved
5	by the Council;
6	(iv) work cooperatively with govern-
7	mental and non-governmental entities at
8	all levels to identify and provide informa-
9	tion products of the System for multiple
10	users within the service area of the re-
11	gional information coordination entities;
12	and
13	(v) comply with all financial oversight
14	requirements established by the Adminis-
15	trator, including requirements relating to
16	audits.
17	(B) Participation.—For the purposes of
18	this Act, employees of Federal agencies may
19	participate in the functions of the regional in-
20	formation coordination entities.
21	(d) System Advisory Committee.—
22	(1) In general.—The Administrator shall es-
23	tablish or designate a System advisory committee,
24	which shall provide advice as may be requested by

1	the Administrator or the Interagency Ocean Observ-
2	ing Committee.
3	(2) Purpose.—The purpose of the System ad-
4	visory committee is to advise the Administrator and
5	the Interagency Ocean Observing Committee on—
6	(A) administration, operation, manage-
7	ment, and maintenance of the System, includ-
8	ing integration of Federal and non-Federal as-
9	sets and data management and communication
10	aspects of the System, and fulfillment of the
11	purposes set forth in section 2;
12	(B) expansion and periodic modernization
13	and upgrade of technology components of the
14	System;
15	(C) identification of end-user communities,
16	their needs for information provided by the Sys-
17	tem, and the System's effectiveness in dissemi-
18	nating information to end-user communities
19	and the general public; and
20	(D) any other purpose identified by the
21	Administrator or the Interagency Ocean Ob-
22	serving Committee.
23	(3) Members.—
24	(A) In General.—The System advisory
25	committee shall be composed of members ap-

- pointed by the Administrator. Members shall be qualified by education, training, and experience to evaluate scientific and technical information related to the design, operation, maintenance, or use of the System, or use of data products provided through the System.
 - (B) TERMS OF SERVICE.—Members shall be appointed for 3-year terms, renewable once. A vacancy appointment shall be for the remainder of the unexpired term of the vacancy, and an individual so appointed may subsequently be appointed for 2 full 3-year terms if the remainder of the unexpired term is less than 1 year.
 - (C) Chairperson.—The Administrator shall designate a chairperson from among the members of the System advisory committee.
 - (D) Appointment.—Members of the System advisory committee shall be appointed as special Government employees for purposes of section 202(a) of title 18, United States Code.

 (4) Administrative provisions.—
 - (A) Reporting.—The System advisory committee shall report to the Administrator and the Interagency Ocean Observing Committee, as appropriate.

- 1 (B) ADMINISTRATIVE SUPPORT.—The Administrator shall provide administrative support to the System advisory committee.
 - (C) MEETINGS.—The System advisory committee shall meet at least once each year, and at other times at the call of the Administrator, the Interagency Ocean Observing Committee, or the chairperson.
 - (D) Compensation and expenses.—
 Members of the System advisory committee shall not be compensated for service on that Committee, but may be allowed travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.
 - (E) Expiration.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the System advisory committee.
- (e) CIVIL LIABILITY.—For purposes of determining liability arising from the dissemination and use of observation data gathered pursuant to this section, any non-Federal asset or regional information coordination entity incorporated into the System by contract, lease, grant, or cooperative agreement under subsection (c)(3)(D) that is

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- 1 participating in the System shall be considered to be part
- 2 of the National Oceanic and Atmospheric Administration.
- 3 Any employee of such a non-Federal asset or regional in-
- 4 formation coordination entity, while operating within the
- 5 scope of his or her employment in carrying out the pur-
- 6 poses of this Act, with respect to tort liability, is deemed
- 7 to be an employee of the Federal Government.
- 8 (f) Limitation.—Nothing in this Act shall be con-
- 9 strued to invalidate existing certifications, contracts, or
- 10 agreements between regional information coordination en-
- 11 tities and other elements of the System.
- 12 SEC. 5. INTERAGENCY FINANCING AND AGREEMENTS.
- 13 (a) In General.—To carry out interagency activi-
- 14 ties under this Act, the Secretary of Commerce may exe-
- 15 cute cooperative agreements, or any other agreements,
- 16 with, and receive and expend funds made available by, any
- 17 State or subdivision thereof, any Federal agency, or any
- 18 public or private organization, or individual.
- 19 (b) Reciprocity.—Member Departments and agen-
- 20 cies of the Council shall have the authority to create, sup-
- 21 port, and maintain joint centers, and to enter into and
- 22 perform such contracts, leases, grants, and cooperative
- 23 agreements as may be necessary to carry out the purposes
- 24 of this Act and fulfillment of the System Plan.

1 SEC. 6. APPLICATION WITH OTHER LAWS.

1	SEC. 0. All I LICATION WITH OTHER LAWS.
2	Nothing in this Act supersedes or limits the authority
3	of any agency to carry out its responsibilities and missions
4	under other laws.
5	SEC. 7. REPORT TO CONGRESS.
6	(a) Requirement.—Not later than 2 years after the
7	date of the enactment of this Act and every 2 years there-
8	after, the Administrator shall prepare and the President
9	acting through the Council shall approve and transmit to
10	the Congress a report on progress made in implementing
11	this Act.
12	(b) CONTENTS.—The report shall include—
13	(1) a description of activities carried out under
14	this Act and the System Plan;
15	(2) an evaluation of the effectiveness of the
16	System, including an evaluation of progress made by
17	the Council to achieve the goals identified under the
18	System Plan;
19	(3) identification of Federal and non-Federal
20	assets as determined by the Council that have been
21	integrated into the System, including assets essential
22	to the gathering of required observation data vari-
23	ables necessary to meet the respective missions of
24	Council agencies;
25	(4) a review of procurements, planned or initi-

ated, by each Council agency to enhance, expand, or

- 1 modernize the observation capabilities and data 2 products provided by the System, including data 3 management and communication subsystems;
 - (5) an assessment regarding activities to integrate Federal and non-Federal assets, nationally and on the regional level, and discussion of the performance and effectiveness of regional information coordination entities to coordinate regional observation operations;
 - (6) a description of benefits of the program to users of data products resulting from the System (including the general public, industries, scientists, resource managers, emergency responders, policy makers, and educators);
 - (7) recommendations concerning—
- 16 (A) modifications to the System; and
- 17 (B) funding levels for the System in subse-18 quent fiscal years; and
- 19 (8) the results of a periodic external inde-20 pendent programmatic audit of the System.

21 SEC. 8. PUBLIC-PRIVATE USE POLICY.

The Council shall develop a policy within 6 months after the date of the enactment of this Act that defines processes for making decisions about the roles of the Federal Government, the States, regional information coordi-

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- 1 nation entities, the academic community, and the private
- 2 sector in providing to end-user communities environmental
- 3 information, products, technologies, and services related to
- 4 the System. The Council shall publish the policy in the
- 5 Federal Register for public comment for a period not less
- 6 than 60 days. Nothing in this section shall be construed
- 7 to require changes in policy in effect on the date of enact-
- 8 ment of this Act.

9 SEC. 9. INDEPENDENT COST ESTIMATE.

- 10 Within 1 year after the date of enactment of this Act,
- 11 the Interagency Ocean Observation Committee, through
- 12 the Administrator and the Director of the National
- 13 Science Foundation, shall obtain an independent cost esti-
- 14 mate for operations and maintenance of existing Federal
- 15 assets of the System, and planned or anticipated acquisi-
- 16 tion, operation, and maintenance of new Federal assets
- 17 for the System, including operation facilities, observation
- 18 equipment, modeling and software, data management and
- 19 communication, and other essential components. The inde-
- 20 pendent cost estimate shall be transmitted unabridged and
- 21 without revision by the Administrator to Congress.

22 SEC. 10. INTENT OF CONGRESS.

- It is the intent of Congress that funding provided to
- 24 agencies of the Council to implement this Act shall supple-
- 25 ment, and not replace, existing sources of funding for

- 1 other programs. It is the further intent of Congress that
- 2 agencies of the Council shall not enter into contracts or
- 3 agreements for the development or procurement of new
- 4 Federal assets for the System that are estimated to be
- 5 in excess of \$250,000,000 in life-cycle costs without first
- 6 providing adequate notice to Congress and opportunity for
- 7 review and comment.

8 SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

- 9 There are authorized to be appropriated to the Sec-
- 10 retary of Commerce for fiscal years 2009 through 2013
- 11 such sums as are necessary to fulfill the purposes of this
- 12 Act and support activities identified in the annual coordi-
- 13 nated System budget developed by the Interagency Ocean
- 14 Observation Committee and submitted to the Congress.

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