

bill. I further ask unanimous consent that all after the enacting clause be stricken, that the Snowe amendment and the Grassley-Baucus amendment, which are at the desk, be agreed to en bloc; that the substitute amendment, which is the text of S. 476, the Senate-passed version of charitable choice, as amended by Snowe and Grassley-Baucus, be agreed to; that the bill, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table; further, that the Senate insist upon its amendments and request a conference with the House; and lastly, that the Chair be authorized to appoint conferees with a ratio of 3 to 2 and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask that the distinguished Senator from Kentucky modify his request as follows: That the Senate proceed to the immediate consideration of H.R. 7; that all after the enacting clause be stricken; that the Snowe amendment which is at the desk be agreed to; that the substitute amendment which is the text of S. 476 as passed the Senate, as amended, be agreed to; that the bill as amended be read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating to this be printed in the RECORD, with no intervening action or debate.

Mr. MCCONNELL. Mr. President, I object.

Mr. REID. I also object.

The PRESIDING OFFICER. The Senator from Kentucky declines to modify his original request and the objection is now heard on the original request.

Mr. REID. The Chair is correct.

EXECUTIVE SESSION

NOMINATION OF CHARLES W. PICKERING, SR., OF MISSISSIPPI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to executive session for the consideration of Executive Calendar No. 400, the nomination of Charles Pickering to be U.S. Circuit Judge for the Fifth Circuit. I ask my friend and colleague on the other side of the aisle, would his side be willing to enter into a time agreement on this nomination?

Mr. REID. The answer is no.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Charles W. Pickering, Sr., of Mississippi to be United States Circuit Judge for the Fifth circuit.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I therefore send a cloture motion to the desk to the pending nomination.

The PRESIDING OFFICER. The cloture motion having been presented

under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 400, the nomination of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

Bill Frist, Orrin Hatch, Trent Lott, Conrad Burns, Lamar Alexander, Arlen Specter, Mitch McConnell, Mike DeWine, Chuck Hagel, Rick Santorum, Craig Thomas, Thad Cochran, John Ensign, Lindsey Graham, Elizabeth Dole, Michael B. Enzi, Gordon Smith.

Mr. MCCONNELL. I ask unanimous consent the live quorum as required under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MCCONNELL. I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

HARMFUL ALGAL BLOOM AND HYPOXIA AMENDMENTS ACT OF 2003

Mr. MCCONNELL. I ask unanimous consent the Senate proceed to immediate consideration of Calendar No. 249, S. 247.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 247) to reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which was reported with an amendment, as follows:

[Strike the part shown in black brackets and insert the part printed in italic]

S. 247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

[This Act may be cited as the "Harmful Algal Bloom and Hypoxia Amendments Act of 2003".

SEC. 2. RETENTION OF TASK FORCE.

[Section 603 of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451 nt) is amended by striking subsection (e).

SEC. 3. PREDICTION AND RESPONSE PLAN.

[Section 603 of such Act, as amended by section 2, is further amended by adding at the end the following:

["(e) PREDICTION AND RESPONSE PLAN.—

["(1) DEVELOPMENT OF PLAN.—Not later than 12 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2003, the President, in conjunction with the chief executive officers of the States, shall develop and submit to the Congress a plan to protect environmental and public health from impacts of harmful algal blooms. In developing the

plan, the President shall consult with the Task Force, the coastal States, Indian tribes, local governments, industry, academic institutions, and non-governmental organizations with expertise in coastal zone management.

["(2) PLAN REQUIREMENTS.—The plan shall—

["(A) review techniques for prediction of the onset, course, and impacts of harmful algal blooms including evaluation of their accuracy and utility in protecting environmental and public health and provisions for implementation;

["(B) identify innovative response measures for the prevention, control, and mitigation of harmful algal blooms and provisions for their development and implementation; and

["(C) include incentive-based partnership approaches where practicable.

["(3) PUBLICATION AND OPPORTUNITY FOR COMMENT.—At least 90 days before submitting the plan to the Congress, the President shall cause a summary of the proposed plan to be published in the Federal Register for a public comment period of not less than 60 days.

["(4) FEDERAL ASSISTANCE.—The Secretary of Commerce, in coordination with the Task Force and to the extent of funds available, shall provide for Federal cooperation with and assistance to the coastal States, Indian tribes, and local governments in implementing measures in paragraph (2), as requested.".

SEC. 4. LOCAL AND REGIONAL ASSESSMENTS.

[Section 603 of such Act, as amended by section 3, is further amended by adding at the end the following:

["(f) LOCAL AND REGIONAL ASSESSMENTS.—

["(1) IN GENERAL.—The Secretary of Commerce, in coordination with the Task Force and to the extent of funds available, shall provide for local and regional assessments of hypoxia and harmful algal blooms, as requested by coastal States, Indian tribes, and local governments.

["(2) PURPOSE.—Local and regional assessments may examine—

["(A) the causes of hypoxia or harmful algal blooms in that area;

["(B) the ecological and economic impacts of hypoxia or harmful algal blooms;

["(C) alternatives to reduce, mitigate, and control hypoxia and harmful algal blooms; and

["(D) the social and economic benefits of such alternatives.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

[Section 605 of such Act is amended—

["(1) by striking "and" after "2000," in the first sentence and in the paragraphs (1), (2), (3), and (5);

["(2) by inserting "\$26,000,000 for fiscal year 2004, \$26,500,000 for fiscal year 2005, and \$27,000,000 for fiscal year 2007" after "2001," in the first sentence;

["(3) by inserting "and \$2,500,000 for each of fiscal years 2004, 2005, and 2006" after "2001" in paragraph (1);

["(4) by inserting "and \$5,500,000 for each of fiscal years 2004, 2005, and 2006" after "2001" in paragraph (2);

["(5) by striking "2001" in paragraph (3) and inserting "2001, \$2,000,000 for fiscal year 2004, \$3,000,000 for fiscal year 2005, and \$3,000,000 for fiscal year 2006";

["(6) by striking "blooms;" in paragraph (3) and inserting "blooms and to implement section 603(e).";

["(7) by striking "2001" in paragraph (4) and inserting "2001, and \$6,000,000 for each of fiscal years 2004, 2005, and 2006.";

["(8) by striking "and" after the semicolon in paragraph (4);

["(9) by striking "2001" in paragraph (5) and inserting "2001, \$5,000,000 for fiscal year 2004,

\$5,500,000 for fiscal year 2005, and \$6,600,000 for fiscal year 2006”;

[(10) by striking “Administration.” in paragraph (5) and inserting “Administration; and”; and

[(11) by adding at the end the following:

“(6) \$3,000,000 for each of fiscal years 2004, 2005, and 2006 to carry out section 603(f).”.]

SECTION 1. SHORT TITLE.

This Act may be cited as the “Harmful Algal Bloom and Hypoxia Amendments Act of 2003”.

SEC. 2. RETENTION OF TASK FORCE.

Section 603 of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451 nt) is amended by striking subsection (e).

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“(e) PREDICTION AND RESPONSE PLAN.—

“(1) DEVELOPMENT OF PLAN.—Not later than 12 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2003, the President, in consultation with the chief executive officers of the States, shall develop and submit to the Congress a plan to protect environmental and public health from impacts of harmful algal blooms. In developing the plan, the President shall consult with the Task Force, the coastal States, Indian tribes, local governments, industry, academic institutions, and non-governmental organizations with expertise in coastal zone science and management.

“(2) PLAN REQUIREMENTS.—The plan shall—

“(A) review techniques for prediction of the onset, course, and impacts of harmful algal blooms including evaluation of their accuracy and utility in protecting environmental and public health and provisions for implementation;

“(B) identify innovative response measures for the prevention, control, and mitigation of harmful algal blooms and provisions for their development and implementation; and

“(C) include incentive-based partnership approaches where practicable.

“(3) PUBLICATION AND OPPORTUNITY FOR COMMENT.—At least 90 days before submitting the plan to the Congress, the President shall cause a summary of the proposed plan to be published in the Federal Register for a public comment period of not less than 60 days.

“(4) FEDERAL ASSISTANCE.—The Secretary of Commerce, in coordination with the Task Force and to the extent of funds available, shall provide for Federal cooperation with and assistance to the coastal States, Indian tribes, and local governments in implementing measures in paragraph (2), as requested.”.

SEC. 4. LOCAL AND REGIONAL ASSESSMENTS.

Section 603 of such Act, as amended by section 3, is further amended by adding at the end the following:

“(f) LOCAL AND REGIONAL ASSESSMENTS.—

“(1) IN GENERAL.—The Secretary of Commerce, in coordination with the Task Force and to the extent of funds available, shall provide for local and regional assessments of hypoxia and harmful algal blooms, as requested by coastal States, Indian tribes, and local governments.

“(2) PURPOSE.—Local and regional assessments may examine—

“(A) the causes of hypoxia or harmful algal blooms in that area;

“(B) the ecological and economic impacts of hypoxia or harmful algal blooms;

“(C) alternatives to reduce, mitigate, and control hypoxia and harmful algal blooms; and

“(D) the social and economic costs and benefits of such alternatives.”.

“(g) SCIENTIFIC ASSESSMENT OF GREAT LAKES HARMFUL ALGAL BLOOMS.—

“(1) Not later than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Research Amendments Act of 2003 the

Task Force shall complete and submit to Congress a scientific assessment of current knowledge about harmful algal blooms in the Great Lakes, including a research plan for coordinating Federal efforts to better understand Great Lakes harmful algal blooms.

“(2) The Great Lakes harmful algal bloom scientific assessment shall—

“(A) examine the causes and ecological consequences, and the economic costs, of harmful algal blooms with significant effects on Great Lakes locations, including estimations of the frequency and occurrence of significant events;

“(B) establish priorities and guidelines for a competitive, peer-reviewed, merit-based inter-agency research program, as part of the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) project, to better understand the causes, characteristics, and impacts of harmful algal blooms in Great Lakes locations; and

“(C) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms in Great Lakes locations.

“(h) SCIENTIFIC ASSESSMENTS OF HYPOXIA.—

“(1) Not less than once every 5 years the Task Force shall complete and submit to the Congress a scientific assessment of hypoxia in United States coastal waters including the Great Lakes. The first such assessment shall be completed not less than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Research Amendments Act of 2003.

“(2) The assessments under this subsection shall—

“(A) examine the causes and ecological consequences, and the economic costs, of hypoxia;

“(B) describe the potential ecological and economic costs and benefits of possible policy and management actions for preventing, controlling, and mitigating hypoxia;

“(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of hypoxia, including recommendations of how to eliminate significant gaps in hypoxia modeling and monitoring data; and

“(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on hypoxia.”.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 605 of such Act is amended—

(1) by striking “and” after “2000,” in the first sentence and in the paragraphs (1), (2), (3), and (5);

(2) by inserting “\$26,000,000 for fiscal year 2004, \$26,500,000 for fiscal year 2005, \$27,000,000 for fiscal year 2006, \$27,500,000 for fiscal year 2007, and \$28,000,000 for fiscal year 2008” after “2001,” in the first sentence;

(3) by inserting “and \$2,500,000 for each of fiscal years 2004 through 2008” after “2001” in paragraph (1);

(4) by inserting “and \$8,200,000, of which \$2,000,000 shall be used for the research program described in section 603(g)(2)(B), for each of fiscal years 2004 through 2008” after “2001” in paragraph (2);

(5) by striking “2001” in paragraph (3) and inserting “2001, \$2,000,000 for fiscal year 2004, \$3,000,000 for fiscal year 2005, \$3,000,000 for fiscal year 2006, \$3,000,000 for fiscal year 2007, and \$3,000,000 for fiscal year 2008”;

(6) by striking “blooms;” in paragraph (3) and inserting “blooms and to implement section 603(e).”;

(7) by striking “2001” in paragraph (4) and inserting “2001, and \$6,000,000 for each of fiscal years 2004 through 2008”;

(8) by striking “and” after the semicolon in paragraph (4);

(9) by striking “2001” in paragraph (5) and inserting “2001, \$5,000,000 for fiscal year 2004, \$5,500,000 for fiscal year 2005, \$6,000,000 for fiscal year 2006, \$7,100,000 for fiscal year 2007, and \$7,600,000 for fiscal year 2008”;

(10) by striking “Administration.” in paragraph (5) and inserting “Administration; and”; and

(11) by adding at the end the following:

“(6) \$3,000,000 for each of fiscal years 2004 through 2008 to carry out section 603(f).”.

Ms. SNOWE. Mr. President, I am pleased that today the Senate is considering passage of S. 247, the Harmful Algal Bloom and Hypoxia Amendments Act of 2003.

I must first thank my friend and original cosponsor, Senator BREAUX, for his commitment to taking action with me on these important issues. He and I represent coastal States that are directly affected by harmful algal blooms and hypoxia, and we see firsthand how these outbreaks have harmful impacts on marine ecology, resource economics, and human health in our States.

For instance, during the past several weeks Maine has endured the most toxic red tide to hit our coastline in decades. When humans, fish, and marine mammals eat clams, mussels, oysters, snails, and other shellfish that have fed on the algae that produced this red tide, they are exposed to accumulated toxins, which can cause harmful—even fatal—neurological problems. This phenomenon occurs along thousands of miles of U.S. coastline, but it has increased dramatically in the Gulf of Maine in the last 20 years. In Maine this month, the most recent outbreak caused public health alerts and closed the entire coastline to shellfishing, and it may even be linked to the deaths of 21 large whales, including humpbacks. As you can see, due to these events passage of this bill is extremely timely.

I must also thank Senators VOINOVICH, DEWINE, and LEVIN for cosponsoring this bill and helping to expand its scope to include the Great Lakes. Harmful algal blooms and hypoxia have increased in Lake Erie and other regional waters in recent years, and Great Lakes-bordering States are struggling to identify the causes of these events. Like other coastal States, they need to be able to better predict, monitor, and mitigate these events in order to protect their environment, economy, and human health.

This bill continues and builds upon the research efforts we established in 1998 through the Harmful Algal Bloom and Hypoxia Research and Control Act. This original bill authorized a cross-section of research and monitoring activities on harmful algal blooms and hypoxia. However, algal blooms are still prevalent around the country, the hypoxia “dead zone” still occurs each summer in the Gulf of Mexico, and the management and mitigation measures set forth in our 1998 bill still need to be realized. The amendments in S. 247 would authorize the funding that will reignite these scientific activities and provide important new authorities.

This reauthorization continues to seek and utilize the valuable contributions of the once-temporary Inter-

Agency Task Force on Harmful Algal Blooms and Hypoxia by making it permanent. The bill would direct this Task Force to develop a response and prediction action plan to protect environmental and public health from the harmful impacts of harmful algal blooms. Through this plan, task force members would review prediction techniques, develop innovative response measures, and include incentive-based partnership approaches.

The bill would also authorize the task force and the Department of Commerce to develop local and regional assessments at the request of coastal States, Indian tribes, and local governments, so they could obtain technical assistance in addressing their local hypoxia and harmful algal bloom outbreaks. The regional plans will help avoid a one-size-fits-all approach to prediction and response, since local and regional variations in the types of land use, landscape geology, and community input should be taken into account. By tailoring mitigation and management measures to each location, the overall approach can be made more effective.

As for the Great Lakes, S. 247 would direct this task force to conduct a scientific assessment of Great Lakes harmful algal blooms, and it would direct them to conduct a scientific assessment of hypoxia in U.S. coastal waters, including the Great Lakes, not less than once every 5 years. This amendment would authorize funding levels for these assessments at \$2 million for fiscal years 2004 through 2006.

Overall, this bill would authorize \$26 million in fiscal year 2004, and \$26.5 million in fiscal year 2005, and \$27 million in fiscal year 2006. These funding levels reflect modest increases in some of the research and monitoring programs authorized in the 1998 bill and provide funding for the new assessments and implementation of their recommendations.

This reauthorization facilitates the continuation and expansion of collaborative, science-based research efforts that can help us better understand how to predict and mitigate harmful algal blooms and hypoxia events. The nation is well-served by legislation that seeks to protect coastal ecosystems, resource-dependent economies, and human health, and I thank my colleagues for supporting this important bill. I look forward to sending this bill to the House of Representatives so that they may undertake the next step in passing it.

Mr. MCCONNELL. I ask unanimous consent the committee amendment be agreed to, the bill be read a third time and passed, the motions to reconsider be laid upon the table, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 247), as amended, was read the third time and passed.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 108-9

Mr. MCCONNELL. Mr. President, as in executive session, I ask unanimous consent the injunction of secrecy be removed from the following treaty, transmitted to the Senate on October 28, 2003, by the President of the United States: Protocol Amending Tax Convention with Sri Lanka (Treaty Doc. 108-9).

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Protocol Amending the Convention Between the Government of the United States of America and the Government of the Democratic Socialist Republic of Sri Lanka for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed at Colombo on March 14, 1985, together with an exchange of notes, signed at Washington on September 20, 2002 (the "Protocol"). I also transmit, for the information of the Senate, the report of the Department of State concerning the Protocol.

The Protocol would amend the Convention to make it similar to tax treaties between the United States and other developing nations. The Convention would provide maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention, as amended by the Protocol, also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Protocol in conjunction with the Convention, and that the Senate give its advice and consent to ratification.

GEORGE W. BUSH.

THE WHITE HOUSE, October 28, 2003.

ORDERS FOR WEDNESDAY, OCTOBER 29, 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, October 29. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the

time for the two leaders be reserved for their use later in the day, and the Senate then proceed to a period of morning business for up to 30 minutes, with the first 15 minutes under the control of Senator HUTCHISON or her designee and the second 15 minutes under the control of the minority leader or his designee; provided that following morning business, the Senate resume consideration of H.R. 2800, the Foreign Operations Appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCONNELL. For the information of all Senators, tomorrow, following morning business, the Senate will resume consideration of the Foreign Operations appropriations bill. Under the previous order, there will be a vote in relation to the Dorgan amendment at approximately 10:40 a.m. This will be the first vote of the day.

Following the disposition of the Dorgan amendment, the Senate will turn to consideration of H.R. 1904, the Healthy Forests bill. Senator COCHRAN will be on the floor to work through any of those amendments. Amendments to this urgent legislation will be offered and debated throughout the day. Therefore, Senators should expect rollcall votes throughout tomorrow.

Clearly, if anyone has had their television set on in recent days, it is important to move on this Healthy Forests legislation. Fires have been burning all over the West.

A cloture motion was filed this evening on the nomination of Charles Pickering to be a Federal circuit judge. That cloture vote will occur on Thursday, and Senators will be notified when that vote is scheduled.

Also, as a reminder, an agreement was reached tonight for the consideration of the fair credit reporting bill, and that bill will be considered next week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:22 p.m., adjourned until Wednesday, October 29, 2003, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate October 28, 2003:

ENVIRONMENTAL PROTECTION AGENCY

MICHAEL O. LEAVITT, OF UTAH, TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.
THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.