

111TH CONGRESS
1ST SESSION

S. 3641

To create the National Endowment for the Oceans to promote the protection and conservation of United States ocean, coastal, and Great Lakes ecosystems, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WHITEHOUSE (for himself, Ms. SNOWE, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To create the National Endowment for the Oceans to promote the protection and conservation of United States ocean, coastal, and Great Lakes ecosystems, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “National Endowment for the Oceans Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. Findings.

- Sec. 4. Definitions.
- Sec. 5. National Endowment for the Oceans.
- Sec. 6. Eligible uses.
- Sec. 7. Grant programs.
- Sec. 8. Council.
- Sec. 9. Annual report.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to protect, conserve, re-
3 store, and understand the oceans, coasts, and Great Lakes
4 of the United States, ensuring present and future genera-
5 tions will benefit from the full range of ecological, eco-
6 nomic, educational, social, cultural, nutritional, and rec-
7 reational opportunities these resources are capable of pro-
8 viding.

9 **SEC. 3. FINDINGS.**

10 Congress finds the following:

11 (1) Covering more than two-thirds of the
12 Earth's surface, the oceans and Great Lakes sustain
13 a large part of Earth's biodiversity, provide an im-
14 portant source of food and other natural products,
15 act as a frontier for scientific exploration, are crit-
16 ical to national security and economic well-being,
17 and are a vital means of transportation.

18 (2) The coastal regions of the United States
19 have high biological productivity and contribute ap-
20 proximately 50 percent of the gross domestic prod-
21 uct of the United States.

1 (3) The oceans, coasts, and Great Lakes are
2 susceptible to change as a direct and indirect result
3 of human activities, which can inhibit ecosystem in-
4 tegrity and productivity, biodiversity, environmental
5 quality, national security, economic competitiveness,
6 availability of energy, resistance to natural hazards,
7 and transportation safety and efficiency.

8 (4) Human pressure on ocean, coastal, and
9 Great Lakes resources is drastically increasing, with
10 50 percent of the population of the United States
11 living within 50 miles of the coast and, if population
12 trends continue as expected, coastal development
13 and urbanization impacts will present serious chal-
14 lenges and increase our vulnerability to coastal haz-
15 ards.

16 (5) The oceans, coasts, and Great Lakes, and
17 their resources are held in trust for the people of the
18 United States by Federal, State, local, and tribal
19 governments, and their conservation will benefit
20 present and future generations.

21 (6) A variety of human activities have caused
22 dramatic declines in the health and productivity of
23 ocean, coastal, and Great Lakes ecosystems of the
24 United States, including—

1 (A) chemical, nutrient, thermal, and bio-
2 logical pollution, including introduction of
3 invasive species, and introduction of marine de-
4 bris;

5 (B) unwise land use and coastal develop-
6 ment;

7 (C) loss and degradation of habitat, includ-
8 ing upstream freshwater habitat for anad-
9 romous, diadromous, and migratory fish spe-
10 cies;

11 (D) overfishing and bycatch of nontarget
12 marine species; and

13 (E) global climate change and ocean acidi-
14 fication.

15 (7) Activities harming ocean, coastal, and Great
16 Lakes ecosystems jeopardize the economies and so-
17 cial structure of communities dependent on re-
18 sources from such ecosystems.

19 (8) While there is an abundance of Federal,
20 State, local, and tribal laws, government agencies,
21 and programs designed to study, observe, protect,
22 and manage ocean, coastal, and Great Lakes re-
23 sources, activities thereunder are poorly coordinated
24 and do not constitute a unified and comprehensive
25 public policy to enhance understanding, protection,

1 conservation, and restoration of the oceans, coasts,
2 and Great Lakes.

3 (9) Improving and coordinating Federal govern-
4 ance will require close partnership with States, tak-
5 ing into account their public trust responsibilities,
6 their economic and ecological interests in ocean,
7 coastal, and Great Lakes resources, and the role of
8 State and local governments in the implementation
9 of policies governing their use.

10 (10) It is the continuing mission of the Federal
11 Government to create, foster, and maintain condi-
12 tions, incentives, policies, and programs that will en-
13 sure the sustainable and effective conservation, man-
14 agement, and protection of the oceans, coasts, and
15 Great Lakes, including fostering greater scientific
16 understanding of these areas, in order to fulfill the
17 responsibility of each generation as trustee in pro-
18 tecting such resources and ensuring their availability
19 for future generations.

20 (11) The oceans, coasts, and Great Lakes of
21 the United States, and their resources are dependent
22 upon and connected to those of other countries
23 throughout the world, and collaboration with inter-
24 national bodies and governments will help protect
25 and manage our shared and linked marine eco-

1 systems and resources for the benefit of the world's
2 population.

3 (12) Programs that facilitate greater collabora-
4 tion and coordination among stakeholders and
5 strengthen the relationship between governmental
6 and nongovernmental partners will support our un-
7 derstanding of complex ecosystems and more effec-
8 tively leverage existing resources and expertise.

9 (13) Supporting science, research, monitoring,
10 modeling, forecasting, exploration, and assessment
11 will continually improve the understanding of ocean,
12 coastal, and Great Lakes ecosystems.

13 **SEC. 4. DEFINITIONS.**

14 In this Act:

15 (1) COASTAL POPULATION.—The term “coastal
16 population” means the population of all political
17 subdivisions, as determined by the most recent offi-
18 cial data of the Census Bureau, contained in whole
19 or in part within the designated coastal boundary of
20 a State as defined in a State’s coastal zone manage-
21 ment program under the Coastal Zone Management
22 Act of 1972 (16 U.S.C. 1451 et seq.) as of the date
23 of enactment of this Act.

24 (2) COASTAL STATE.—The term “coastal
25 State” has the meaning given the term “coastal

1 state” in section 304 of the Coastal Zone Manage-
2 ment Act of 1972 (16 U.S.C. 1453).

3 (3) COUNCIL.—The term “Council” means the
4 National Endowment for the Oceans Council estab-
5 lished under section 8.

6 (4) ENDOWMENT.—The term “Endowment”
7 means the National Endowment for the Oceans es-
8 tablished under section 5.

9 (5) INDIAN TRIBE.—The term “Indian tribe”
10 has the meaning given that term in section 4 of the
11 Indian Self-Determination and Education Assistance
12 Act (25 U.S.C. 450b).

13 (6) LOCAL GOVERNMENT.—The term “local
14 government” means a political subdivision all or part
15 of which is within a coastal zone (as defined in sec-
16 tion 304 of the Coastal Zone Management Act of
17 1972 (16 U.S.C. 1453)).

18 (7) REGIONAL PLANNING BODY.—The term
19 “regional planning body” means a regional entity
20 that includes representatives of Federal and State
21 agencies and, if applicable, Indian tribes and indige-
22 nous community representatives, with jurisdictional
23 responsibilities or other interests (such as resource
24 management, science, homeland and national secu-
25 rity, transportation, and public health) for the devel-

1 opment and implementation of regional coordination
2 and planning to understand, protect, maintain, and
3 restore ocean, coastal, and Great Lakes ecosystems.

4 (8) SECRETARY.—Except as otherwise specifi-
5 cally provided, the term “Secretary” means the Sec-
6 retary of Commerce.

7 (9) TIDAL SHORELINE.—The term “tidal shore-
8 line” has the meaning given that term pursuant to
9 section 923.110(c)(2)(i) of title 15, Code of Federal
10 Regulations.

11 **SEC. 5. NATIONAL ENDOWMENT FOR THE OCEANS.**

12 (a) ESTABLISHMENT.—There is established in the
13 Treasury of the United States a National Endowment for
14 the Oceans, to be administered by the Secretary and avail-
15 able without further appropriation or fiscal year limita-
16 tion, solely for use in accordance with the requirements
17 established under this Act.

18 (b) FUNDING.—

19 (1) INTEREST ON OSLTF INVESTMENTS.—
20 Amounts credited to the Oil Spill Liability Trust
21 Fund under section 9602(b) of the Internal Revenue
22 Code of 1986 for any fiscal year beginning after fis-
23 cal year 2011 in which the average daily balance of
24 the Fund is \$1,500,000,000 or more shall, notwith-
25 standing any other provision of law to the contrary,

1 be transferred to the Endowment not later than 90
2 days after the last day of such fiscal year.

3 (2) OUTER CONTINENTAL SHELF LEASE REV-
4 ENUE.—Section 8 of the Outer Continental Shelf
5 Lands Act (43 U.S.C. 1337) is amended by adding
6 at the end the following:

7 “(q) DEPOSITS IN THE NATIONAL ENDOWMENT FOR
8 THE OCEANS.—Beginning with fiscal year 2011, the Sec-
9 retary shall deposit 12.5 percent of the revenue generated
10 under this section, excluding any revenue generated from
11 Arctic drilling that begins after the date of the enactment
12 of the National Endowment for the Oceans Act, in the
13 National Endowment for the Oceans established by section
14 4(a) of the National Endowment for the Oceans Act.”.

15 (3) REVENUES FROM OFFSHORE RENEWABLE
16 ENERGY DEVELOPMENT.—Beginning with fiscal year
17 2011, the President shall ensure that 12.5 percent
18 of the revenue generated by offshore renewable en-
19 ergy development, authorized or permitted under
20 any provision of law, is deposited in the Endowment.

21 (4) FINES COLLECTED FOR VIOLATIONS OF
22 FEDERAL LAWS.—Beginning with fiscal year 2011,
23 the President shall ensure that a portion of fines
24 paid to the United States for a violation of Federal
25 law that occurs in the exclusive economic zone (as

1 defined in section 107 of title 46, United States
2 Code) is deposited in the Endowment.

3 (5) INVESTMENT OF ENDOWMENT AMOUNTS IN
4 INTEREST-BEARING OBLIGATIONS.—The Secretary
5 of the Treasury shall invest such a portion of the
6 amounts in the Endowment as are not required to
7 meet current withdrawals, as determined by the Sec-
8 retary of the Treasury, in interest-bearing obliga-
9 tions of the United States in accordance with section
10 9602 of the Internal Revenue Code of 1986.

11 (6) AUTHORIZATION OF APPROPRIATIONS.—Be-
12 ginning with fiscal year 2015, there is authorized to
13 be appropriated to the Endowment for any fiscal
14 year in which the sum of the amounts to be trans-
15 ferred to, and deposited in, the Endowment under
16 this subsection is estimated to be less than
17 \$100,000,000, an amount equal to the difference be-
18 tween \$100,000,000 and the estimated amount of
19 such transfers and deposits.

20 (7) SAVINGS PROVISION.—Nothing in this sec-
21 tion shall decrease the amount any State may re-
22 ceive pursuant to section 8(g) of the Outer Conti-
23 nental Shelf Lands Act (43 U.S.C. 1337(g)) or sec-
24 tion 105 of the Gulf of Mexico Energy Security Act
25 of 2006 (43 U.S.C. 1331 note).

1 (c) ALLOCATION.—Of the amounts deposited in the
2 Endowment for each fiscal year—

3 (1) at least 49 percent shall be used by the Sec-
4 retary to make grants to coastal States and affected
5 Indian tribes under section 7(a);

6 (2) at least 19 percent shall be used by the Sec-
7 retary to make grants to regional planning bodies
8 under section 7(b);

9 (3) at least 29 percent shall be allocated by the
10 Secretary to the Ocean Resources Conservation and
11 Assistance Grant Program established by section
12 7(c); and

13 (4) not more than 3 percent may be used for
14 administrative expenses to carry out the programs
15 created under this Act.

16 **SEC. 6. ELIGIBLE USES.**

17 (a) IN GENERAL.—Amounts in the Endowment may
18 be allocated by the Secretary only to fund grants for pro-
19 grams and activities intended to restore, protect, main-
20 tain, or understand living marine resources and their habi-
21 tats and ocean, coastal, and Great Lakes resources, in-
22 cluding baseline scientific research, ocean observing, and
23 other programs and activities carried out in coordination
24 with Federal and State departments or agencies, that are

1 consistent with Federal environmental laws and that avoid
2 environmental degradation, including—

3 (1) ocean, coastal, and Great Lakes restoration
4 and protection, including the protection of the envi-
5 ronmental integrity of such areas, and their related
6 watersheds, including efforts to adapt to and with-
7 stand the impacts of global climate change;

8 (2) restoration, protection, or maintenance of
9 living ocean, coastal, and Great Lakes resources and
10 their habitats, including marine protected areas and
11 riparian migratory habitat of coastal and marine
12 species;

13 (3) planning for and managing coastal develop-
14 ment to minimize the loss of life and property asso-
15 ciated with global climate change and the coastal
16 hazards resulting from global climate change;

17 (4) analyses of current and anticipated climate
18 change and ocean acidification and assessment of
19 potential actions to minimize their harm to ocean,
20 coastal, and Great Lakes ecosystems;

21 (5) analyses of, and planning for, current and
22 anticipated uses of ocean, coastal, and Great Lakes
23 areas and identification of areas most suitable for
24 various types of classes of activities and for restora-
25 tion, protection, and maintenance of ecosystem

1 health and to reduce conflicts among uses, reduce
2 environmental impacts, facilitate compatible uses,
3 and preserve critical ecosystem services to meet eco-
4 nomic, environmental, security, and social objectives;

5 (6) regional, subregional, and site-specific man-
6 agement efforts designed to manage, protect, or re-
7 store ocean, coastal, and Great Lakes resources and
8 ecosystems;

9 (7) research, assessment, monitoring, observa-
10 tion, modeling, and sharing of information that con-
11 tributes to the understanding of ocean, coastal, and
12 Great Lakes ecosystems and supports the purposes
13 of this Act;

14 (8) efforts to better understand the processes
15 that govern the fate and transport of petroleum hy-
16 drocarbons released into the marine environment
17 from natural and anthropogenic sources, including
18 spills;

19 (9) acquiring property or interests in property
20 in coastal and estuarine areas if obtaining such
21 property is subject to terms and conditions that will
22 ensure it will be administered to support the pur-
23 poses of this Act; and

1 (10) protection and relocation of critical coastal
2 public infrastructure affected by erosion, sea level
3 rise, or impacts of global climate change.

4 (b) REQUIREMENT FOR STATE MATCHING FUNDS.—

5 Any amount from the Endowment provided to fund a
6 project described in paragraph (9) or (10) of subsection
7 (a) may not exceed 50 percent of the total project cost
8 and may only be provided if the State in which such
9 project will be carried out provides the remainder of the
10 total project cost.

11 (c) CONSIDERATIONS FOR GREAT LAKES STATES.—

12 Programs and activities funded in Great Lakes States
13 shall also seek to attain the goals embodied in the Great
14 Lakes Restoration Initiative Plan, the Great Lakes Re-
15 gional Collaboration Strategy, the Great Lakes Water
16 Quality Agreement, or other collaborative planning efforts
17 of the Great Lakes Region.

18 **SEC. 7. GRANT PROGRAMS.**

19 (a) GRANTS TO COASTAL STATES.—

20 (1) IN GENERAL.—Subject to paragraphs (2),
21 (3), and (4), the Secretary shall make grants of
22 amounts allocated under section 5(c)(1) to coastal
23 States or affected Indian tribes, based on the fol-
24 lowing formula:

1 (A) Fifty percent of the funds are allocated
2 equally among coastal States that have a coast-
3 al management program approved under the
4 Coastal Zone Management Act of 1972 (16
5 U.S.C. 1451 et seq.).

6 (B) Twenty-five percent of the funds are
7 allocated on the basis of the ratio of tidal shore-
8 line miles in a coastal State to the tidal shore-
9 line miles of all coastal States.

10 (C) Twenty-five percent of the funds are
11 allocated on the basis of the ratio of coastal
12 population density of a coastal State to the
13 coastal population density of all coastal States.

14 (2) ALLOCATION TO INDIAN TRIBES.—Amounts
15 allocated under paragraph (1)(A) shall be allocated
16 to affected Indian tribes based on, and directly pro-
17 portional to, any specific coastal and ocean manage-
18 ment authority granted to an affected tribe pursuant
19 to affirmation of a Federal reserved right.

20 (3) MAXIMUM ALLOCATION TO STATES.—Not-
21 withstanding paragraph (1), not more than 10 per-
22 cent of the total funds distributed under this sub-
23 section may be allocated to any single State. Any
24 amount exceeding this limit shall be redistributed

1 among the remaining States according to the for-
2 mula established under paragraph (1).

3 (4) MAXIMUM ALLOCATION TO CERTAIN GEO-
4 GRAPHIC AREAS.—

5 (A) IN GENERAL.—Notwithstanding para-
6 graph (1), each geographic area described in
7 subparagraph (B) may not receive more than 1
8 percent of the total funds distributed under this
9 subsection. Any amount exceeding this limit
10 shall be redistributed among the remaining
11 States according to the formula established
12 under paragraph (1).

13 (B) GEOGRAPHIC AREAS DESCRIBED.—
14 The geographic areas described in this subpara-
15 graph are the following:

16 (i) American Samoa.

17 (ii) The Commonwealth of the North-
18 ern Mariana Islands.

19 (iii) Guam.

20 (iv) Puerto Rico.

21 (v) The Virgin Islands.

22 (5) REQUIREMENT TO SUBMIT PLANS.—To be
23 eligible to receive a grant under this subsection, a
24 coastal State or Indian tribe shall submit, and the
25 Secretary shall review—

- 1 (A) a 5-year plan, which shall include—
- 2 (i) a prioritized list of goals the coast-
- 3 al State or Indian tribe intends to achieve
- 4 during the time period covered by the 5-
- 5 year plan;
- 6 (ii) general descriptions of projects or
- 7 activities, consistent with the eligible uses
- 8 described in section 6, that could con-
- 9 tribute to realization of such goals;
- 10 (iii) criteria to determine eligibility for
- 11 entities which may receive grants under
- 12 this program;
- 13 (iv) a description of the competitive
- 14 process the coastal State or Indian tribe
- 15 will use in allocating funds received from
- 16 the Endowment; and
- 17 (v) a clearly defined application proc-
- 18 ess requiring an applicant to show that—
- 19 (I) its project or activity is con-
- 20 sistent with the eligible uses of the
- 21 Endowment; and
- 22 (II) it has established and is ca-
- 23 pable of implementing measures to en-
- 24 sure the accurate accounting for an

1 appropriate administration of funds
2 received; and

3 (B) an annual work plan which shall in-
4 clude—

5 (i) a detailed, specific, prioritized list
6 of projects or activities to be funded from
7 the Endowment, and desired outcomes of
8 those projects or activities;

9 (ii) for each project or activity, a de-
10 scription of how such project or activity is
11 consistent with the eligible uses of the En-
12 dowment; and

13 (iii) for each project or activity, a
14 schedule for completion and a description
15 of how such project or activity helps
16 achieve the goals established in its 5-year
17 plan.

18 (6) OPPORTUNITY FOR PUBLIC COMMENT.—In
19 determining whether to approve a plan described in
20 paragraph (5)(A), the Secretary shall provide oppor-
21 tunity for, and take into consideration, public input
22 and comment on the plan.

23 (7) APPROVAL PROCEDURE.—

24 (A) IN GENERAL.—The Secretary shall no-
25 tify a coastal State or Indian tribe not later

1 than 90 days after receiving a 5-year plan or
2 annual work plan that the Secretary—

3 (i) approves the plan as submitted;

4 (ii) disapproves the plan as submitted;

5 or

6 (iii) needs up to an additional 30 days
7 to further review the plan.

8 (B) DISAPPROVAL.—If the Secretary dis-
9 approves a proposed 5-year plan or annual work
10 plan, the Secretary shall provide notice of such
11 disapproval to the submitting coastal State or
12 Indian tribe in writing, and include in such no-
13 tice the rationale for the Secretary's decision.
14 The submitting State shall resubmit the plan to
15 the Secretary not later than 30 days after re-
16 ceiving the notice of disapproval.

17 (C) PRESUMPTIVE APPROVAL.—If the Sec-
18 retary fails to notify the coastal State or Indian
19 tribe within 120 days after receiving a 5-year
20 plan or annual work plan that the Secretary ap-
21 proves or disapproves the plan, or that the Sec-
22 retary needs additional time for review, the plan
23 shall be deemed to have been approved.

24 (b) GRANTS TO REGIONAL PLANNING BODIES.—

1 (1) IN GENERAL.—The Secretary shall use
2 amounts allocated under section 5(c)(2) to award
3 grants to Regional Planning Bodies to create and
4 implement Regional Strategic Plans, as described in
5 this subsection.

6 (2) REQUIREMENTS FOR PLAN.—In order to be
7 eligible to receive a grant under this subsection, a
8 Regional Planning Body being considered for such a
9 grant shall submit an application that demonstrates
10 how activities to be carried out with grant funds
11 would facilitate the creation or implementation of a
12 Regional Strategic Plan, as described in this sub-
13 section.

14 (3) REGIONAL STRATEGIC PLAN.—

15 (A) REQUIREMENT.—Not later than 5
16 years after receiving a grant under this section,
17 each Regional Planning Body shall prepare and
18 submit to the Secretary for review, a Regional
19 Strategic Plan.

20 (B) CONTENTS.—Each Regional Strategic
21 Plan submitted under this paragraph shall—

22 (i) be based on initial assessments
23 of—

24 (I) the region’s ocean, coastal,
25 and Great Lakes ecosystem health de-

1 terminated through science-based eco-
2 system assessments and through mon-
3 itoring, and forecasting physical,
4 chemical, and biological ocean param-
5 eters;

6 (II) the cultural and economic
7 role of the ocean, coasts, or Great
8 Lakes in the region; and

9 (III) existing, emerging, and cu-
10 mulative threats to ocean, coastal, and
11 Great Lakes ecosystem health of the
12 region;

13 (ii) specify essential areas within the
14 ocean, coastal, or Great Lakes region;

15 (iii) describe short-term and long-
16 term—

17 (I) goals for improving ocean,
18 coastal, and Great Lakes ecosystem
19 health in the region covered by the
20 Plan, and

21 (II) indicators of improvements
22 in economic sustainability in the re-
23 gion resulting from improved eco-
24 system health and enhanced collabora-

1 tion and coordination among Federal
2 and State agencies;

3 (iv) include recommendations for long-
4 term observing and monitoring measures
5 for the region covered by the Plan;

6 (v) identify Federal and State priority
7 issues within the region covered by the
8 Plan;

9 (vi) describe potential management
10 solutions and policies to address the pri-
11 ority issues;

12 (vii) identify research, information,
13 and data needed to carry out the Plan;

14 (viii) identify performance measures
15 and benchmarks for purposes of clauses
16 (ii) through (vi) to evaluate the Plan's ef-
17 fectiveness; and

18 (ix) define responsibilities and include
19 an analysis of the gaps in authority, co-
20 ordination, and resources, including fund-
21 ing, that must be filled in order to fully
22 achieve those performance measures and
23 benchmarks.

24 (4) PUBLIC PARTICIPATION.—Each Regional
25 Planning Body shall provide adequate opportunities

1 for public input during the development of the Re-
2 gional Strategic Plan for the region and any revi-
3 sions to such Plan.

4 (5) PLAN REVISION.—Each approved Regional
5 Strategic Plan shall be reviewed and revised by the
6 appropriate Regional Planning Body at least once
7 every 5 years. The revised Plan shall be submitted
8 to the Secretary for review and approval pursuant to
9 paragraph (6).

10 (6) APPROVAL PROCEDURE.—

11 (A) IN GENERAL.—Not later than 90 days
12 after receiving a Regional Strategic Plan from
13 a Regional Planning Body, the Secretary shall
14 notify the Regional Planning Body that the
15 Secretary—

16 (i) approves the plan as submitted;

17 (ii) disapproves the plan as submitted;

18 or

19 (iii) needs up to an additional 30 days
20 to further review the plan.

21 (B) DISAPPROVAL.—If the Secretary dis-
22 approves a proposed Regional Strategic Plan,
23 the Secretary shall provide notice of such dis-
24 approval to the submitting Regional Planning
25 Body in writing, and include in such notice the

1 rationale for the Secretary’s decision. The Re-
2 gional Planning Body shall resubmit the Plan
3 not later than 30 days after receiving such no-
4 tice and rationale for initial disapproval.

5 (C) PRESUMPTIVE APPROVAL.—If the Sec-
6 retary fails to notify the Regional Planning
7 Body within 120 days after receipt of a sub-
8 mitted Regional Strategic Plan that the Sec-
9 retary approves or disapproves the plan, or that
10 the Secretary needs additional time for review,
11 the plan shall be deemed to have been approved.

12 (7) OPPORTUNITY FOR PUBLIC COMMENT.—In
13 determining whether to approve a Regional Strategic
14 Plan under this subsection, the Secretary shall pro-
15 vide opportunity for, and take into consideration
16 public input and comment on, the plans from stake-
17 holders and the general public.

18 (c) NATIONAL GRANTS FOR OCEANS, COASTS, AND
19 GREAT LAKES.—

20 (1) IN GENERAL.—The Secretary may use
21 amounts allocated under section 5(c)(3) to make
22 grants to support activities consistent with section 6.

23 (2) CRITERIA FOR ENTITIES.—The Secretary,
24 in consultation with the Council, shall establish cri-

1 teria to determine the type of entities eligible for
2 grants under this subsection, including—

3 (A) coastal State, noncoastal State, local,
4 and affected Indian tribal governments and
5 agencies;

6 (B) regional agencies, associations, or or-
7 ganizations other than regional planning bodies;

8 (C) fishery or wildlife management organi-
9 zations;

10 (D) nonprofit organizations; and

11 (E) academic institutions.

12 (3) APPROVAL.—The Secretary shall—

13 (A) review the Council’s recommendations
14 submitted under section 8(h);

15 (B) subject to approval, allocate amounts
16 allocated under section 5(c)(3) on the basis of
17 the Council’s recommendations; and

18 (C) if the Secretary disapproves a grant
19 recommended by the Council, explain that dis-
20 approval in writing.

21 (d) AUTHORITY OF THE SECRETARY.—The Sec-
22 retary, in consultation with the Secretary of the Interior,
23 the Administrator of the Environmental Protection Agen-
24 cy, the Chair of the Council on Environmental Quality,
25 the Director of the Office of Science and Technology Pol-

1 icy, and the Director of the National Science Foundation,
2 shall establish and make available for public comment—

3 (1) application and review procedures for the
4 grant programs described in subsections (a), (b),
5 and (c), including requirements ensuring any
6 amounts provided pursuant to such programs may
7 only be used for an eligible use described under sec-
8 tion 6;

9 (2) performance accountability and monitoring
10 measures for programs and activities receiving fund-
11 ing through the grant programs described in sub-
12 sections (a), (b), and (c);

13 (3) procedures and methods to ensure accurate
14 accounting and appropriate administration for each
15 of the grant programs described in subsections (a),
16 (b), and (c), including standards of record-keeping;

17 (4) procedures to carry out audits of the En-
18 dowment as necessary, but not less frequently than
19 once every 5 years; and

20 (5) procedures to carry out audits of the recipi-
21 ents of grants under subsection (a), (b), or (c), in-
22 cluding States.

23 **SEC. 8. COUNCIL.**

24 (a) ESTABLISHMENT.—The Secretary shall establish
25 a National Endowment for the Oceans Council which shall

1 consist of 7 members with expertise in the conservation
2 and management of ocean, coastal, and Great Lakes eco-
3 systems and marine resources.

4 (b) MEMBERSHIP; APPOINTMENT.—The members of
5 the Council shall be as follows:

6 (1) Two representatives of the National Oceanic
7 and Atmospheric Administration, appointed by the
8 Administrator of the National Oceanic and Atmos-
9 pheric Administration.

10 (2) One representative of the Office of Water of
11 the Environmental Protection Agency, appointed by
12 the Administrator of the Environmental Protection
13 Agency.

14 (3) One representative of the United States
15 Fish and Wildlife Service, appointed by the Director
16 of the United States Fish and Wildlife Service.

17 (4) One representative of the National Science
18 Foundation, appointed by the Director of the Na-
19 tional Science Foundation.

20 (5) One representative of the Council on Envi-
21 ronmental Quality, appointed by the Chair of the
22 Council on Environmental Quality.

23 (6) One representative of the United States Ge-
24 ological Survey, appointed by the Director of the
25 United States Geological Survey.

1 (c) TERM; VACANCY.—

2 (1) TERM.—The term of office of a member of
3 the Council is 5 years, except that—

4 (A) of the members initially appointed
5 under subsection (b)(1), 1 shall be appointed
6 for a term of 4 years;

7 (B) the member initially appointed under
8 paragraphs (2), (3), and (4) of subsection (b)
9 shall be appointed for a term of 3 years; and

10 (C) the member initially appointed under
11 subsection (b)(5), shall be appointed for a term
12 of 4 years.

13 (2) VACANCY.—Whenever a vacancy occurs
14 among members of the Council, the Secretary, or the
15 head of the appropriate agency shall appoint an indi-
16 vidual to fill that vacancy for the remainder of the
17 applicable term.

18 (d) CHAIR.—

19 (1) IN GENERAL.—The Council shall elect a
20 chair from among its members.

21 (2) TERM.—The chair shall serve for a 3-year
22 term, except that the first chair may be elected for
23 a term of less than 3 years, as determined by the
24 Council.

1 (e) QUORUM.—Five members of the Council shall
2 constitute a quorum for the transaction of business.

3 (f) MEETINGS.—

4 (1) IN GENERAL.—The Council shall meet at
5 the call of the chair, but in no case less frequently
6 than twice each year.

7 (2) PUBLIC ACCESS.—Meetings of the Council
8 shall be open to the public, and the chair shall take
9 appropriate steps to provide adequate notice to the
10 public of the time and place of such meetings.

11 (3) FAILURE TO ATTEND.—If a Council mem-
12 ber misses 3 consecutively scheduled meetings, the
13 Secretary may revoke that member's appointment to
14 the Council.

15 (g) STAFF.—

16 (1) EMPLOYMENT.—The Secretary may employ
17 and fix the compensation of staff, as the Council de-
18 termines necessary, to carry out such duties as the
19 Council may require and, with assistance from the
20 National Oceanic and Atmospheric Administration,
21 facilitate consideration of grant applications and
22 otherwise assist the Council in carrying out its re-
23 sponsibilities.

24 (2) PAY AND BENEFITS.—The pay and benefits
25 of the staff shall be derived from amounts available

1 from the Endowment for administrative costs sub-
2 ject to section 5(c)(4).

3 (3) STATUS AS FEDERAL EMPLOYEES.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), employees of the Council
6 shall be considered Federal employees only for
7 purposes of—

8 (i) injury compensation as provided in
9 chapter 81 of title 5, United States Code,
10 and tort claims liability under chapter 171
11 of title 28, United States Code;

12 (ii) the Ethics in Government Act of
13 1978 (5 U.S.C. App.) and the provisions of
14 chapter 11 of title 18, United States Code;
15 and

16 (iii) any other statute or regulation
17 governing the conduct of Federal employ-
18 ees.

19 (B) EXCEPTION.—Notwithstanding sub-
20 paragraph (A), section 208(a) of title 18,
21 United States Code, shall not apply to such an
22 individual if, after review of the financial disclo-
23 sure report filed by the individual pursuant to
24 the Ethics in Government Act of 1978 (5
25 U.S.C. App.), the Secretary, or the Secretary's

1 designee, certifies in writing that the need for
2 the individual's services outweighs the potential
3 for a conflict of interest created by the financial
4 interest involved.

5 (h) FUNCTIONS.—The Council shall—

6 (1) receive and review, according to procedures
7 established under section 7(d)(1), applications for
8 grants under subsections (b) and (c) of section 7;
9 and

10 (2) submit to the Secretary a list of rec-
11 ommended applications for such grants, consistent
12 with existing Federal ocean policy and criteria estab-
13 lished under this Act, and include—

14 (A) a recommended priority order for
15 funding such applications;

16 (B) the amount of the grant each such ap-
17 plication should receive; and

18 (C) any specific requirements, conditions,
19 or limitations for such an application rec-
20 ommended for funding under this Act.

21 (i) ADVISORY PANEL.—In reviewing applications for
22 grants under subsections (b) and (c) of section 7, the
23 Council shall establish an external review process through
24 working groups or by other means, including consultation
25 with persons representing—

1 (1) a balanced and diverse range of ocean,
2 coastal, and Great Lakes dependent industries;

3 (2) a balanced and diverse range of regions;

4 (3) representatives of nonprofit conservation or-
5 ganizations with a mission that includes the con-
6 servation and protection of living marine resources
7 and their habitats; and

8 (4) representatives of academia with strong sci-
9 entific or technical credentials and experience in ma-
10 rine science or policy.

11 **SEC. 9. ANNUAL REPORT.**

12 (a) **REQUIREMENT FOR ANNUAL REPORT.**—Begin-
13 ning with fiscal year 2012, not later than 60 days after
14 the end of each fiscal year, the Secretary shall submit a
15 report on the operation of the Endowment during the fis-
16 cal year to the Committee on Commerce, Science, and
17 Transportation of the Senate and the Committee on Nat-
18 ural Resources of the House of Representatives.

19 (b) **CONTENT.**—Each annual report submitted under
20 subsection (a) for a fiscal year shall include—

21 (1) a statement of the amounts deposited in the
22 Endowment and the balance remaining in the En-
23 dowment at the end of the fiscal year;

1 (2) a description of the expenditures made from
2 the Endowment for the fiscal year, including the
3 purpose of the expenditures; and

4 (3) recommendations for additional authority
5 necessary to fulfill the purpose of the Endowment.

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