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. 2. PURPOSE.

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

SEC. 3. FINDINGS.

Congress finds the following:

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

(2) The coastal regions of the United States
have high biological productivity and contribute ap-
proximately 50 percent of the gross domestic prod-
uct of the United States.
(3) The oceans, coasts, and Great Lakes are susceptible to change as a direct and indirect result of human activities, which can inhibit ecosystem integrity and productivity, biodiversity, environmental quality, national security, economic competitiveness, availability of energy, resistance to natural hazards, and transportation safety and efficiency.

(4) Human pressure on ocean, coastal, and Great Lakes resources is drastically increasing, with 50 percent of the population of the United States living within 50 miles of the coast and, if population trends continue as expected, coastal development and urbanization impacts will present serious challenges and increase our vulnerability to coastal hazards.

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

(6) A variety of human activities have caused dramatic declines in the health and productivity of ocean, coastal, and Great Lakes ecosystems of the United States, including—
(A) chemical, nutrient, thermal, and biological pollution, including introduction of invasive species, and introduction of marine debris;

(B) unwise land use and coastal development;

(C) loss and degradation of habitat, including upstream freshwater habitat for anadromous, diadromous, and migratory fish species;

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

(E) global climate change and ocean acidification.

(7) Activities harming ocean, coastal, and Great Lakes ecosystems jeopardize the economies and social structure of communities dependent on resources from such ecosystems.

(8) While there is an abundance of Federal, State, local, and tribal laws, government agencies, and programs designed to study, observe, protect, and manage ocean, coastal, and Great Lakes resources, activities thereunder are poorly coordinated and do not constitute a unified and comprehensive public policy to enhance understanding, protection,
conservation, and restoration of the oceans, coasts, and Great Lakes.

(9) Improving and coordinating Federal governance will require close partnership with States, taking into account their public trust responsibilities, their economic and ecological interests in ocean, coastal, and Great Lakes resources, and the role of State and local governments in the implementation of policies governing their use.

(10) It is the continuing mission of the Federal Government to create, foster, and maintain conditions, incentives, policies, and programs that will ensure the sustainable and effective conservation, management, and protection of the oceans, coasts, and Great Lakes, including fostering greater scientific understanding of these areas, in order to fulfill the responsibility of each generation as trustee in protecting such resources and ensuring their availability for future generations.

(11) The oceans, coasts, and Great Lakes of the United States, and their resources are dependent upon and connected to those of other countries throughout the world, and collaboration with international bodies and governments will help protect and manage our shared and linked marine eco-
systems and resources for the benefit of the world’s population.

(12) Programs that facilitate greater collaboration and coordination among stakeholders and strengthen the relationship between governmental and nongovernmental partners will support our understanding of complex ecosystems and more effectively leverage existing resources and expertise.

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

SEC. 4. DEFINITIONS.

In this Act:

(1) COASTAL POPULATION.—The term “coastal population” means the population of all political subdivisions, as determined by the most recent official data of the Census Bureau, contained in whole or in part within the designated coastal boundary of a State as defined in a State’s coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) as of the date of enactment of this Act.

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

(3) COUNCIL.—The term “Council” means the National Endowment for the Oceans Council established under section 8.

(4) ENDOWMENT.—The term “Endowment” means the National Endowment for the Oceans established under section 5.

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

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

(7) REGIONAL PLANNING BODY.—The term “regional planning body” means a regional entity that includes representatives of Federal and State agencies and, if applicable, Indian tribes and indigenous community representatives, with jurisdictional responsibilities or other interests (such as resource management, science, homeland and national security, transportation, and public health) for the develop-
opment and implementation of regional coordination
and planning to understand, protect, maintain, and
restore ocean, coastal, and Great Lakes ecosystems.

(8) Secretary.—Except as otherwise specifically provided, the term “Secretary” means the Sec-
retary of Commerce.

(9) Tidal Shoreline.—The term “tidal shoreline” has the meaning given that term pursuant to
section 923.110(c)(2)(i) of title 15, Code of Federal
Regulations.

SEC. 5. NATIONAL ENDOWMENT FOR THE OCEANS.

(a) Establishment.—There is established in the
Treasury of the United States a National Endowment for
the Oceans, to be administered by the Secretary and avail-
able without further appropriation or fiscal year limitation, solely for use in accordance with the requirements
established under this Act.

(b) Funding.—

(1) Interest on OSLTF Investments.—
Amounts credited to the Oil Spill Liability Trust
Fund under section 9602(b) of the Internal Revenue
Code of 1986 for any fiscal year beginning after fis-
cal year 2011 in which the average daily balance of
the Fund is $1,500,000,000 or more shall, notwith-
standing any other provision of law to the contrary,
be transferred to the Endowment not later than 90
days after the last day of such fiscal year.

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

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

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

(4) FINES COLLECTED FOR VIOLATIONS OF
FEDERAL LAWS.—Beginning with fiscal year 2011,
the President shall ensure that a portion of fines
paid to the United States for a violation of Federal
law that occurs in the exclusive economic zone (as
defined in section 107 of title 46, United States Code) is deposited in the Endowment.

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

(6) AUTHORIZATION OF APPROPRIATIONS.—Beginning with fiscal year 2015, there is authorized to be appropriated to the Endowment for any fiscal year in which the sum of the amounts to be transferred to, and deposited in, the Endowment under this subsection is estimated to be less than $100,000,000, an amount equal to the difference between $100,000,000 and the estimated amount of such transfers and deposits.

(7) SAVINGS PROVISION.—Nothing in this section shall decrease the amount any State may receive pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) or section 105 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note).
(c) ALLOCATION.—Of the amounts deposited in the Endowment for each fiscal year—

(1) at least 49 percent shall be used by the Secretary to make grants to coastal States and affected Indian tribes under section 7(a);

(2) at least 19 percent shall be used by the Secretary to make grants to regional planning bodies under section 7(b);

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

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

SEC. 6. ELIGIBLE USES.

(a) IN GENERAL.—Amounts in the Endowment may be allocated by the Secretary only to fund grants for programs and activities intended to restore, protect, maintain, or understand living marine resources and their habitats and ocean, coastal, and Great Lakes resources, including baseline scientific research, ocean observing, and other programs and activities carried out in coordination with Federal and State departments or agencies, that are
consistent with Federal environmental laws and that avoid
environmental degradation, including—

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

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

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

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

(5) analyses of, and planning for, current and
anticipated uses of ocean, coastal, and Great Lakes
areas and identification of areas most suitable for
various types of classes of activities and for restora-
tion, protection, and maintenance of ecosystem
health and to reduce conflicts among uses, reduce
environmental impacts, facilitate compatible uses,
and preserve critical ecosystem services to meet eco-

onomic, environmental, security, and social objectives;

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

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

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

(9) acquiring property or interests in property
in coastal and estuarine areas if obtaining such
property is subject to terms and conditions that will
ensure it will be administered to support the pur-
poses of this Act; and
(10) protection and relocation of critical coastal public infrastructure affected by erosion, sea level rise, or impacts of global climate change.

(b) REQUIREMENT FOR STATE MATCHING FUNDS.—Any amount from the Endowment provided to fund a project described in paragraph (9) or (10) of subsection (a) may not exceed 50 percent of the total project cost and may only be provided if the State in which such project will be carried out provides the remainder of the total project cost.

(c) CONSIDERATIONS FOR GREAT LAKES STATES.—Programs and activities funded in Great Lakes States shall also seek to attain the goals embodied in the Great Lakes Restoration Initiative Plan, the Great Lakes Regional Collaboration Strategy, the Great Lakes Water Quality Agreement, or other collaborative planning efforts of the Great Lakes Region.

SEC. 7. GRANT PROGRAMS.

(a) GRANTS TO COASTAL STATES.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the Secretary shall make grants of amounts allocated under section 5(c)(1) to coastal States or affected Indian tribes, based on the following formula:
(A) Fifty percent of the funds are allocated equally among coastal States that have a coastal management program approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(B) Twenty-five percent of the funds are allocated on the basis of the ratio of tidal shoreline miles in a coastal State to the tidal shoreline miles of all coastal States.

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

(2) ALLOCATION TO INDIAN TRIBES.—Amounts allocated under paragraph (1)(A) shall be allocated to affected Indian tribes based on, and directly proportional to, any specific coastal and ocean management authority granted to an affected tribe pursuant to affirmation of a Federal reserved right.

(3) MAXIMUM ALLOCATION TO STATES.—Notwithstanding paragraph (1), not more than 10 percent of the total funds distributed under this subsection may be allocated to any single State. Any amount exceeding this limit shall be redistributed
among the remaining States according to the formula established under paragraph (1).

(4) Maximum Allocation to Certain Geographic Areas.—

(A) In General.—Notwithstanding paragraph (1), each geographic area described in subparagraph (B) may not receive more than 1 percent of the total funds distributed under this subsection. Any amount exceeding this limit shall be redistributed among the remaining States according to the formula established under paragraph (1).

(B) Geographic Areas Described.—The geographic areas described in this subparagraph are the following:

(i) American Samoa.

(ii) The Commonwealth of the Northern Mariana Islands.

(iii) Guam.

(iv) Puerto Rico.

(v) The Virgin Islands.

(5) Requirement to Submit Plans.—To be eligible to receive a grant under this subsection, a coastal State or Indian tribe shall submit, and the Secretary shall review—
(A) a 5-year plan, which shall include—

(i) a prioritized list of goals the coastal State or Indian tribe intends to achieve during the time period covered by the 5-year plan;

(ii) general descriptions of projects or activities, consistent with the eligible uses described in section 6, that could contribute to realization of such goals;

(iii) criteria to determine eligibility for entities which may receive grants under this program;

(iv) a description of the competitive process the coastal State or Indian tribe will use in allocating funds received from the Endowment; and

(v) a clearly defined application process requiring an applicant to show that—

(I) its project or activity is consistent with the eligible uses of the Endowment; and

(II) it has established and is capable of implementing measures to ensure the accurate accounting for an
appropriate administration of funds received; and

(B) an annual work plan which shall include—

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

(ii) for each project or activity, a description of how such project or activity is consistent with the eligible uses of the Endowment; and

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

(6) OPPORTUNITY FOR PUBLIC COMMENT.—In determining whether to approve a plan described in paragraph (5)(A), the Secretary shall provide opportunity for, and take into consideration, public input and comment on the plan.

(7) APPROVAL PROCEDURE.—

(A) IN GENERAL.—The Secretary shall notify a coastal State or Indian tribe not later
than 90 days after receiving a 5-year plan or
annual work plan that the Secretary—

(i) approves the plan as submitted;
(ii) disapproves the plan as submitted;
or
(iii) needs up to an additional 30 days
to further review the plan.

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

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

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

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

(3) REGIONAL STRATEGIC PLAN.—

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

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

(i) be based on initial assessments of—

(I) the region’s ocean, coastal, and Great Lakes ecosystem health de-
determined through science-based ecosystem assessments and through monitoring, and forecasting physical, chemical, and biological ocean parameters;

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

(III) existing, emerging, and cumulative threats to ocean, coastal, and Great Lakes ecosystem health of the region;

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

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

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

(II) indicators of improvements in economic sustainability in the region resulting from improved ecosystem health and enhanced collabora-
tion and coordination among Federal
and State agencies;

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

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

(vi) describe potential management
solutions and policies to address the pri-

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

(viii) identify performance measures
and benchmarks for purposes of clauses
(ii) through (vi) to evaluate the Plan’s ef-

(ix) define responsibilities and include
an analysis of the gaps in authority, co-

(4) Public Participation.—Each Regional
Planning Body shall provide adequate opportunities
for public input during the development of the Regional Strategic Plan for the region and any revisions to such Plan.

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

(6) APPROVAL PROCEDURE.—

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

(i) approves the plan as submitted;

(ii) disapproves the plan as submitted;

or

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

(B) DISAPPROVAL.—If the Secretary disapproves a proposed Regional Strategic Plan, the Secretary shall provide notice of such disapproval to the submitting Regional Planning Body in writing, and include in such notice the
rationale for the Secretary’s decision. The Regional Planning Body shall resubmit the Plan not later than 30 days after receiving such notice and rationale for initial disapproval.

(C) Presumptive Approval.—If the Secretary fails to notify the Regional Planning Body within 120 days after receipt of a submitted Regional Strategic Plan that the Secretary approves or disapproves the plan, or that the Secretary needs additional time for review, the plan shall be deemed to have been approved.

(7) Opportunity for Public Comment.—In determining whether to approve a Regional Strategic Plan under this subsection, the Secretary shall provide opportunity for, and take into consideration public input and comment on, the plans from stakeholders and the general public.

(c) National Grants for Oceans, Coasts, and Great Lakes.—

(1) In General.—The Secretary may use amounts allocated under section 5(c)(3) to make grants to support activities consistent with section 6.

(2) Criteria for Entities.—The Secretary, in consultation with the Council, shall establish cri-
teria to determine the type of entities eligible for grants under this subsection, including—

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

(B) regional agencies, associations, or organizations other than regional planning bodies;

(C) fishery or wildlife management organizations;

(D) nonprofit organizations; and

(E) academic institutions.

(3) APPROVAL.—The Secretary shall—

(A) review the Council's recommendations submitted under section 8(h);

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

(C) if the Secretary disapproves a grant recommended by the Council, explain that disapproval in writing.

(d) AUTHORITY OF THE SECRETARY.—The Secretary, in consultation with the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chair of the Council on Environmental Quality, the Director of the Office of Science and Technology Pol-
icy, and the Director of the National Science Foundation, shall establish and make available for public comment—

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

(2) performance accountability and monitoring measures for programs and activities receiving funding through the grant programs described in subsections (a), (b), and (c);

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

(4) procedures to carry out audits of the Endowment as necessary, but not less frequently than once every 5 years; and

(5) procedures to carry out audits of the recipients of grants under subsection (a), (b), or (c), including States.

SEC. 8. COUNCIL.

(a) Establishment.—The Secretary shall establish a National Endowment for the Oceans Council which shall
consist of 7 members with expertise in the conservation
and management of ocean, coastal, and Great Lakes eco-
systems and marine resources.

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

(1) Two representatives of the National Oceanic
and Atmospheric Administration, appointed by the
Administrator of the National Oceanic and Atmo-
spheric Administration.

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

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

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

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

(6) One representative of the United States Geo-
ological Survey, appointed by the Director of the
United States Geological Survey.
(c) Term; Vacancy.—

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

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

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

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

(2) Vacancy.—Whenever a vacancy occurs among members of the Council, the Secretary, or the head of the appropriate agency shall appoint an individual to fill that vacancy for the remainder of the applicable term.

(d) Chair.—

(1) In General.—The Council shall elect a chair from among its members.

(2) Term.—The chair shall serve for a 3-year term, except that the first chair may be elected for a term of less than 3 years, as determined by the Council.
(c) **QUORUM.**—Five members of the Council shall constitute a quorum for the transaction of business.

(f) **MEETINGS.**—

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

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

(3) **FAILURE TO ATTEND.**—If a Council member misses 3 consecutively scheduled meetings, the Secretary may revoke that member’s appointment to the Council.

(g) **STAFF.**—

(1) **EMPLOYMENT.**—The Secretary may employ and fix the compensation of staff, as the Council determines necessary, to carry out such duties as the Council may require and, with assistance from the National Oceanic and Atmospheric Administration, facilitate consideration of grant applications and otherwise assist the Council in carrying out its responsibilities.

(2) **PAY AND BENEFITS.**—The pay and benefits of the staff shall be derived from amounts available
from the Endowment for administrative costs subject to section 5(e)(4).

(3) Status as Federal employees.—

(A) In general.—Except as provided in subparagraph (B), employees of the Council shall be considered Federal employees only for purposes of—

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

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

(iii) any other statute or regulation governing the conduct of Federal employees.

(B) Exception.—Notwithstanding subparagraph (A), section 208(a) of title 18, United States Code, shall not apply to such an individual if, after review of the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978 (5 U.S.C. App.), the Secretary, or the Secretary’s
designee, certifies in writing that the need for
the individual’s services outweighs the potential
for a conflict of interest created by the financial
interest involved.

(h) FUNCTIONS.—The Council shall—
(1) receive and review, according to procedures
established under section 7(d)(1), applications for
grants under subsections (b) and (c) of section 7;
and

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

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

(B) the amount of the grant each such ap-
lication should receive; and

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

(i) ADVISORY PANEL.—In reviewing applications for
grants under subsections (b) and (c) of section 7, the
Council shall establish an external review process through
working groups or by other means, including consultation
with persons representing—
(1) a balanced and diverse range of ocean, coastal, and Great Lakes dependent industries;

(2) a balanced and diverse range of regions;

(3) representatives of nonprofit conservation organizations with a mission that includes the conservation and protection of living marine resources and their habitats; and

(4) representatives of academia with strong scientific or technical credentials and experience in marine science or policy.

SEC. 9. ANNUAL REPORT.

(a) REQUIREMENT FOR ANNUAL REPORT.—Beginning with fiscal year 2012, not later than 60 days after the end of each fiscal year, the Secretary shall submit a report on the operation of the Endowment during the fiscal year to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives.

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

(1) a statement of the amounts deposited in the Endowment and the balance remaining in the Endowment at the end of the fiscal year;
(2) a description of the expenditures made from the Endowment for the fiscal year, including the purpose of the expenditures; and

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