

105TH CONGRESS
2D SESSION

S. 2488

To establish the Northwest Straits Advisory Commission.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 1998

Mrs. MURRAY introduced the following bill; which was read twice and referred
to the Committee on Commerce, Science, and Transportation

A BILL

To establish the Northwest Straits Advisory Commission.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Northwest Straits Ma-
5 rine Conservation Initiative Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) The Congress hereby finds that—

8 (1) Puget Sound and the inland marine waters
9 of Washington State, and more specifically the ma-
10 rine waters and ecosystem of the Northwest Straits
11 as defined in this Act, represent a unique and un-
12 paralleled resource of enormous environmental and

1 economic value to the people of the region and the
2 Nation in this and future generations;

3 (2) despite considerable research and regulatory
4 efforts and financial investments, current efforts
5 have failed to protect natural habitats and fish and
6 wildlife populations adequately in these waters;

7 (3) as a result, species of fish, shellfish,
8 seabirds, mammals, and marine invertebrates have
9 undergone substantial declines in regional population
10 abundance in recent years, in part because the in-
11 ventory of nearshore habitats has reached critically
12 low levels, and existing restorative measures are
13 clearly inadequate to replace lost habitats;

14 (4) it is the scientific consensus that efforts
15 should focus on habitat preservation, on assessment
16 and conservation of stocks of fish, invertebrates,
17 birds, and marine mammals, on reducing waste dis-
18 posal and contaminated runoff, and on developing
19 compatible environmental regulations on both sides
20 of the international boundary with Canada; and

21 (5) by the year 2020, human population in this
22 region of the United States and Canada is projected
23 to increase by more than 50 percent, so that just to
24 maintain present quality of life and sustain present
25 economic activities that are dependent upon a

1 healthy marine ecosystem, and to keep marine wa-
2 ters and ecosystem from deteriorating further, re-
3 quires significantly reducing the collective environ-
4 mental burdens of shoreline development, fish catch,
5 and waste discharge that impact these marine wa-
6 ters.

7 (b) The Congress finds and declares the purposes of
8 this Act to be—

9 (1) to develop and test innovative intergovern-
10 mental arrangements that may prove effective in
11 helping to reverse the degradation of the marine eco-
12 system of the Northwest Straits by encouraging and
13 supporting the concern, initiative, and capabilities of
14 the people who reside in this area and their local
15 governments, thus enhancing the collective efforts of
16 all levels of government; and

17 (2) to foster improved resource protection, the
18 preservation of commercial values and diverse ways
19 of life, full cooperation with Indian tribes, additional
20 research, education, and interpretation, maximum
21 cooperation by all Federal agencies with the State
22 and local governments and Indian tribes, and inter-
23 national cooperation with Canada, in order to en-
24 hance the protection and restoration of the natural
25 habitats and values of the Northwest Straits.

1 **SEC. 3. ESTABLISHMENT.**

2 There is established a commission to be known as the
3 Northwest Straits Advisory Commission.

4 **SEC. 4. DUTIES.**

5 The Commission shall coordinate and complement the
6 activities of appropriate authorities at the Federal, State,
7 local, and tribal levels to—

8 (1) monitor the overall health of the marine
9 ecosystem of the Northwest Straits;

10 (2) develop scientifically sound economic meas-
11 urements of the costs, both direct and indirect, of
12 ecosystem degradation and environmental protection
13 with respect to the marine ecosystem of the North-
14 west Straits;

15 (3) identify trends and activities adversely af-
16 fecting, or preventing the restoration of, the health
17 of the marine ecosystem of the Northwest Straits;

18 (4) develop scientifically sound restoration rec-
19 ommendations, informed by the economic measure-
20 ments, that address such matters for action by the
21 appropriate authorities;

22 (5) provide the restoration recommendations
23 and the economic measurements to the appropriate
24 authorities;

25 (6) help facilitate the successful implementation
26 of the recommendations by developing broad support

1 for the recommendations among the appropriate au-
 2 thorities, stakeholder groups, and the general public;

3 (7) serve as a public forum for the discussion
 4 of Federal, State, local, tribal, and Canadian policies
 5 and actions with respect to the marine ecosystem of
 6 the Northwest Straits;

7 (8) inform appropriate authorities and the gen-
 8 eral public about the marine ecosystem of the North-
 9 west Straits and about issues relating to the marine
 10 ecosystem of the Northwest Straits; and

11 (9) consult with all affected federally recognized
 12 tribes in the region of the Northwest Straits to en-
 13 sure that the work of the Commission does not vio-
 14 late tribal treaty rights.

15 **SEC. 5. MEMBERSHIP.**

16 (a) NUMBER AND APPOINTMENT.—The Commission
 17 shall be composed of up to 13 members, who shall be ap-
 18 pointed, subject to subsection (b), as follows:

19 (1) Up to 7 members, of whom 1 may be ap-
 20 pointed by a consensus of the members of a marine
 21 resource committee established in accordance with
 22 section 8, by each by the following counties in the
 23 State of Washington:

24 (A) San Juan County.

25 (B) Island County.

1 (C) Skagit County.

2 (D) Whatcom County.

3 (E) Snohomish County.

4 (F) Clallam County.

5 (G) Jefferson County.

6 (2) 1 member, appointed by the Secretary of
7 the Interior in trust capacity, to represent the inter-
8 ests of the affected Indian tribes.

9 (3) 1 member appointed by the Governor of the
10 State of Washington to represent the interests of the
11 Puget Sound Water Quality Action Team.

12 (4) Up to 4 members appointed by the Gov-
13 ernor of the State of Washington from among citi-
14 zens of the State of Washington who are not govern-
15 mental officials.

16 (b) LIMITATION ON NONCOUNTY APPOINTMENTS.—
17 The aggregate number of members appointed under para-
18 graphs (2), (3), and (4) of subsection (a) may not exceed
19 the number of members appointed under paragraph (1)
20 of subsection (a).

21 (c) VACANCIES.—Any member appointed to fill a va-
22 cancy occurring before the expiration of the term for which
23 the member's predecessor was appointed shall be ap-
24 pointed only for the remainder of that term. A member
25 may serve after the expiration of that member's term until

1 a successor has taken office. A vacancy in the Commission
2 shall be filled in the manner in which the original appoint-
3 ment was made. A vacancy in a position to be appointed
4 under subsection (a)(1) occurring after the first appoint-
5 ment of a member to that position shall not affect the
6 number of members authorized under paragraphs (2), (3),
7 and (4) of subsection (a).

8 (d) BASIC PAY.—Members shall serve without pay.

9 (e) TRAVEL EXPENSES.—Each member shall receive
10 travel expenses, including per diem in lieu of subsistence,
11 in accordance with sections 5702 and 5703 of title 5,
12 United States Code.

13 (f) QUORUM.—A majority of the members of the
14 Commission shall constitute a quorum but a lesser number
15 may hold hearings.

16 (g) SUPERMAJORITY.—Unless otherwise specified in
17 this Act or other law, an action of the Commission must
18 be approved by at least three-fifths of the members
19 present at a meeting at which a quorum is present.

20 (h) CHAIRPERSON.—The Commission shall select a
21 Chairperson from among its members. Any vacancy in the
22 office of the Chairperson shall be filled in the manner in
23 which the original selection was made.

1 (i) MEETINGS.—The Commission shall meet at the
 2 call of the Chairperson, but not less frequently than quar-
 3 terly.

4 **SEC. 6. DIRECTOR AND STAFF; EXPERTS AND CONSULT-**
 5 **ANTS.**

6 (a) DIRECTOR.—The Commission shall appoint and
 7 fix the pay of a Director.

8 (b) STAFF.—The Commission may appoint and fix
 9 the pay of additional personnel as the Commission consid-
 10 ers appropriate.

11 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE
 12 LAWS.—The Director and staff of the Commission shall
 13 be appointed without regard to the provisions of title 5,
 14 United States Code, governing appointments in the com-
 15 petitive service, and may be paid without regard to the
 16 provisions of chapter 51 and subchapter III of chapter 53
 17 of that title relating to classification and General Schedule
 18 pay rates, except that an individual so appointed may not
 19 receive pay at a rate in excess of \$75,000 per year.

20 (d) EXPERTS AND CONSULTANTS.—The Commission
 21 may procure temporary and intermittent services under
 22 section 3109(b) of title 5, United States Code, but at rates
 23 for individuals not to exceed \$75,000 per year.

24 (e) STAFF OF FEDERAL AGENCIES.—Upon request
 25 of the Commission, the head of any Federal department

1 or agency may detail, on a reimbursable or nonreimburs-
2 able basis, any of the personnel of that department or
3 agency to the Commission to assist it in carrying out its
4 duties under this Act.

5 **SEC. 7. POWERS.**

6 (a) HEARINGS AND SESSIONS.—The Commission
7 may, for the purpose of carrying out this Act, hold hear-
8 ings, sit and act at times and places, take testimony, and
9 receive evidence as the Commission considers appropriate.

10 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-
11 ber or agent of the Commission may, if authorized by the
12 Commission, take any action which the Commission is au-
13 thorized to take by this section.

14 (c) OBTAINING OFFICIAL DATA.—The Commission
15 may secure directly from any department or agency of the
16 United States information necessary to enable it to carry
17 out this Act. Upon request of the Chairperson of the Com-
18 mission, the head of that department or agency shall fur-
19 nish that information to the Commission.

20 (d) GIFTS, BEQUESTS, AND DEVISES.—The Commis-
21 sion may accept, use, and dispose of gifts, bequests, or
22 devises of services or property, both real and personal, for
23 the purpose of aiding or facilitating the work of the Com-
24 mission. Gifts, bequests, or devises of money and proceeds
25 from sales of other property received as gifts, bequests,

1 or devises shall be deposited in the Treasury and shall be
 2 available for disbursement upon order of the Commission.

3 (e) **MAILS.**—The Commission may use the United
 4 States mails in the same manner and under the same con-
 5 ditions as other departments and agencies of the United
 6 States.

7 (f) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the
 8 request of the Commission, the Administrator of General
 9 Services shall provide to the Commission, on a reimburs-
 10 able basis, the administrative support services necessary
 11 for the Commission to carry out its responsibilities under
 12 this Act.

13 **SEC. 8. MARINE RESOURCE COMMITTEES.**

14 (a) **IN GENERAL.**—The council or commission of each
 15 of the counties referred to in section 5(a)(1) may establish
 16 a marine resource committee in accordance with this sec-
 17 tion for purposes of this Act. Each marine resource com-
 18 mittee must have a balanced and technically competent
 19 membership, and must be provided by its council or com-
 20 mission, as applicable, with the mission and direction, ex-
 21 pert assistance, and financial resources needed to—

22 (1) address marine ecosystem issues within its
 23 county; and

24 (2) work to achieve the benchmarks set forth in
 25 section 9(b)(2).

1 (b) REQUIRED AUTHORITY.—Each marine resource
2 committee established in accordance with this section
3 must be provided by its council or commission, as applica-
4 ble, sufficient legal authority to perform the following
5 tasks:

6 (1) Help assess marine resources problems in
7 concert with governmental agencies, tribes, and
8 other entities.

9 (2) Help identify local implications, needs, and
10 strategies associated with the recovery of Puget
11 Sound salmon and other species in the region of the
12 Northwest Straits under the Endangered Species
13 Act of 1973 in concert with governmental agencies,
14 tribes, and other entities.

15 (3) Work with the Puget Sound Ambient Mon-
16 itoring Program and other entities to enhance the
17 scientific baseline and monitoring program for the
18 marine environment of the Northwest Straits.

19 (4) Identify current actions and the need for
20 additional measures.

21 (5) Work closely with county leadership to im-
22 plement local marine conservation and restoration
23 initiatives.

24 (6) Coordinate with the Northwest Straits Advi-
25 sory Commission on marine ecosystem objectives.

1 (7) Reach out to the public and other key con-
 2 stituencies on the link between healthy marine habi-
 3 tat and healthy resources and how marine protected
 4 areas can play an important role in habitat protec-
 5 tion.

6 (c) COMPOSITION.—

7 (1) IN GENERAL.—The membership of each
 8 marine resource committee must have the following
 9 attributes:

10 (A) Relevant scientific expertise.

11 (B) Balanced representation, including
 12 representation of each of the following:

13 (i) Local governments, including plan-
 14 ning staff from counties and cities with
 15 marine shorelines.

16 (ii) Affected economic interests, such
 17 as ports and commercial fishers.

18 (iii) Affected recreational interests,
 19 such as sport fishers.

20 (iv) Conservation and environmental
 21 interests.

22 (C) A constructive and knowledgeable
 23 membership.

24 (2) TRIBAL MEMBERS.—The council or commis-
 25 sion for each county referred to in section 5(a)(1)

1 shall provide to each recognized tribe that has a res-
2 ervation located in the county an opportunity to ap-
3 point a tribal representative as a member of the ma-
4 rine resource committee established by the county
5 pursuant to this section. The tribal authority of each
6 such tribe may make any appointment pursuant to
7 this paragraph.

8 (d) CHAIRPERSON.—Each marine resource commit-
9 tee established pursuant to this section shall select a chair-
10 person from among its membership by a majority vote of
11 the members of the committee.

12 (e) ANNUAL REPORT.—Not later than February 1 of
13 each calendar year, each marine resource committee estab-
14 lished in accordance with this section shall submit to the
15 Commission a report of the progress and activities of the
16 marine resource committee during the preceding calendar
17 year.

18 **SEC. 9. INDEPENDENT REVIEW AND REPORT.**

19 (a) REVIEW BY NATIONAL RESEARCH COUNCIL.—
20 Not later than 5 years after the date of the enactment
21 of this Act, the Under Secretary of Commerce for Oceans
22 and Atmosphere shall request the National Research
23 Council to provide an independent evaluation, in consulta-
24 tion with appropriate entities in the Northwest Straits re-
25 gion, to—

1 (1) review the extent to which the Commission
 2 has fulfilled the benchmarks set forth in clause (2)
 3 of subsection (b); and

4 (2) submit a report on the findings of that re-
 5 view to the Congress, the Secretary of Commerce,
 6 the Secretary of the Interior, and the Governor of
 7 the State of Washington.

8 (b) BENCHMARKS.—

9 (1) INTENT.—The benchmarks set forth in
 10 clause (2) of this subsection are intended—

11 (A) to be realistic and achievable standards
 12 used to measure results of activities within the
 13 purview of the Commission; and

14 (B) in some cases to utilize “input” meas-
 15 ures such as the formation of marine resource
 16 committees or the establishment of marine pro-
 17 tected areas as well as “output” measures such
 18 as species recovery data.

19 (2) SPECIFIC BENCHMARKS.—The benchmarks
 20 set forth in this clause are the following:

21 (A) Broad county participation in marine
 22 resource committees established in accordance
 23 with section 8.

24 (B) Achievement of a scientifically based,
 25 regional system of marine protected areas.

1 (C) Net gain in highly ecologically produc-
2 tive nearshore, intertidal, and estuarine habitat
3 in the Northwest Straits.

4 (D) Prevention of significant loss of exist-
5 ing, high-value habitat in the Northwest
6 Straits.

7 (E) Improvement of State, tribal, and local
8 tools to map, assess, and protect nearshore
9 habitat and prevent harm from upland activi-
10 ties.

11 (F) Net reduction in shellfish harvest
12 areas that are closed due to contamination.

13 (G) Measurable increases in factors sup-
14 porting recovery of bottom fish, including num-
15 bers of fish of broodstock size and age, average
16 fish size, abundance of prey species, and suffi-
17 cient amounts and quality of protected habitat.

18 (H) Increases in other key marine indica-
19 tor species, including those identified in the re-
20 port titled “Protection and Restoration of Ma-
21 rine Life in the Inland Waters of Washington
22 State”, prepared by Dr. James E. West and
23 published in May 1997 in the Puget Sound
24 Georgia Basin Environmental Report Series,
25 No. 6.

1 (I) Coordination of scientific data, includ-
2 ing a scientific baseline, common protocols, uni-
3 fied geographic information systems, and shar-
4 ing of ecosystem assessments and research.

5 (c) RECOMMENDATIONS.—The report under sub-
6 section (a)(2) shall include recommendations on a full
7 range of policy options to better protect the marine re-
8 sources of the region of the Northwest Straits.

9 **SEC. 10. REPORTS OF COMMISSION.**

10 (a) ANNUAL REPORT.—Not later than March 1 of
11 each calendar year, the Commission shall make available
12 to the public a report of the progress and activities of the
13 Commission during the preceding calendar year.

14 (b) FINAL REPORT.—Upon the termination of the
15 Commission, the Commission shall submit to the Presi-
16 dent and to the Congress a final report containing an over-
17 view of the work of the Commission during the life of the
18 Commission and containing any related information that
19 the Commission considers appropriate.

20 **SEC. 11. DEFINITIONS.**

21 For purposes of this Act, the following definitions
22 shall apply:

23 (1) COMMISSION.—The term “Commission”
24 means the Northwest Straits Advisory Commission.

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

5 (3) NORTHWEST STRAITS.—The term “North-
6 west Straits” means the marine waters of the Strait
7 of Juan de Fuca and of Puget Sound from the Ca-
8 nadian border to the south end of Whidbey Island.

9 **SEC. 12. TERMINATION.**

10 The Commission shall terminate upon the expiration
11 of the 6-year period beginning on the date of the enact-
12 ment of this Act, unless reauthorized by the Congress.

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