

109TH CONGRESS
2D SESSION

S. 2422

To establish a Conservation and Habitat Restoration Fund and to require the Secretary of Commerce to provide grants to States for coastal zone management, coastal wetlands conservation, coastal land protection, and fisheries habitat restoration, and to improve understanding of coastal areas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2006

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

A BILL

To establish a Conservation and Habitat Restoration Fund and to require the Secretary of Commerce to provide grants to States for coastal zone management, coastal wetlands conservation, coastal land protection, and fisheries habitat restoration, and to improve understanding of coastal areas, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Coastal Conservation
5 and Habitat Restoration Act of 2006”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) COASTAL POLITICAL SUBDIVISION.—The
4 term “coastal political subdivision” means a county,
5 parish, or other equivalent subdivision of a Coastal
6 State, all or part of which, on the date of the enact-
7 ment of this Act, lies within the boundaries of the
8 coastal zone of the State, as identified in the coastal
9 zone management program of the State approved
10 under the Coastal Zone Management Act of 1972
11 (16 U.S.C. 1451 et seq.).

12 (2) COASTAL STATE.—Except as otherwise pro-
13 vided, the term “coastal State” shall have the mean-
14 ing given such term in section 304 of the Coastal
15 Zone Management Act of 1972 (16 U.S.C. 1453)

16 (3) COASTAL ZONE.—The term “coastal zone”
17 means the coastal zone as determined under the
18 Coastal Zone Management Act of 1972 (16 U.S.C.
19 1451 et seq.) on the date of the enactment of this
20 Act.

21 (4) COASTLINE.—The term “coastline” has the
22 meaning given the term “coast line” in section 2(c)
23 of the Submerged Lands Act (43 U.S.C. 1301(c)).

24 (5) FUND.—The term “Fund” means the
25 Coastal Conservation and Habitat Restoration Fund
26 established by section 3.

1 (6) PLAN.—The term “Plan” means a Coastal
 2 Conservation and Habitat Restoration Plan de-
 3 scribed in section 4.

4 (7) QUALIFIED OUTER CONTINENTAL SHELF
 5 REVENUES.—The term “qualified outer Continental
 6 Shelf revenues” means all amounts received by the
 7 United States, from each leased tract or portion of
 8 a leased tract lying seaward of the zone defined and
 9 governed by section 8(g) of the Outer Continental
 10 Shelf Lands Act (43 U.S.C. 1337(g)) (or lying with-
 11 in that zone but to which such section 8(g) does not
 12 apply), including bonus bids, rents, royalties (includ-
 13 ing payments for royalties taken in kind and sold),
 14 net profit share payments, and related interest.

15 (8) SECRETARY.—The term “Secretary” means
 16 the Secretary of Commerce.

17 **SEC. 3. COASTAL CONSERVATION AND HABITAT RESTORA-**
 18 **TION FUND.**

19 (a) ESTABLISHMENT.—There is established in the
 20 Treasury of the United States a separate account to be
 21 known as the “Coastal Conservation and Habitat Restora-
 22 tion Fund”.

23 (b) DEPOSITED AMOUNTS.—The Secretary of the
 24 Treasury shall deposit into the Fund for each fiscal year,
 25 without further appropriation, the following amounts:

1 (1) DIGITAL TRANSITION AND PUBLIC SAFETY
2 FUND.—Amounts deposited in the Digital Transition
3 and Public Safety Fund that exceed
4 \$11,000,000,000.

5 (2) ROYALTY REVENUES.—During each of the
6 fiscal years 2006 through 2016, an amount equal to
7 the amount of all qualified outer Continental Shelf
8 revenues attributable to royalties received by the
9 United States during the previous fiscal year that
10 are in excess of the following amount for the appli-
11 cable year:

12 (A) \$7,000,000,000 in the case of royalties
13 received in fiscal year 2006.

14 (B) \$8,300,000,000 in the case of royalties
15 received in fiscal year 2007.

16 (C) \$9,500,000,000 in the case of royalties
17 received in fiscal year 2008.

18 (D) \$9,100,000,000 in the case of royalties
19 received in fiscal year 2009.

20 (E) \$9,600,000,000 in the case of royalties
21 received in fiscal year 2010.

22 (F) \$9,650,000,000 in the case of royalties
23 received in fiscal year 2011.

24 (G) \$9,100,000,000 in the case of royalties
25 received in fiscal year 2012.

1 (H) \$10,900,000,000 in the case of royal-
2 ties received in fiscal year 2013.

3 (I) \$10,900,000,000 in the case of royal-
4 ties received in fiscal year 2014.

5 (J) \$11,000,000,000 in the case of royal-
6 ties received in fiscal year 2015.

7 (K) \$11,100,000,000 in the case of royal-
8 ties received in fiscal year 2016.

9 (3) BONUS BIDS.—During the fiscal years 2006
10 through 2016, an amount equal to the amount of all
11 qualified outer Continental Shelf revenues attrib-
12 utable to bonus bids received by the United States
13 that are in excess of \$850,000,000 during the pre-
14 vious fiscal year.

15 (4) OCEAN ACTIVITIES.—During a fiscal year
16 after 2016, an amount equal to 50 percent of all
17 qualified outer Continental Shelf revenues received
18 by the United States during the preceding fiscal
19 year.

20 (5) OTHER FUNDS.—Any other amounts that
21 are appropriated to the Fund.

22 (c) APPORTIONMENT OF FUNDS.—

23 (1) IN GENERAL.—The Secretary shall use
24 amounts in the Fund remaining after the application
25 of subsection (d), without further appropriation, to

1 make payments to each coastal State, if the Sec-
2 retary has approved a Plan for such State under
3 section 4, during December of 2005, and December
4 of each year thereafter, from revenues in the Fund
5 based upon calculations from revenues generated in
6 the immediately preceding fiscal year.

7 (2) ALLOCATION.—The payments made under
8 paragraph (1) shall be allocated as follows:

9 (A) 20 percent shall be apportioned among
10 the coastal States so that the ratio of the
11 amount apportioned to each coastal State under
12 this subparagraph bears to the total amount so
13 apportioned for the fiscal year is equal to the
14 ratio that the coastline of such State bears to
15 the total coastline of all coastal States, as de-
16 termined by the Secretary.

17 (B) 40 percent shall be apportioned among
18 the coastal States so that the ratio of the
19 amount apportioned to each coastal State under
20 this subparagraph bears to the total amount so
21 apportioned for the fiscal year is equal to the
22 ratio that the average qualified outer Conti-
23 nental Shelf revenues generated off the coast-
24 line of such State over the previous 40 year pe-
25 riod to the average qualified outer Continental

1 Shelf revenues generated off the coastline of all
2 coastal States over the previous 40 year period.

3 (C) 40 percent shall be apportioned among
4 the coastal States so that the ratio of the
5 amount apportioned to each coastal State under
6 this subparagraph bears to the total amount so
7 apportioned is equal to the ratio of qualified
8 outer Continental Shelf revenues generated off
9 the coastline of a coastal State for the previous
10 fiscal year to the qualified outer Continental
11 Shelf revenues generated off the coastline of all
12 coastal States during the previous fiscal year.

13 (3) PAYMENTS TO COASTAL POLITICAL SUB-
14 DIVISIONS.—

15 (A) IN GENERAL.—The Secretary shall pay
16 35 percent of the amount allocated to each
17 coastal State, as determined under paragraph
18 (2), to the coastal political subdivisions of such
19 coastal State.

20 (B) ALLOCATION.—Of the amount paid to
21 coastal political subdivisions of a coastal State
22 under subparagraph (A), 100 percent shall be
23 apportioned among such coastal political sub-
24 divisions so that the ratio of the amount appor-
25 tioned to each coastal political subdivision

1 under this subparagraph bears to the total
2 amount so apportioned for the fiscal year for
3 the coastal State is equal to the ratio that the
4 coastline of such coastal political subdivision
5 bears to the total coastline of the coastal State,
6 as determined by the Secretary.

7 (4) DETERMINATION OF QUALIFIED OUTER
8 CONTINENTAL SHELF REVENUES.—For purposes of
9 paragraph (2), qualified outer Continental Shelf rev-
10 enues shall be considered to be generated off the
11 coastline of a State if such revenues were produced
12 within the area offshore of the State identified as
13 the Federal Outer Continental Shelf administrative
14 boundary of the State by the Director of the Min-
15 erals Management Service in the notice published
16 January 3, 2006, entitled Federal Outer Continental
17 Shelf (OCS) Administrative Boundaries Extending
18 from the Submerged Lands Act Boundary seaward
19 to the Limit of the United States Outer Continental
20 Shelf (71 Fed. Reg. 127).

21 (5) NOTIFICATION.—The Secretary shall notify
22 each coastal State of its apportionment and the
23 amounts of such apportionment shall be available to
24 such State to carry out activities described in such
25 State's approved Plan.

1 (6) REAPPORTIONMENT.—Any amount of any
2 apportionment under this subsection that has not
3 been paid or obligated by the Secretary during the
4 fiscal year in which such notification is given and
5 the two fiscal years thereafter shall be reallocated by
6 the Secretary in accordance with paragraph (2).

7 (7) TREATMENT OF STATES.—

8 (A) SPECIAL RULE FOR APPORTION-
9 MENT.—For the purposes of payment and allo-
10 cation under paragraphs (1) and (2), Puerto
11 Rico, the Virgin Islands, Guam, and American
12 Samoa—

13 (i) shall be treated collectively as one
14 coastal State; and

15 (ii) shall each be allocated an equal
16 share of any amount distributed to them
17 pursuant to paragraph (2).

18 (B) OTHER PURPOSES.—Each of the areas
19 referred to in subparagraph (A) shall be treated
20 as a State for all other purposes of this Act.

21 (d) ADMINISTRATIVE COSTS.—The Secretary may
22 use not more than $\frac{1}{2}$ of 1 percent of the amount in the
23 Fund during a fiscal year to pay the administrative costs
24 of implementing this Act.

1 **SEC. 4. COASTAL CONSERVATION AND HABITAT RESTORA-**
2 **TION PLAN.**

3 (a) REQUIREMENT FOR PLAN.—

4 (1) IN GENERAL.—The Secretary may provide
5 amounts from the Fund to a coastal State under
6 section 3 only if the Secretary has approved a Coast-
7 al Conservation and Habitat Restoration Plan for
8 such coastal State as described in this section.

9 (2) PLANS BY POLITICAL SUBDIVISION.—The
10 Governor shall include in the Plan submitted by the
11 State any Plan prepared by a coastal political sub-
12 division of the State.

13 (b) CONTENT OF PLAN.—A Plan submitted under
14 this section shall include activities to be carried out—

15 (1) to implement a management program ap-
16 proved under section 306 of the Coastal Zone Man-
17 agement Act of 1972 (16 U.S.C. 1455);

18 (2) to conserve and restore coastal lands and
19 wetlands, including measures to address subsidence;

20 (3) to protect areas of the coastal zone from
21 damage attributable to natural disasters, including
22 activities to protect property and lives from natural
23 disasters;

24 (4) to improve the knowledge and under-
25 standing of coastal habitats, including the acquisi-

1 tion and installation of equipment designed to collect
2 data on such habitats;

3 (5) to restore fisheries and coastal habitat; and

4 (6) to mitigate and prevent damages from off-
5 shore activities carried out in or near the coastal
6 zone.

7 (c) REQUIREMENT FOR PUBLIC PARTICIPATION.—In
8 the development of the Plan, the Governor and the coastal
9 political subdivision shall—

10 (1) solicit local input; and

11 (2) provide for public participation.

12 (d) SCHEDULE FOR REVIEW.—Not later than 90
13 days after a Plan of a State is submitted under this sub-
14 section, the Secretary shall approve or disapprove the
15 plan.

16 (e) AMENDMENTS OR MODIFICATION.—Any amend-
17 ment to or revision of a plan approved under this section
18 shall be—

19 (1) prepared and submitted in accordance with
20 the requirements of this section; and

21 (2) approved or disapproved by the Secretary
22 not later than 90 days after such amendment or re-
23 vision is submitted.

1 (f) USE OF FUNDS.—A coastal State and a coastal
2 political subdivision shall use any grant received under
3 this Act—

4 (1) to carry out activities described in the Plan
5 for such coastal State approved by the Secretary in
6 a manner that is consistent with Federal and State
7 law; and

8 (2) for any payment that is eligible to be made
9 with funds provided to States under section 35 of
10 the Mineral Leasing Act (30 U.S.C. 191).

11 (g) IMPROPER USE OF FUNDS.—If the Secretary de-
12 termines that an expenditure made by a coastal State or
13 coastal political subdivision is not in accordance with the
14 approved Plan of the State (including any plan of a coastal
15 political subdivision included in the plan of the State), the
16 Secretary shall not disburse any additional amount under
17 this Act to such State or subdivision until—

18 (1) the amount of the expenditure is repaid to
19 the Secretary; or

20 (2) the Secretary approves an amendment to
21 the plan that authorizes the expenditure.

22 (h) REQUIREMENT FOR SIGNAGE.—The Secretary
23 shall require, as a condition of any allocation of funds pro-
24 vided under this section, that Coastal State or coastal po-
25 litical subdivision shall include on any sign installed at a

1 site at or near an entrance or public use area for which
2 funds provided under this Act are used a statement that
3 the existence or development of the site is a product of
4 those funds.

5 (i) ANNUAL REPORT.—

6 (1) REQUIREMENT FOR REPORT.—The Gov-
7 ernor of a Coastal State, in coordination with the
8 coastal political subdivisions of that State, shall sub-
9 mit an annual report to the Secretary that describes
10 all funds received under this Act during the previous
11 fiscal year and the use of such funds.

12 (2) INCORPORATION BY REFERENCE.—The an-
13 nual report required by paragraph (1) may incor-
14 porate by reference any other report required to be
15 submitted under another provision of law.

16 **SEC. 5. ARBITRATION.**

17 The Secretary may require, as a condition of any pay-
18 ment under this section, that a coastal State or coastal
19 political subdivision shall submit to arbitration—

20 (1) any dispute between the Coastal State or
21 coastal political subdivision and the Secretary re-
22 garding implementation of this Act; and

23 (2) any dispute between the Coastal State and
24 political subdivision regarding implementation of this
25 Act, including any failure to include in the plan sub-

1 mitted by the State under section 3 any spending
2 plan of the coastal political subdivision.

3 **SEC. 6. CONSTRUCTION.**

4 Nothing in this Act shall be construed as repealing,
5 superseding, modifying, or otherwise affect any authority
6 or moratoria regarding leasing of offshore energy re-
7 sources in effect on the date of enactment of this Act.

○