

109TH CONGRESS
1ST SESSION

S. 49

To establish a joint Federal-State Floodplain and Erosion Mitigation
Commission for the State of Alaska.

IN THE SENATE OF THE UNITED STATES

Mr. STEVENS (for himself and Ms. MURKOWSKI) introduced the following bill;
which was read twice and referred to the Committee on Energy and Nat-
ural Resources

A BILL

To establish a joint Federal-State Floodplain and Erosion
Mitigation Commission for the State of Alaska.

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 “Alaska Floodplain and Erosion Mitigation Commission
6 Act of 2005”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—JOINT FEDERAL-STATE FLOODPLAIN AND EROSION
MITIGATION COMMISSION FOR ALASKA

- Sec. 101. Establishment of commission.
 Sec. 102. Duties.
 Sec. 103. Administration.
 Sec. 104. Commission personnel matters.
 Sec. 105. Reports.
 Sec. 106. Termination of commission.

TITLE II—FLOOD AND EROSION CONTROL AND MITIGATION

- Sec. 201. Evaluation and prioritization.
 Sec. 202. Flood and erosion control and mitigation.
 Sec. 203. Mitigation.
 Sec. 204. Administration.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

- Sec. 301. Authorization of appropriations.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) COMMISSION.—The term “Commission”
 4 means the Joint Federal-State Floodplain and Ero-
 5 sion Mitigation Commission for Alaska established
 6 by section 101(a).

7 (2) ALASKA NATIVE.—The term “Alaska Na-
 8 tive” has the meaning given the term in section 3
 9 of the Alaska Native Claims Settlement Act (43
 10 U.S.C. 1602).

11 (3) ALASKA NATIVE VILLAGE.—The term
 12 “Alaska Native village” has the meaning given the
 13 term in section 3 of the Alaska Native Claims Set-
 14 tlement Act (43 U.S.C. 1602).

15 (4) SECRETARY.—The term “Secretary” means
 16 the Secretary of the Interior.

1 (5) STATE.—The term “State” means the State
2 of Alaska.

3 **TITLE I—JOINT FEDERAL-STATE**
4 **FLOODPLAIN AND EROSION**
5 **MITIGATION COMMISSION**
6 **FOR ALASKA**

7 **SEC. 101. ESTABLISHMENT OF COMMISSION.**

8 (a) ESTABLISHMENT.—There is established a com-
9 mission to be known as the “Joint Federal-State Flood-
10 plain and Erosion Mitigation Commission for Alaska”.

11 (b) MEMBERSHIP.—

12 (1) COMPOSITION.—The Commission shall be
13 composed of 7 members, of whom—

14 (A) 1 member shall be the Governor of the
15 State, who shall serve as Cochairperson;

16 (B) 3 members shall be appointed by the
17 Governor of the State, of whom—

18 (i) 1 member shall be a nonvoting ex
19 officio Alaska Native; and

20 (ii) at least 1 member shall represent
21 city or borough governments;

22 (C) 1 shall be appointed by the Secretary,
23 shall be an employee of the Department of the
24 Interior, and shall serve as Cochairperson;

1 (D) 1 member appointed by the Secretary
2 of Agriculture shall be an employee of the Nat-
3 ural Resources Conservation Service of the De-
4 partment of Agriculture; and

5 (E) 1 member, appointed by the Secretary
6 of Defense, shall be an employee of—

7 (i) the Department of Defense; or

8 (ii) the Corps of Engineers.

9 (2) DATE OF APPOINTMENTS.—The appoint-
10 ment of a member of the Commission shall be made
11 not later than 90 days after the date of enactment
12 of this Act.

13 (c) APPOINTMENT; VACANCIES.—

14 (1) APPOINTMENT.—A member of the Commis-
15 sion shall serve at the pleasure of the appointing au-
16 thority.

17 (2) VACANCIES.—A vacancy on the Commis-
18 sion—

19 (A) shall not affect the powers of the Com-
20 mission; and

21 (B) shall be filled in the same manner as
22 the original appointment was made.

23 (d) INITIAL MEETING.—Not later than 30 days after
24 the date on which all members of the Commission have

1 been appointed, the Commission shall hold the initial
2 meeting of the Commission.

3 (e) MEETINGS.—Subject to section 102(a), the Com-
4 mission shall meet at the call of the Cochairpersons.

5 (f) QUORUM.—A majority of the members of the
6 Commission shall constitute a quorum, but a lesser num-
7 ber of members may hold hearings.

8 (g) CONCURRENCE OF COCHAIRPERSONS.—A deci-
9 sion of the Commission shall require the concurrence of
10 the Cochairpersons.

11 (h) PRINCIPAL OFFICE.—The principal office of the
12 Commission shall be in the State of Alaska.

13 **SEC. 102. DUTIES.**

14 (a) MEETINGS.—For the first 2 years following the
15 date of enactment of this Act, the Commission shall meet
16 not less than 2 times per year.

17 (b) STUDY.—

18 (1) IN GENERAL.—The Commission shall con-
19 duct a study of all matters relating to—

20 (A) the feasibility of alternatives for flood-
21 ing or erosion assistance; and

22 (B) the development of a policy to guide
23 infrastructure investments in the Alaska Native
24 villages, cities, and boroughs that are most af-
25 fected by flooding or erosion.

1 (2) MATTERS TO BE STUDIED.—The matters to
2 be studied by the Commission include—

3 (A) flood and erosion processes;

4 (B) the planning needs associated with
5 flood and erosion processes, including identi-
6 fying and making recommendations con-
7 cerning—

8 (i) specific flood and erosion cir-
9 cumstances that affect life and property in
10 the State;

11 (ii) land use regulations, including
12 area standards for designation of flood-
13 and erosion-prone land;

14 (iii) uses to be made of flood- and ero-
15 sion-prone land, and how State and Fed-
16 eral grants, loans, and capital improve-
17 ments shall be invested in designated
18 areas; and

19 (iv) how to regulate and implement
20 the uses described in clause (iii) on—

21 (I) land designated as an allot-
22 ment for Alaska Native people;

23 (II) land owned by an Alaska
24 Native village corporation or a re-
25 gional village corporation under the

1 Alaska Native Claims Settlement Act
2 (Public Law 92–203);

3 (III) land owned by the Federal
4 or State government;

5 (IV) city and borough land; and

6 (V) other private land; and

7 (C) the establishment of procedures to ob-
8 tain the view of the public on land use planning
9 needs, such as implementation and enforcement
10 of flood and erosion control and mitigation solu-
11 tions, including—

12 (i) increased hydrologic and other spe-
13 cialized data collection; and

14 (ii) public hearings.

15 (c) EVALUATION.—Not later than 120 days after the
16 date of enactment of this Act and annually thereafter, the
17 Commission shall evaluate specific flood and erosion cir-
18 cumstances that affect life and property in the State.

19 (d) RECOMMENDATIONS.—The Commission shall de-
20 velop recommendations on—

21 (1) the development and implementation of
22 flood and erosion control and mitigation solutions in
23 villages and communities identified by the Commis-
24 sion as being most in need of those solutions;

1 (2) programs and budgets of Federal and State
2 agencies responsible for administrating Federal and
3 State floodplain management authorities;

4 (3) the establishment of State erosion manage-
5 ment responsibilities and authorities;

6 (4) changes in law, policies, and programs that
7 the Commission determines are necessary or desir-
8 able to provide an integrated Federal-State erosion
9 and flood management authority;

10 (5) improving coordination and consultation be-
11 tween the Federal and State governments in making
12 resource allocation and flood and erosion control and
13 mitigation decisions;

14 (6) ways to avoid conflict between the State and
15 Alaska Native people in the allocation of resources;

16 (7) ensuring that higher priority is given to
17 achieving long-term sustainability of communities
18 from debilitating flood and erosion losses than to
19 short-term project and infrastructure development
20 needs, if the flood and erosion control and mitigation
21 solution is publicly funded; and

22 (8) ensuring that the economic and social well-
23 being of Alaska Native people and other residents of
24 the State is not compromised by a risk of erosion or

1 flood that could be avoided through long-term plan-
2 ning.

3 **SEC. 103. ADMINISTRATION.**

4 (a) ADVISERS.—To assist the Commission in car-
5 rying out this Act, the Commission shall establish a com-
6 mittee of technical advisers to the Commission with exper-
7 tise in—

8 (1) coastal engineering;

9 (2) the adverse impact of flood and erosion
10 management;

11 (3) rural community planning in the State;

12 (4) how city and borough governments are af-
13 fected by erosion;

14 (5) the relationship between State and local
15 governments and Alaska Native villages; and

16 (6) any other interest that the Commission de-
17 termines is appropriate.

18 (b) RECORDS.—

19 (1) IN GENERAL.—The Commission shall main-
20 tain complete records of the activities of the Com-
21 mission.

22 (2) PUBLIC INSPECTION.—Records maintained
23 under paragraph (1) shall be available for public in-
24 spection.

1 (c) HEARINGS.—The Commission may hold such
2 hearings, meet and act at such times and places, take such
3 testimony, and receive such evidence as the Commission
4 considers advisable to carry out this title.

5 (d) INFORMATION FROM FEDERAL AGENCIES.—

6 (1) IN GENERAL.—The Commission may secure
7 directly from a Federal agency such information as
8 the Commission considers necessary to carry out this
9 title.

10 (2) PROVISION OF INFORMATION.—On request
11 of a Cochairperson of the Commission, the head of
12 the agency shall provide the information to the Com-
13 mission.

14 (e) GIFTS.—The Commission may accept, use, and
15 dispose of gifts or donations of services or property to
16 carry out the duties of the Commission.

17 **SEC. 104. COMMISSION PERSONNEL MATTERS.**

18 (a) COMPENSATION OF MEMBERS.—

19 (1) NON-FEDERAL EMPLOYEES.—A member of
20 the Commission who is not an officer or employee of
21 the Federal Government shall be compensated at a
22 rate equal to the daily equivalent of the annual rate
23 of basic pay prescribed for level IV of the Executive
24 Schedule under section 5315 of title 5, United
25 States Code, for each day (including travel time)

1 during which the member is engaged in the perform-
2 ance of the duties of the Commission.

3 (2) FEDERAL OR STATE EMPLOYEES.—A mem-
4 ber of the Commission who is an officer or employee
5 of the Federal or State government shall serve with-
6 out compensation in addition to the compensation
7 received for the services of the member as an officer
8 or employee of the Federal or State Government.

9 (b) TRAVEL EXPENSES.—A member of the Commis-
10 sion shall be allowed travel expenses, including per diem
11 in lieu of subsistence, at rates authorized for an employee
12 of an agency under subchapter I of chapter 57 of title
13 5, United States Code, while away from the home or reg-
14 ular place of business of the member in the performance
15 of the duties of the Commission.

16 (c) STAFF.—

17 (1) IN GENERAL.—The Cochairpersons of the
18 Commission may, without regard to the civil service
19 laws (including regulations), appoint and terminate
20 an executive director and such other additional per-
21 sonnel as are necessary to enable the Commission to
22 perform the duties of the Commission.

23 (2) CONFIRMATION OF EXECUTIVE DIREC-
24 TOR.—The employment of an executive director shall
25 be subject to confirmation by the Commission.

1 (3) COMPENSATION.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B), the Cochairpersons of the
4 Commission may fix the compensation of the
5 executive director and other personnel without
6 regard to the provisions of chapter 51 and sub-
7 chapter III of chapter 53 of title 5, United
8 States Code, relating to classification of posi-
9 tions and General Schedule pay rates.

10 (B) MAXIMUM RATE OF PAY.—The rate of
11 pay for the executive director and other per-
12 sonnel shall not exceed the rate payable for
13 level V of the Executive Schedule under section
14 5316 of title 5, United States Code.

15 (d) DETAIL OF FEDERAL GOVERNMENT EMPLOY-
16 EES.—

17 (1) IN GENERAL.—An employee of the Federal
18 Government may be detailed to the Commission
19 without reimbursement.

20 (2) CIVIL SERVICE STATUS.—The detail of the
21 employee shall be without interruption or loss of civil
22 service status or privilege.

23 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-
24 TENT SERVICES.—The Cochairpersons of the Commission
25 may procure temporary and intermittent services in ac-

1 cordance with section 3109(b) of title 5, United States
2 Code, at rates for individuals that do not exceed the daily
3 equivalent of the annual rate of basic pay prescribed for
4 level V of the Executive Schedule under section 5316 of
5 that title.

6 **SEC. 105. REPORTS.**

7 (a) INTERIM REPORTS.—Not later than September
8 30 of each year, the Commission shall submit to Congress,
9 the Secretary, and the legislature of the State—

10 (1) a report that describes the activities of the
11 Commission in the preceding calendar year; and

12 (2) a report that describes—

13 (A) any immediate need of the Commis-
14 sion; and

15 (B) any imminent threat action directive
16 for the coordinated response to erosion and
17 flooding in the case of an emergency.

18 (b) FINAL REPORT.—Not later than September 30,
19 2011, the Commission shall submit to Congress, the Sec-
20 retary, and the legislature of the State a final report that
21 describes—

22 (1) the activities and findings of the Commis-
23 sion; and

1 (2) the recommendations of the Commission for
2 legislation and administrative actions the Commis-
3 sion considers appropriate.

4 **SEC. 106. TERMINATION OF COMMISSION.**

5 The Commission shall terminate on September 30,
6 2011.

7 **TITLE II—FLOOD AND EROSION**
8 **CONTROL AND MITIGATION**

9 **SEC. 201. EVALUATION AND PRIORITIZATION.**

10 Not later than 120 days after the date of enactment
11 of this Act and annually thereafter, the Secretary, in con-
12 sultation with the Commission, shall evaluate and
13 prioritize specific flood and erosion circumstances that af-
14 fect life and property in the State.

15 **SEC. 202. FLOOD AND EROSION CONTROL AND MITIGATION.**

16 (a) **IN GENERAL.**—Not later than September 15,
17 2006, the Secretary, in consultation with the Commission,
18 shall examine the most cost-effective ways of carrying out
19 flood and erosion control and mitigation solutions devised
20 by the Commission for the 9 villages in the State identified
21 in the Government Accountability Office Report 04–142.

22 (b) **COST-EFFECTIVE TECHNOLOGY.**—The Secretary,
23 in consultation with the Commission, shall implement a
24 solution described in subsection (a) using the most cost-

1 effective technology to protect life and property in the
2 State, including—

3 (1) movement of structures;

4 (2) nonstructural land management of erosion-
5 prone areas; and

6 (3) structural erosion control techniques.

7 (c) GRANTS TO STATE AND LOCAL GOVERNMENTS.—

8 For any fiscal year after fiscal year 2006, the Secretary
9 may implement a solution described in subsection (a)
10 through the State government or a local government by
11 making a grant to a government using the remainder of
12 any funds appropriated to the Secretary for appropriate
13 flood and erosion control and mitigation solutions.

14 (d) FACTORS.—In implementing a solution under this
15 section, the Secretary, in consultation with the Commis-
16 sion, shall consider—

17 (1) the design life of structural erosion control
18 projects;

19 (2) the cost effectiveness of all erosion control
20 projects; and

21 (3) the availability of a revolving loan fund ad-
22 ministered by the State for relocation, elevation, and
23 flood proofing of flood- or erosion-prone structures.

1 (e) FEDERAL SHARE.—The Federal share of the cost
2 of carrying out a project or activity under this section shall
3 be 75 percent.

4 **SEC. 203. MITIGATION.**

5 (a) IN GENERAL.—The Secretary, in consultation
6 with the Commission, may take any action necessary to
7 mitigate the loss of structures and infrastructure from
8 flood and erosion using the most cost effective means prac-
9 ticable to provide the longest-term benefit, including—

- 10 (1) relocation;
- 11 (2) elevation;
- 12 (3) flood proofing; and
- 13 (4) land management alternatives.

14 **SEC. 204. ADMINISTRATION.**

15 (a) CONSULTATION.—The Secretary shall—

- 16 (1) consult with the Commission and appro-
17 priate Federal and State agencies; and
- 18 (2) provide oversight authority, responsibility,
19 and directives to agencies developing relocation and
20 flood and erosion control and mitigation plans.

21 (b) VALID EXISTING RIGHTS.—This subsection does
22 not limit any right recognized under the Alaska Native
23 Claims Settlement Act (43 U.S.C. 1601 et seq.) that is
24 in existence at the time of the enactment of this Act.

1 (c) AUTHORITY OF THE SECRETARY.—This title does
2 not impair the authority of the Secretary to make con-
3 tracts and grant leases, permits, rights-of-way, and ease-
4 ments.

5 **TITLE III—AUTHORIZATION OF**
6 **APPROPRIATIONS**

7 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) IN GENERAL.—There is authorized to be appro-
9 priated for each of fiscal years 2006 through 2011 such
10 sums as are necessary to carry out this Act, to remain
11 available until expended.

12 (b) COMMISSION.—The Secretary may use not to ex-
13 ceed \$250,000 of the funds made available under sub-
14 section (a) for the expenses of the Commission, including
15 hiring any necessary staff.

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