

# Calendar No. 190

110TH CONGRESS  
1ST SESSION

# S. 1142

**[Report No. 110-78]**

To authorize the acquisition of interests in undeveloped coastal areas in order better to ensure their protection from development.

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## IN THE SENATE OF THE UNITED STATES

APRIL 18, 2007

Mr. GREGG (for himself, Mr. LAUTENBERG, Mr. COCHRAN, Mr. WARNER, Mr. WYDEN, Mr. KENNEDY, Mr. LIEBERMAN, Ms. SNOWE, Mrs. BOXER, Mr. KERRY, Mr. MENENDEZ, Ms. CANTWELL, Mrs. FEINSTEIN, Mr. REED, Mrs. MURRAY, Ms. COLLINS, and Mr. SUNUNU) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JUNE 5, 2007

Reported by Mr. INOUYE, without amendment

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## A BILL

To authorize the acquisition of interests in undeveloped coastal areas in order better to ensure their protection from development.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Coastal and Estuarine  
3 Land Protection Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Coastal and estuarine areas provide impor-  
7 tant nursery habitat for two-thirds of the nation’s  
8 commercial fish and shellfish, provide nesting and  
9 foraging habitat for coastal birds, harbor significant  
10 natural plant communities, and serve to facilitate  
11 coastal flood control and pollutant filtration.

12 (2) The Coastal Zone Management Act of 1972  
13 (16 U.S.C. 1451 et seq.) recognizes the national im-  
14 portance of these areas and their ecological vulner-  
15 ability to anthropogenic activities by establishing a  
16 comprehensive Federal-State partnership for pro-  
17 tecting natural reserves and managing growth in  
18 these areas.

19 (3) The National Estuarine Research Reserve  
20 system established under that Act relies on the pro-  
21 tection of pristine designated areas for long-term  
22 protection and for the conduct of education and re-  
23 search critical to the protection and conservation of  
24 coastal and estuarine resources.

25 (4) Intense development pressures within the  
26 coastal watershed are driving the need to provide

1 coastal managers with a wider range of tools to pro-  
2 tect and conserve important coastal and estuarine  
3 areas.

4 (5) Protection of undeveloped coastal lands  
5 through the acquisition of interests in property from  
6 a willing seller are a cost-effective means of pro-  
7 viding these areas with permanent protection from  
8 development.

9 (6) Permanent protection of lands in the coast-  
10 al zone is a necessary component of any program to  
11 maintain and enhance coastal and estuarine areas  
12 for the benefit of the Nation, including protection of  
13 water quality, access to public beachfront, con-  
14 serving wildlife habitat, and sustaining sport and  
15 commercial fisheries.

16 (7) Federal-State-nongovernmental organization  
17 pilot land acquisition projects have already substan-  
18 tially contributed to the long-term health and viabil-  
19 ity of coastal and estuarine systems.

20 (8) Enhanced protection of estuarine and coast-  
21 al areas can be attained through watershed-based  
22 acquisition strategies coordinated through Federal,  
23 State, regional, and local efforts.

24 (9) Conserving coastal and estuarine lands can  
25 support the traditional economic and natural re-

1 source bases of communities in the coastal water-  
2 shed, including well-managed forests that dem-  
3 onstrate outstanding ecological, recreational, histor-  
4 ical, and aesthetic attributes.

5 **SEC. 3. ESTABLISHMENT OF COASTAL AND ESTUARINE**  
6 **LAND PROTECTION PROGRAM.**

7 (a) **IN GENERAL.**—The Secretary of Commerce shall  
8 establish a Coastal and Estuarine Land Protection Pro-  
9 gram, in cooperation with appropriate State, regional, and  
10 other units of government for the purposes of protecting  
11 the environmental integrity of important coastal and estu-  
12 arine areas, including wetlands and forests, that have sig-  
13 nificant conservation, recreation, ecological, historical,  
14 aesthetic, or watershed protection values, and that are  
15 threatened by conversion from their natural, undeveloped,  
16 or recreational state to other uses. The program shall be  
17 administered by the National Ocean Service of the Na-  
18 tional Oceanic and Atmospheric Administration through  
19 the Office of Ocean and Coastal Resource Management.

20 (b) **PROPERTY ACQUISITION GRANTS.**—The Sec-  
21 retary shall make grants under the program to coastal  
22 States with approved coastal zone management plans or  
23 National Estuarine Research Reserve units for the pur-  
24 pose of acquiring property or interests in property de-  
25 scribed in subsection (a) that will further the goals of—

4 (2) a National Estuarine Research Reserve  
5 management plan; or

9 (c) GRANT PROCESS.—The Secretary shall allocate  
10 funds to coastal States or National Estuarine Research  
11 Reserves under this section through a competitive grant  
12 process in accordance with guidelines that meet the fol-  
13 lowing requirements:

4 (4) The applicant shall identify the values to be  
5 protected by inclusion of the lands in the program,  
6 management activities that are planned and the  
7 manner in which they may affect the values identi-  
8 fied, and any other information from the landowner  
9 relevant to administration and management of the  
10 land.

1       protected and that have significant ecological or wa-  
2       tershed protection value.

3               (8) In developing guidelines under this section,  
4       the Secretary shall consult with other Federal agen-  
5       cies and non-governmental entities with expertise in  
6       land acquisition and conservation procedures.

7               (9) Eligible States or National Estuarine Re-  
8       search Reserves may allocate grants to local govern-  
9       ments or agencies eligible for assistance under sec-  
10       tion 306A(e) of the Coastal Zone Management Act  
11       of 1972 (16 U.S.C. 1455a) and may acquire lands  
12       in cooperation with nongovernmental entities and  
13       Federal agencies.

14               (10) The Secretary shall develop measures that  
15       will ensure that property or interests in property ac-  
16       quired in whole or in part through the use of funds  
17       under the program are acquired only from willing  
18       sellers.

19               (11) The Secretary shall develop performance  
20       measures that the Secretary shall use to evaluate  
21       and report on the program's effectiveness in accom-  
22       plishing its purposes, and shall submit such evalua-  
23       tions to Congress triennially.

24       (d) MATCHING REQUIREMENTS.—

5 (2) MAXIMUM FEDERAL SHARE.—

6 (A) 75 PERCENT FEDERAL FUNDS.—No  
7 more than 75 percent of the funding for any  
8 project under this section shall be derived from  
9 Federal sources, unless such requirement is  
10 specifically waived by the Secretary.

11 (B) WAIVER OF REQUIREMENT.—The Sec-  
12 retary may grant a waiver of the limitation in  
13 subparagraph (A) for underserved communities,  
14 communities that have an inability to draw on  
15 other sources of funding because of the small  
16 population or low income of the community, or  
17 for other reasons the Secretary deems appro-  
18 priate.

5 (A) The value of land or a conservation  
6 easement may be used as non-Federal match if  
7 the lands are identified in project plans and ac-  
8 quired within 3 years prior to the submission of  
9 the project application or after the submission  
10 of a project application until the project grant  
11 is closed (not to exceed 3 years). The appraised  
12 value of the land at the time of project closing  
13 will be considered the non-Federal cost share.  
14 The value of land that is held by a nongovern-  
15 mental organization may be used for such pur-  
16 pose if it is held in perpetuity by a qualified  
17 conservation organization, as determined by the  
18 Secretary.

19 (B) Costs associated with land acquisition,  
20 land management planning, remediation, res-  
21 toration, and enhancement may be used as non-  
22 Federal match if the activities are identified in  
23 the plan and expenses are incurred within the  
24 period of the grant award, or, for lands de-  
25 scribed in (A), within the same time limits de-

1               scribed therein. These costs may include either  
2               cash or in-kind contributions.

3               (e) RESERVATION OF FUNDS FOR NATIONAL ESTUA-  
4       RINE RESEARCH RESERVE SITES.—No less than 15 per-  
5       cent of funds made available under this section shall be  
6       available for acquisitions benefiting National Estuarine  
7       Research Reserves.

8               (f) LIMIT ON ADMINISTRATIVE COSTS.—No more  
9       than 5 percent of the funds made available to the Sec-  
10      retary under this section shall be used by the Secretary  
11      for planning or administration of the program. The Sec-  
12      retary shall provide a report to Congress with an account  
13      of all expenditures under this section for fiscal year 2008  
14      and triennially thereafter.

15               (g) TITLE AND MANAGEMENT OF ACQUIRED PROP-  
16      ERTY.—If any property is acquired in whole or in part  
17      with funds made available through a grant under this sec-  
18      tion, the grant recipient shall provide such assurances as  
19      the Secretary may require that—

20               (1) the title to the property will be held by the  
21      grant recipient or another appropriate public agency  
22      designated by the recipient in perpetuity;  
23               (2) the property will be managed in a manner  
24      that is consistent with the purposes for which the

1       land entered into the program and shall not convert  
2       such property to other uses; and

3               (3) if the property or interest in land is sold,  
4       exchanged, or divested, funds equal to the correct  
5       value will be returned to the Secretary in accordance  
6       with applicable Federal law for re-distribution in the  
7       grant process.

8       (h) DEFINITIONS.—In this section:

9               (1) COASTAL STATE.—The term “coastal  
10      State” has the meaning given that term by section  
11      304(4) of the Coastal Zone Management Act of  
12      1972 (16 U.S.C. 1453(4)).

13               (2) CONSERVATION EASEMENT.—The term  
14      “conservation easement” includes an easement or re-  
15      striction, recorded deed, or a reserve interest deed  
16      where the grantee acquires all rights, title, and in-  
17      terest in a property, that do not conflict with the  
18      goals of this Act except those rights, title, and inter-  
19      ests that may run with the land that are expressly  
20      reserved by a grantor and are agreed to at the time  
21      of purchase.

22               (3) INTEREST IN PROPERTY.—The term “inter-  
23      est in property” includes a conservation easement.

24               (4) OTHER TERMS.—Any term used in this sec-  
25      tion that is defined in section 304 of the Coastal

1       Zone Management Act of 1972 (16 U.S.C. 1453)

2       has the meaning given that term in that section.

3       (i) AUTHORIZATION OF APPROPRIATIONS.—There

4       are authorized to be appropriated to the Secretary such

5       sums as may be necessary to carry out this Act for fiscal

6       years 2008 through 2012.



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