

111TH CONGRESS  
1ST SESSION

# S. 170

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

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## IN THE SENATE OF THE UNITED STATES

JANUARY 8, 2009

Mr. GREGG (for himself, Mr. LAUTENBERG, Mr. INOUE, Mr. ROCKEFELLER, Ms. SNOWE, Ms. CANTWELL, Mr. CARDIN, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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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 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 and Estuarine  
5 Land Protection Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) Coastal and estuarine areas provide impor-  
2 tant nursery habitat for two-thirds of the United  
3 States commercial fish and shellfish, provide nesting  
4 and foraging habitat for coastal birds, harbor signifi-  
5 cant natural plant communities, and serve to facili-  
6 tate coastal flood control and pollutant filtration.

7           (2) The Coastal Zone Management Act of 1972  
8 (16 U.S.C. 1451 et seq.) recognizes the national im-  
9 portance of these areas and their ecological vulner-  
10 ability to anthropogenic activities by establishing a  
11 comprehensive Federal and State partnership for  
12 protecting natural reserves and managing growth in  
13 these areas.

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

20           (4) Intense development pressures within the  
21 coastal watershed are driving the need to provide  
22 coastal managers with a wider range of tools to pro-  
23 tect and conserve important coastal and estuarine  
24 areas.

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

6           (6) Permanent protection of lands in the coast-  
7 al zone is a necessary component of any program to  
8 maintain and enhance coastal and estuarine areas  
9 for the benefit of the United States, including pro-  
10 tection of water quality, access to public beachfront,  
11 conserving wildlife habitat, and sustaining sport and  
12 commercial fisheries.

13           (7) Federal, State, and nongovernmental orga-  
14 nization pilot land acquisition projects have already  
15 substantially contributed to the long-term health and  
16 viability of coastal and estuarine systems.

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

21           (9) Conserving coastal and estuarine lands can  
22 support the traditional economic and natural re-  
23 source bases of communities in the coastal water-  
24 shed, including well-managed forests that dem-

1 onstrate outstanding ecological, recreational, histor-  
2 ical, and aesthetic attributes.

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

5 (a) IN GENERAL.—

6 (1) ESTABLISHMENT.—The Secretary of Com-  
7 merce shall establish a Coastal and Estuarine Land  
8 Protection Program (hereinafter referred to as the  
9 “program”), in cooperation with appropriate State,  
10 regional, and other units of Government for the pur-  
11 poses of protecting the environmental integrity of  
12 important coastal and estuarine areas, including  
13 wetlands and forests, that have significant conserva-  
14 tion, recreation, ecological, historical, aesthetic, or  
15 watershed protection values, and that are threatened  
16 by conversion from their natural, undeveloped, or  
17 recreational state to other uses.

18 (2) ADMINISTRATION.—The program shall be  
19 administered by the National Ocean Service of the  
20 National Oceanic and Atmospheric Administration  
21 through the head of the Office of Ocean and Coastal  
22 Resource Management.

23 (b) PROPERTY ACQUISITION GRANTS.—The Sec-  
24 retary shall make grants under the program to coastal  
25 States with approved coastal zone management plans or

1 National Estuarine Research Reserve units for the pur-  
2 pose of acquiring property or interests in property de-  
3 scribed in subsection (a) that will further the goals of—

4           (1) a Coastal Zone Management Plan or Pro-  
5           gram approved under the Coastal Zone Management  
6           Act of 1972 (16 U.S.C. 1451 et seq.);

7           (2) a National Estuarine Research Reserve  
8           management plan; or

9           (3) a regional or State watershed protection  
10          plan involving coastal States with approved coastal  
11          zone management plans.

12          (c) GRANT PROCESS.—The Secretary shall allocate  
13          grants authorized under subsection (b) to coastal States  
14          or National Estuarine Research Reserves through a com-  
15          petitive grant process in accordance with the following re-  
16          quirements:

17               (1) The Secretary shall consult with the State’s  
18               coastal zone management program, any National Es-  
19               tuarine Research Reserve in that State, and the lead  
20               agency designated by the Governor for coordinating  
21               the implementation of this Act (if different from the  
22               coastal zone management program).

23               (2) Each participating State, after consultation  
24               with nongovernmental and local governmental enti-  
25               ties, shall identify priority conservation needs within

1 the State, the values to be protected by inclusion of  
2 lands in the program, and the threats to those val-  
3 ues that should be avoided.

4 (3) Each participating State shall evaluate how  
5 the acquisition of property or easements might im-  
6 pact working waterfront needs.

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

14 (5) Awards shall be based on demonstrated  
15 need for protection and ability to successfully lever-  
16 age funds among participating entities, including  
17 Federal programs, regional organizations, State and  
18 other governmental units, landowners, corporations,  
19 or private organizations.

20 (6) The governor of the State, or the lead agen-  
21 cy designated by the governor for coordinating the  
22 implementation of this Act, shall determine that the  
23 application is consistent with the State's or terri-  
24 tory's approved coastal zone plan, program, and  
25 policies prior to submittal to the Secretary.

1           (7) Priority shall be given to lands described in  
2 subsection (a) that can be effectively managed and  
3 protected and that have significant ecological or wa-  
4 tershed protection value.

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

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

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

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

1 tions to Congress not less often than once every 3  
2 years.

3 (d) MATCHING REQUIREMENTS.—

4 (1) IN GENERAL.—The Secretary may not  
5 make a grant of Federal funds under the program  
6 unless such Federal funds are matched by non-Fed-  
7 eral funds in accordance with this subsection.

8 (2) MAXIMUM FEDERAL SHARE.—

9 (A) 75 PERCENT FEDERAL FUNDS.—Sub-  
10 ject to subparagraph (B), not more than 75  
11 percent of the funding for any project funded  
12 with a grant made under the program shall be  
13 derived from Federal sources.

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

22 (3) OTHER FEDERAL FUNDS.—If a grant  
23 awarded under the program represents only a por-  
24 tion of the total cost of a project, funding from other  
25 Federal sources may be applied to the cost of the



1 project. Each portion shall be subject to match re-  
2 quirements under the applicable provision of law.

3 (4) SOURCE OF MATCHING COST SHARE.—For  
4 purposes of paragraph (2)(A), the non-Federal cost  
5 share for a project may be determined by taking into  
6 account the following:

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

21 (B) Costs associated with land acquisition,  
22 land management planning, remediation, res-  
23 toration, and enhancement may be used as non-  
24 Federal match if the activities are identified in  
25 the plan and expenses are incurred within the

1 period of the grant award, or, for lands de-  
2 scribed in (A), within the same time limits de-  
3 scribed therein. These costs may include either  
4 cash or in-kind contributions.

5 (e) RESERVATION OF FUNDS FOR NATIONAL ESTUA-  
6 RINE RESEARCH RESERVE SITES.—No less than 15 per-  
7 cent of funds made available under the program shall be  
8 available for acquisitions benefitting National Estuarine  
9 Research Reserves.

10 (f) LIMIT ON ADMINISTRATIVE COSTS.—No more  
11 than 5 percent of the funds made available to the Sec-  
12 retary under this section shall be used by the Secretary  
13 for planning or administration of the program. The Sec-  
14 retary shall provide a report to Congress with an account  
15 of all expenditures under this section for fiscal year 2009  
16 and not less often than once every 3 years thereafter.

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

22 (1) the title to the property will be held by the  
23 grant recipient or another appropriate public agency  
24 designated by the recipient in perpetuity;

1           (2) the property will be managed in a manner  
2 that is consistent with the purposes for which the  
3 land entered into the program and shall not convert  
4 such property to other uses; and

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

10 (h) DEFINITIONS.—In this section:

11           (1) COASTAL STATE.—The term “coastal  
12 State” has the meaning given that term by section  
13 304(4) of the Coastal Zone Management Act of  
14 1972 (16 U.S.C. 1453(4)).

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

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

1           (4) OTHER TERMS.—Any term used in this sec-  
2           tion that is defined in section 304 of the Coastal  
3           Zone Management Act of 1972 (16 U.S.C. 1453)  
4           has the meaning given that term in that section.

5           (i) AUTHORIZATION OF APPROPRIATIONS.—There  
6           are authorized to be appropriated to the Secretary such  
7           sums as may be necessary to carry out this Act for fiscal  
8           years 2009 through 2013.

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