

114TH CONGRESS
1ST SESSION

S. 2025

To promote the protection and conservation of United States ocean, coastal,
and Great Lakes ecosystems, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10, 2015

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

A BILL

To promote the protection and conservation of United States
ocean, coastal, and Great Lakes ecosystems, 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 “National Oceans and
5 Coastal Security Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COASTAL SHORELINE COUNTY.—The term
9 “coastal shoreline county” has the meaning given
10 the term by the Administrator of the Federal Emer-

1 agency Management Agency for purposes of admin-
2 istering the National Flood Insurance Act of 1968
3 (42 U.S.C. 4001 et seq.).

4 (2) COASTAL STATE.—The term “coastal
5 State” has the meaning given the term “coastal
6 state” in section 304 of the Coastal Zone Manage-
7 ment Act of 1972 (16 U.S.C. 1453).

8 (3) CORPUS.—The term “corpus”, with respect
9 to the Fund, means an amount equal to the Federal
10 payments to the Fund, amounts contributed to the
11 Fund from non-Federal sources, and appreciation
12 from capital gains and reinvestment of income.

13 (4) FOUNDATION.—The term “Foundation”
14 means the National Fish and Wildlife Foundation
15 established by section 2(a) of the National Fish and
16 Wildlife Foundation Establishment Act (16 U.S.C.
17 3701(a)).

18 (5) FUND.—The term “Fund” means the Na-
19 tional Oceans and Coastal Security Fund established
20 under section 4(a).

21 (6) INCOME.—The term “income”, with respect
22 to the Fund, means an amount equal to the divi-
23 dends and interest accruing from investments of the
24 corpus of the Fund.

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

5 (8) SECRETARY.—Except as otherwise specifi-
6 cally provided, the term “Secretary” means the Sec-
7 retary of Commerce.

8 (9) TIDAL SHORELINE.—The term “tidal shore-
9 line” has the meaning given that term pursuant to
10 section 923.110(c)(2)(i) of title 15, Code of Federal
11 Regulations, or a similar successor regulation.

12 **SEC. 3. PURPOSES AND AGREEMENTS.**

13 (a) PURPOSES.—The purposes of this Act are to pro-
14 tect, conserve, and restore the oceans, coasts, and Great
15 Lakes of the United States, ensuring present and future
16 generations will benefit from the full range of ecological,
17 economic, social, and recreational opportunities and serv-
18 ices these resources are capable of providing.

19 (b) AGREEMENTS.—The Secretary and the Founda-
20 tion may enter into such agreements as may be necessary
21 to carry out the purposes of this Act.

22 **SEC. 4. NATIONAL OCEANS AND COASTAL SECURITY FUND.**

23 (a) ESTABLISHMENT.—The Secretary and the Foun-
24 dation are authorized to establish the National Oceans and

1 Coastal Security Fund as a tax exempt fund to further
2 the purposes of this Act.

3 (b) DEPOSITS.—

4 (1) IN GENERAL.—There shall be deposited into
5 the Fund, which shall constitute the Fund’s assets
6 amounts as follows:

7 (A) Amounts appropriated or otherwise
8 made available to carry out this Act.

9 (B) Amounts earned through investment
10 under subsection (c).

11 (2) PROHIBITIONS ON DONATIONS FROM FOR-
12 EIGN GOVERNMENTS.—No amounts donated by a
13 foreign government, as defined in section 7342 of
14 title 5, United States Code, may be deposited into
15 the Fund.

16 (c) INVESTMENTS.—The Foundation shall invest the
17 Fund corpus and income for the benefit of the Fund.

18 (d) REQUIREMENTS.—Any amounts received by the
19 Foundation pursuant to this Act shall be subject to the
20 provisions of the National Fish and Wildlife Foundation
21 Establishment Act (16 U.S.C. 3701 et seq.), except the
22 provisions of—

23 (1) section 4(e)(1)(B) of that Act (16 U.S.C.
24 3703(e)(1)(B)); and

1 (2) section 10(a) of that Act (16 U.S.C.
2 3709(a)).

3 (e) WITHDRAWALS AND EXPENDITURES.—

4 (1) ALLOCATION OF FUNDS.—Each fiscal year,
5 the Foundation shall, in consultation with the Sec-
6 retary, allocate an amount equal to not less than 3
7 percent and not more than 7 percent of the corpus
8 of the Fund and the income generated from the
9 Fund from the current fiscal year.

10 (2) EXPENDITURE.—Except as provided in
11 paragraph (3), of the amounts allocated under para-
12 graph (1) for each fiscal year—

13 (A) at least 59 percent shall be used by the
14 Foundation to award grants to coastal States
15 under section 6(b);

16 (B) at least 39 percent shall be allocated
17 by the Foundation to award grants under sec-
18 tion 6(c); and

19 (C) no more than 2 percent may be used
20 by the Secretary and the Foundation for ad-
21 ministrative expenses to carry out this Act,
22 which amount shall be divided between the Sec-
23 retary and the Foundation pursuant to an
24 agreement reached and documented by both the
25 Secretary and the Foundation.

1 (3) PROGRAM ADJUSTMENTS.—

2 (A) IN GENERAL.—In any fiscal year in
3 which the amount described in subparagraph
4 (B) is less than \$100,000,000, the Foundation,
5 in consultation with the Secretary, may elect
6 not to use any of the amounts allocated under
7 paragraph (1) for that fiscal year to award
8 grants under subsection (b) or (c) of section 6.

9 (B) DETERMINATION AMOUNT.—The
10 amount described in this subparagraph for a
11 fiscal year is the amount that is equal to the
12 sum of—

13 (i) the amount that is 5 percent of the
14 corpus of the Fund; and

15 (ii) the aggregate amount of income
16 the Foundation expects to be generated
17 from the Fund in that fiscal year.

18 (f) RECOVERY OF PAYMENTS.—After notice and an
19 opportunity for a hearing, the Secretary is authorized to
20 recover any Federal payments under this section if the
21 Foundation—

22 (1) makes a withdrawal or expenditure of the
23 corpus of the Fund or the income of the Fund that
24 is not consistent with the requirements of section 5;
25 or

1 (2) fails to comply with a procedure, measure,
2 method, or standard established under section
3 6(a)(1).

4 **SEC. 5. ELIGIBLE USES.**

5 (a) IN GENERAL.—Amounts in the Fund may be allo-
6 cated by the Foundation to support programs and activi-
7 ties intended to protect, conserve, and restore ocean and
8 coastal resources and coastal infrastructure, including
9 baseline scientific research, ocean observing, and other
10 programs and activities carried out in coordination with
11 Federal and State departments or agencies, including the
12 following:

13 (1) Ocean, coastal, and Great Lakes restoration
14 and protection, including efforts to address potential
15 impacts of sea level change, changes in ocean chem-
16 istry, and changes in ocean temperature.

17 (2) Restoration, protection, or maintenance of
18 living ocean, coastal, and Great Lakes resources and
19 their habitats.

20 (3) Planning for and managing coastal develop-
21 ment to enhance ecosystem integrity or minimize im-
22 pacts from sea level change and coastal erosion.

23 (4) Analyses of current and anticipated impacts
24 of ocean acidification and potential responses.

1 (5) Projects to address management issues
2 which are regional or interstate in scope.

3 (6) Efforts that contribute to the understanding
4 of ecological, economic, and societal threats faced by
5 changes to the oceans, coasts, and Great Lakes.

6 (7) Efforts to better understand the processes
7 that govern the fate and transport of petroleum hy-
8 drocarbons released into the marine environment
9 from natural and anthropogenic sources, including
10 spills and spill response and preparedness tech-
11 nologies.

12 (8) Efforts to preserve, protect, and expand
13 coastal access for persons engaged in water-depend-
14 ent commercial activities including commercial fish-
15 ing, recreational fishing businesses, aquaculture,
16 boatbuilding, or other water-dependent coastal-re-
17 lated businesses.

18 (9) Efforts to assist coastal States in strength-
19 ening, stabilizing, hardening, elevating, relocating, or
20 otherwise enhancing the resiliency of bridges, roads,
21 pedestrian walkways, and bicycle transportation fa-
22 cilities, and associated infrastructure, that are al-
23 ready subject to or face increased future risks of
24 coastal flooding, coastal erosion, or sea level change.

1 (10) Acquiring property or interests in property
2 if—

3 (A) the area is located within a coastal
4 shoreline county or adjacent county;

5 (B) the funds made available under this
6 subtitle are used to acquire land or interest in
7 land by purchase, exchange, or donation from a
8 willing seller;

9 (C) the Governor of the State in which the
10 property or interests in property are acquired
11 approves of the acquisition; and

12 (D) such property or interest is acquired in
13 a manner that will ensure such property or in-
14 terest will be administered to support the pur-
15 poses of this Act.

16 (11) Protection and relocation of critical coastal
17 public infrastructure affected by erosion or sea level
18 change.

19 (b) MATCHING REQUIREMENT.—An amount from the
20 Fund may not be allocated to fund a project or activity
21 described in paragraph (10) or (11) of subsection (a) un-
22 less non-Federal contributions in an amount equal to 30
23 percent or more of the cost of such project or activity is
24 made available to carry out such project or activity.

1 (c) PROHIBITION ON USE OF FUNDS FOR LITIGA-
2 TION.—No funds made available under this Act may be
3 used to fund litigation over any matter.

4 **SEC. 6. GRANTS.**

5 (a) ADMINISTRATION OF GRANTS.—

6 (1) IN GENERAL.—Not later than 90 days after
7 funds are deposited into the Fund and made avail-
8 able to the Foundation for administrative purposes,
9 the Foundation shall establish the following:

10 (A) Application and review procedures for
11 the awarding of grants under this section, in-
12 cluding requirements ensuring that any
13 amounts awarded under such subsections may
14 only be used for an eligible use described under
15 section 5.

16 (B) Selection procedures and criteria for
17 the awarding of grants under this section
18 that—

19 (i) require consultation with the Sec-
20 retary and the Secretary of the Interior;
21 and

22 (ii) prioritize projects where non-Fed-
23 eral partners have committed to share the
24 cost of the project.

1 (C) Eligibility criteria for awarding
2 grants—

3 (i) under subsection (b) to coastal
4 States; and

5 (ii) under subsection (c) to entities in-
6 cluding States, Indian tribes, regional bod-
7 ies, associations, non-governmental organi-
8 zations, and academic institutions.

9 (D) Performance accountability and moni-
10 toring measures for programs and activities
11 funded by a grant awarded under subsection (b)
12 or (c).

13 (E) Procedures and methods to ensure ac-
14 curate accounting and appropriate administra-
15 tion of grants awarded under this section, in-
16 cluding standards of recordkeeping.

17 (F) Procedures to carry out audits of the
18 Fund as necessary, but not less frequently than
19 once every 5 years.

20 (G) Procedures to carry out audits of the
21 recipients of grants under this section.

22 (H) Procedures to make publicly available
23 on the Internet a list of all projects funded by
24 the Fund, that includes at a minimum the

1 grant recipient, grant amount, project descrip-
2 tion, and project status.

3 (2) APPROVAL.—The Foundation shall submit
4 to the Secretary for approval each procedure, meas-
5 ure, method, and standard established under para-
6 graph (1).

7 (b) GRANTS TO COASTAL STATES.—

8 (1) IN GENERAL.—Subject to paragraph (3),
9 the Foundation shall award grants of amounts allo-
10 cated under section 4(e)(2)(A) to eligible coastal
11 States that have a coastal management program ap-
12 proved under the Coastal Zone Management Act of
13 1972 (16 U.S.C. 1451 et seq.), based on the fol-
14 lowing formula:

15 (A) Fifty percent of the funds are allocated
16 equally among such coastal States.

17 (B) Twenty-five percent of the funds are
18 allocated on the basis of the ratio of tidal shore-
19 line miles in a coastal State to the tidal shore-
20 line miles of all coastal States.

21 (C) Twenty-five percent of the funds are
22 allocated on the basis of the ratio of population
23 density of the coastal shoreline counties of a
24 coastal State to the population density of all
25 coastal shoreline counties.

1 (2) ELIGIBLE COASTAL STATE DEFINED.—In
2 this subsection, the term “eligible coastal State”
3 means—

4 (A) a coastal State that has a coastal man-
5 agement program approved under the Coastal
6 Zone Management Act of 1972 (16 U.S.C.
7 1451 et seq.); or

8 (B) during the period beginning on the
9 date of the enactment of this Act and ending on
10 December 31, 2018, a coastal State that had,
11 during the period beginning January 1, 2008,
12 and ending on the date of the enactment of this
13 Act, a coastal management program approved
14 under the Coastal Zone Management Act of
15 1972 (16 U.S.C. 1451 et seq.).

16 (3) MAXIMUM ALLOCATION TO STATES.—Not-
17 withstanding paragraph (1), not more than 10 per-
18 cent of the total funds distributed under this sub-
19 section may be allocated to any single State. Any
20 amount exceeding this limit shall be redistributed
21 among the remaining eligible coastal States accord-
22 ing to the formula established under paragraph (1).

23 (4) MAXIMUM ALLOCATION TO CERTAIN GEO-
24 GRAPHIC AREAS.—

1 (A) IN GENERAL.—Notwithstanding para-
2 graph (1), each geographic area described in
3 subparagraph (B) may not receive more than 1
4 percent of the total funds distributed under this
5 subsection. Any amount exceeding this limit
6 shall be redistributed among the remaining eli-
7 gible coastal States according to the formula es-
8 tablished under paragraph (1).

9 (B) GEOGRAPHIC AREAS DESCRIBED.—
10 The geographic areas described in this subpara-
11 graph are the following:

12 (i) American Samoa.

13 (ii) The Commonwealth of the North-
14 ern Mariana Islands.

15 (iii) Guam.

16 (iv) Puerto Rico.

17 (v) The Virgin Islands.

18 (5) REQUIREMENT TO SUBMIT PLANS.—

19 (A) IN GENERAL.—To be eligible to receive
20 a grant under this subsection, a coastal State
21 shall submit to the Secretary, and the Secretary
22 shall review for approval, a 5-year plan, which
23 shall include the following:

1 (i) Criteria to determine eligibility for
2 entities which may receive grants under
3 this subsection.

4 (ii) A description of the competitive
5 process the coastal State will use in allo-
6 cating funds received from the Fund, ex-
7 cept in the case of allocating funds under
8 paragraph (7), which shall include—

9 (I) a description of the relative
10 roles in the State competitive process
11 of the State coastal zone management
12 program approved under the Coastal
13 Zone Management Act of 1972 (16
14 U.S.C. 1451 et seq.) and any State
15 Sea Grant Program; and

16 (II) a demonstration that such
17 competitive process is consistent with
18 the application and review procedures
19 established by the Foundation under
20 subsection (a)(1).

21 (iii) A process to certify that the
22 project or program and the awarding of a
23 contract for the expenditure of amounts re-
24 ceived under this paragraph are consistent
25 with the standard procurement rules and

1 regulations governing a comparable project
2 or program in that State, including all ap-
3 plicable competitive bidding and audit re-
4 quirements.

5 (iv) Procedures to make publicly avail-
6 able on the Internet a list.

7 (B) UPDATES.—As a condition of receiving
8 a grant under this subsection, a coastal State
9 shall submit to the Secretary, not less fre-
10 quently than once every 5 years, an update to
11 the plan submitted by the coastal State under
12 subparagraph (A) for the 5-year period imme-
13 diately following the most recent submittal
14 under this paragraph.

15 (6) OPPORTUNITY FOR PUBLIC COMMENT.—In
16 determining whether to approve a plan or an update
17 to a plan described in subparagraph (A) or (B) of
18 paragraph (5), the Secretary shall provide the oppor-
19 tunity for, and take into consideration, public input
20 and comment on the plan.

21 (7) INDIAN TRIBES.—As a condition on receipt
22 of a grant under this subsection, a State that re-
23 ceives a grant under this subsection shall ensure
24 that Indian tribes in the State are eligible to partici-

1 pate in the competitive process described in the
2 State’s plan under paragraph (5)(A)(ii).

3 (c) NATIONAL GRANTS FOR OCEANS, COASTS, AND
4 GREAT LAKES.—

5 (1) IN GENERAL.—The Foundation may use
6 amounts allocated under section 4(e)(2)(B) to award
7 grants according to the procedures established in
8 subsection (a) to support activities consistent with
9 section 5.

10 (2) ADVISORY PANEL.—

11 (A) IN GENERAL.—The Foundation shall
12 establish an advisory panel to conduct reviews
13 of applications for grants under paragraph (1)
14 and the Foundation shall consider the rec-
15 ommendations of the advisory panel with re-
16 spect to such applications.

17 (B) MEMBERSHIP.—The advisory panel es-
18 tablished under subparagraph (A) shall include
19 persons representing—

- 20 (i) dependent industries;
21 (ii) geographic regions;
22 (iii) nonprofit organizations; and
23 (iv) academic institutions.

1 **SEC. 7. ANNUAL REPORT.**

2 (a) REQUIREMENT FOR ANNUAL REPORT.—Subject
 3 to subsection (c), beginning with fiscal year 2017, not
 4 later than 60 days after the end of each fiscal year, the
 5 Foundation shall submit to the Committee on Commerce,
 6 Science, and Transportation of the Senate and the Com-
 7 mittee on Natural Resources of the House of Representa-
 8 tives a report on the operation of the Fund during that
 9 fiscal year.

10 (b) CONTENT.—Each annual report submitted under
 11 subsection (a) for a fiscal year shall include—

12 (1) a full and complete statement of the re-
 13 ceipts, including the source of all receipts, expendi-
 14 tures, and investments of the Fund;

15 (2) a statement of the amounts deposited in the
 16 Fund and the balance remaining in the Fund at the
 17 end of the fiscal year; and

18 (3) a description of the expenditures made from
 19 the Fund for the fiscal year, including the purpose
 20 of the expenditures.

21 (c) EXCEPTION FOR CERTAIN YEARS.—For any fis-
 22 cal year in which the amount described in section
 23 4(e)(3)(B) is less than \$100,000,000, the Foundation, in
 24 consultation with the Secretary, may elect not to submit
 25 an annual report under this section for such fiscal year.

1 **SEC. 8. FUNDING.**

2 (a) OUTER CONTINENTAL SHELF LEASE REV-
3 ENUE.—Section 8 of the Outer Continental Shelf Lands
4 Act (43 U.S.C. 1337) is amended by adding at the end
5 the following:

6 “(q) DEPOSITS IN THE NATIONAL OCEANS AND
7 COASTAL SECURITY FUND.—

8 “(1) IN GENERAL.—Beginning with the first
9 fiscal year beginning after the date of the enactment
10 of the National Oceans and Coastal Security Act,
11 the Secretary shall deposit 12.5 percent of the rev-
12 enue paid to the United States under this section in
13 the National Oceans and Coastal Security Fund es-
14 tablished pursuant to section 4 of that Act.

15 “(2) FINES COLLECTED FOR VIOLATIONS OF
16 FEDERAL LAW.—

17 “(A) IN GENERAL.—Beginning with the
18 first fiscal year beginning after the date of the
19 enactment of the National Oceans and Coastal
20 Security Act, the President shall ensure that 10
21 percent of the civil penalties paid to the United
22 States for a violation of a law set out under
23 subparagraph (B) or for a violation of any re-
24 quirement or prohibition of any rule, order, or
25 permit promulgated, issued, or approved under
26 such a law that occurs on the outer Continental

1 Shelf are deposited in the National Oceans and
2 Coastal Security Fund.

3 “(B) LAWS.—The laws set out under this
4 subparagraph are the following:

5 “(i) The Federal Water Pollution
6 Control Act (33 U.S.C. 1251 et seq.) other
7 than penalties provided for under section
8 311 of such Act (33 U.S.C. 1321).

9 “(ii) The Comprehensive Environ-
10 mental Response, Compensation, and Li-
11 ability Act of 1980 (42 U.S.C. 9601 et
12 seq.).

13 “(iii) Chapter 601 of title 49, United
14 States Code.

15 “(iv) The Act of March 3, 1899 (30
16 Stat. 1151, chapter 425; 33 U.S.C. 401 et
17 seq.).”.

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