

112TH CONGRESS  
1ST SESSION

# S. 962

To reauthorize the Northwest Straits Marine Conservation Initiative Act to promote the protection of the resources of the Northwest Straits, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 12, 2011

Mrs. MURRAY (for herself and Ms. CANTWELL) 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 reauthorize the Northwest Straits Marine Conservation Initiative Act to promote the protection of the resources of the Northwest Straits, 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 “Northwest Straits Ma-  
5       rine Conservation Initiative Reauthorization Act of 2011”.

1 **SEC. 2. REAUTHORIZATION OF NORTHWEST STRAITS MA-**  
2 **RINE CONSERVATION INITIATIVE ACT.**

3 The Northwest Straits Marine Conservation Initiative  
4 Act (title IV of Public Law 105–384; 112 Stat. 3458) is  
5 amended—

6 (1) in section 402, by striking “Commission (in  
7 this title referred to as the ‘Commission’).” and in-  
8 serting “Commission.”; and

9 (2) by striking sections 403, 404, and 405 and  
10 inserting the following:

11 **“SEC. 403. FINDINGS.**

12 “Congress makes the following findings:

13 “(1) The marine waters and ecosystem of the  
14 Northwest Straits in Puget Sound in the State of  
15 Washington represent a unique resource of enor-  
16 mous environmental and economic value to the peo-  
17 ple of the United States.

18 “(2) During the 20th century, the environ-  
19 mental health of the Northwest Straits declined dra-  
20 matically as indicated by impaired water quality, de-  
21 clines in marine wildlife, collapse of harvestable ma-  
22 rine species, loss of critical marine habitats, ocean  
23 acidification, and sea level rise.

24 “(3) At the start of the 21st century, the  
25 Northwest Straits have been threatened by sea level

1 rise, ocean acidification, and other effects of climate  
2 change.

3 “(4) This Act was enacted to tap the unprece-  
4 dented level of citizen stewardship demonstrated in  
5 the Northwest Straits and create a mechanism to  
6 mobilize public support and raise capacity for local  
7 efforts to protect and restore the ecosystem of the  
8 Northwest Straits.

9 “(5) The Northwest Straits Marine Conserva-  
10 tion Initiative helps the National Oceanic and At-  
11 mospheric Administration and other Federal agen-  
12 cies with their marine missions by fostering local in-  
13 terest in marine issues and involving diverse groups  
14 of citizens.

15 “(6) The Northwest Straits Marine Conserva-  
16 tion Initiative shares many of the same goals with  
17 the National Oceanic and Atmospheric Administra-  
18 tion, including fostering citizen stewardship of ma-  
19 rine resources, general ecosystem management, and  
20 protecting federally managed marine species.

21 “(7) Ocean literacy and identification and re-  
22 moval of marine debris projects are examples of on-  
23 going partnerships between the Northwest Straits  
24 Marine Conservation Initiative and the National  
25 Oceanic and Atmospheric Administration.

1 **“SEC. 404. DEFINITIONS.**

2 “In this title:

3 “(1) COMMISSION.—The term ‘Commission’  
4 means the Northwest Straits Advisory Commission  
5 established by section 402.

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

10 “(3) NORTHWEST STRAITS.—The term ‘North-  
11 west Straits’ means the marine waters of the Strait  
12 of Juan de Fuca and of Puget Sound from the Ca-  
13 nadian border to the south end of Snohomish Coun-  
14 ty.

15 **“SEC. 405. MEMBERSHIP OF THE COMMISSION.**

16 “(a) COMPOSITION.—The Commission shall be com-  
17 posed of up to 14 members who shall be appointed as fol-  
18 lows:

19 “(1) One member appointed by a consensus of  
20 the members of a marine resources committee estab-  
21 lished under section 408 for each of the following  
22 counties of the State of Washington:

23 “(A) San Juan County.

24 “(B) Island County.

25 “(C) Skagit County.

26 “(D) Whatcom County.

1                   “(E) Snohomish County.

2                   “(F) Clallam County.

3                   “(G) Jefferson County.

4                   “(2) Two members appointed by the Secretary  
5 of the Interior in trust capacity and in consultation  
6 with the Northwest Indian Fisheries Commission or  
7 the Indian tribes affected by this title collectively, as  
8 the Secretary of the Interior considers appropriate,  
9 to represent the interests of such tribes.

10                  “(3) One member appointed by the Governor of  
11 the State of Washington to represent the interests of  
12 the Puget Sound Partnership.

13                  “(4) Four members appointed by the Governor  
14 of the State of Washington who—

15                         “(A) are residents of the State of Wash-  
16 ington; and

17                         “(B) are not employed by a Federal, State,  
18 or local government.

19                  “(b) VACANCIES.—A vacancy in the Commission  
20 shall be filled in the manner in which the original appoint-  
21 ment was made.

22                  “(c) CHAIRPERSON.—The Commission shall select a  
23 Chairperson from among its members.

1       “(d) MEETING.—The Commission shall meet at the  
 2 call of the Chairperson, but not less frequently than quar-  
 3 terly.

4       “(e) LIAISON.—

5           “(1) IN GENERAL.—The Secretary of Com-  
 6 merce shall, acting through the Under Secretary for  
 7 Oceans and Atmosphere and in consultation with the  
 8 Director of the Commission appointed under section  
 9 407(a), appoint an employee of the National Oceanic  
 10 and Atmospheric Administration—

11           “(A) to serve as a liaison between the  
 12 Commission and the Department of Commerce;  
 13 and

14           “(B) to attend meetings and other events  
 15 of the Commission as a nonvoting participant.

16       “(2) LIMITATION.—Service as a member of the  
 17 Commission by the employee appointed under para-  
 18 graph (1)—

19           “(A) is limited to the employee’s service as  
 20 a liaison and attendance of meetings and other  
 21 events as a nonvoting participant; and

22           “(B) does not obligate the employee to per-  
 23 form any duty of the Commission under section  
 24 406(b).

1 **“SEC. 406. GOAL AND DUTIES OF THE COMMISSION.**

2 “(a) GOAL.—The goal of the Commission is to pro-  
3 tect and restore the marine waters, habitats, and species  
4 of the Northwest Straits region to achieve ecosystem  
5 health and sustainable resource use by—

6 “(1) designing and initiating projects that are  
7 driven by sound science, local priorities, community-  
8 based decisions, and the ability to measure results;

9 “(2) building awareness and stewardship and  
10 making recommendations to improve the health of  
11 the Northwest Straits marine resources;

12 “(3) maintaining and expanding diverse mem-  
13 bership and partner organizations;

14 “(4) expanding partnerships with governments  
15 of Indian tribes and continuing to foster respect for  
16 tribal cultures and treaties; and

17 “(5) recognizing the importance of economic  
18 and social benefits that are dependent on marine en-  
19 vironments and sustainable marine resources.

20 “(b) DUTIES.—The duties of the Commission are the  
21 following:

22 “(1) To provide resources and technical support  
23 for marine resources committees established under  
24 section 408.

25 “(2) To work with such marine resources com-  
26 mittees and appropriate entities of Federal and

1 State governments and Indian tribes to develop pro-  
2 grams to monitor the overall health of the marine  
3 ecosystem of the Northwest Straits.

4 “(3) To identify factors adversely affecting or  
5 preventing the restoration of the health of the ma-  
6 rine ecosystem and coastal economies of the North-  
7 west Straits.

8 “(4) To develop scientifically sound restoration  
9 and protection recommendations, informed by local  
10 priorities, that address such factors.

11 “(5) To assist in facilitating the successful im-  
12 plementation of such recommendations by developing  
13 broad support among appropriate authorities, stake-  
14 holder groups, and local communities.

15 “(6) To develop and implement regional  
16 projects based on such recommendations to protect  
17 and restore the Northwest Straits ecosystem.

18 “(7) To serve as a public forum for the discus-  
19 sion of policies and actions of Federal, State, or  
20 local government, an Indian tribe, or the Govern-  
21 ment of Canada with respect to the marine eco-  
22 system of the Northwest Straits.

23 “(8) To inform appropriate authorities and  
24 local communities about the marine ecosystem of the

1 Northwest Straits and about issues relating to the  
2 marine ecosystem of the Northwest Straits.

3 “(9) To consult with all affected Indian tribes  
4 in the region of the Northwest Straits to ensure that  
5 the work of the Commission does not violate tribal  
6 treaty rights.

7 “(c) BENCHMARKS.—The Commission shall carry out  
8 its duties in a manner that promotes the achieving of the  
9 benchmarks described in subsection (f)(2).

10 “(d) COORDINATION AND COLLABORATION.—The  
11 Commission shall carry out the duties described in sub-  
12 section (b) in coordination and collaboration, when appro-  
13 priate, with Federal, State, and local governments and In-  
14 dian tribes.

15 “(e) REGULATORY AUTHORITY.—The Commission  
16 shall have no power to issue regulations.

17 “(f) ANNUAL REPORT.—

18 “(1) IN GENERAL.—Each year, the Commission  
19 shall prepare, submit to the Committee on Com-  
20 merce, Science, and Transportation of the Senate,  
21 the Committee on Energy and Commerce of the  
22 House of Representatives, and the Under Secretary  
23 for Oceans and Atmosphere, and make available to  
24 the public an annual report describing—

1           “(A) the activities carried out by the Com-  
2 mission during the preceding year; and

3           “(B) the progress of the Commission in  
4 achieving the benchmarks described in para-  
5 graph (2).

6           “(2) BENCHMARKS.—The benchmarks de-  
7 scribed in this paragraph are the following:

8           “(A) Protection and restoration of marine,  
9 coastal, and nearshore habitats.

10           “(B) Prevention of loss and achievement of  
11 a net gain of healthy habitat areas.

12           “(C) Protection and restoration of marine  
13 populations to healthy, sustainable levels.

14           “(D) Protection of the marine water qual-  
15 ity of the Northwest Straits region and restora-  
16 tion of the health of marine waters.

17           “(E) Collection of high-quality data and  
18 promotion of the use and dissemination of such  
19 data.

20           “(F) Promotion of stewardship and under-  
21 standing of Northwest Straits marine resources  
22 through education and outreach.

1   **“SEC. 407. COMMISSION PERSONNEL AND ADMINISTRATIVE**  
2                   **MATTERS.**

3           “(a) DIRECTOR.—The Manager of the Shorelands  
4 and Environmental Assistance Program of the Depart-  
5 ment of Ecology of the State of Washington may, upon  
6 the recommendation of the Commission and the Director  
7 of the Padilla Bay National Estuarine Research Reserve,  
8 appoint and terminate a Director of the Commission. The  
9 employment of the Director shall be subject to confirma-  
10 tion by the Commission.

11          “(b) STAFF.—The Director may hire such other per-  
12 sonnel as may be appropriate to enable the Commission  
13 to perform its duties. Such personnel shall be hired  
14 through the personnel system of the Department of Ecol-  
15 ogy of the State of Washington.

16          “(c) ADMINISTRATIVE SERVICES.—If the Governor of  
17 the State of Washington makes available to the Commis-  
18 sion the administrative services of the State of Wash-  
19 ington Department of Ecology and Padilla Bay National  
20 Estuarine Research Reserve, the Commission shall use  
21 such services for employment, procurement, grant and fis-  
22 cal management, and support services necessary to carry  
23 out the duties of the Commission.

24   **“SEC. 408. MARINE RESOURCES COMMITTEES.**

25          “(a) IN GENERAL.—The government of each of the  
26 counties referred to in subparagraphs (A) through (G) of

1 section 405(a)(1) may establish a marine resources com-  
 2 mittee that—

3 “(1) complies with the requirements of this sec-  
 4 tion; and

5 “(2) receives from such government the mis-  
 6 sion, direction, expert assistance, and financial re-  
 7 sources necessary—

8 “(A) to address issues affecting the marine  
 9 ecosystems within its county; and

10 “(B) to work to achieve the benchmarks  
 11 described in section 406(f)(2).

12 “(b) MEMBERSHIP.—

13 “(1) IN GENERAL.—Each marine resources  
 14 committee established pursuant to this section shall  
 15 be composed of—

16 “(A) members with relevant scientific ex-  
 17 pertise; and

18 “(B) members that represent balanced rep-  
 19 resentation, including representation of—

20 “(i) local governments, including plan-  
 21 ning staff from counties and cities with  
 22 marine shorelines;

23 “(ii) affected economic interests, such  
 24 as ports and commercial fishers;

1                   “(iii) affected recreational interests,  
2                   such as sport fishers; and

3                   “(iv) conservation and environmental  
4                   interests.

5                   “(2) TRIBAL MEMBERS.—With respect to a  
6                   county referred to in subparagraph (A) through (G)  
7                   of section 405(a)(1), each Indian tribe with usual  
8                   and accustomed fishing rights in the waters of such  
9                   county and each Indian tribe with reservation lands  
10                  in such county, may appoint one member to the ma-  
11                  rine resources committee for such county. Such  
12                  member may be appointed by the respective tribal  
13                  authority.

14                  “(3) CHAIRPERSON.—

15                  “(A) IN GENERAL.—Each marine re-  
16                  sources committee established pursuant to this  
17                  section shall select a chairperson from among  
18                  members by a majority vote of the members of  
19                  the committee.

20                  “(B) ROTATING POSITION.—Each marine  
21                  resources committee established pursuant to  
22                  this section shall select a new chairperson at a  
23                  frequency determined by the county charter of  
24                  the marine resources committee to create a di-

1           versity of representation in the leadership of the  
2           marine resources committee.

3           “(c) DUTIES.—The duties of a marine resources com-  
4       mittee established pursuant to this section are the fol-  
5       lowing:

6           “(1) To assist in assessing marine resource  
7       problems in concert with governmental agencies,  
8       tribes, and other entities.

9           “(2) To assist in identifying local implications,  
10      needs, and strategies associated with the recovery of  
11      Puget Sound salmon and other species in the region  
12      of the Northwest Straits listed under the Endan-  
13      gered Species Act of 1973 (16 U.S.C. 1531 et seq.)  
14      in coordination with Federal, State, and local gov-  
15      ernments, Indian tribes, and other entities.

16          “(3) To work with other entities to enhance the  
17      scientific baseline and monitoring program for the  
18      marine environment of the Northwest Straits.

19          “(4) To identify local priorities for marine re-  
20      source conservation and develop new projects to ad-  
21      dress those needs.

22          “(5) To work closely with county leadership to  
23      implement local marine conservation and restoration  
24      initiatives.

1           “(6) To coordinate with the Commission on ma-  
2       rine ecosystem objectives.

3           “(7) To educate the public and key constitu-  
4       encies regarding the relationship between healthy  
5       marine habitats, harvestable resources, and human  
6       activities.

7       **“SEC. 409. NORTHWEST STRAITS MARINE CONSERVATION**  
8                               **FOUNDATION.**

9           “(a) ESTABLISHMENT.—The Director of the Com-  
10      mission and the Director of the Padilla Bay National Es-  
11      tuarine Research Reserve may enter into an agreement  
12      with an organization described in section 501(c)(3) of the  
13      Internal Revenue Code of 1986 to establish a nonprofit  
14      foundation to support the Commission and the marine re-  
15      sources committees established under section 408 in car-  
16      rying out their duties under this Act.

17          “(b) DESIGNATION.—The foundation authorized by  
18      subsection (a) shall be known as the ‘Northwest Straits  
19      Marine Conservation Foundation’.

20          “(c) RECEIPT OF GRANTS.—The Northwest Straits  
21      Marine Conservation Foundation may, if eligible, apply  
22      for, accept, and use grants awarded by Federal agencies,  
23      States, local governments, regional agencies, interstate  
24      agencies, corporations, foundations, or other persons to

1 assist the Commission and the marine resources commit-  
2 tees in carrying out their duties under this Act.

3 “(d) TRANSFER OF FUNDS.—The Northwest Straits  
4 Marine Conservation Foundation may transfer funds to  
5 the Commission or the marine resources committees to as-  
6 sist them in carrying out their duties under this Act.

7 **“SEC. 410. AUTHORIZATION OF APPROPRIATIONS.**

8 “There are authorized to be appropriated to the Sec-  
9 retary of Commerce for the use of the Commission such  
10 sums as may be necessary to carry out the provisions of  
11 this title.”.

