

112TH CONGRESS
1ST SESSION

S. 973

To create the National Endowment for the Oceans 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

MAY 12, 2011

Mr. WHITEHOUSE (for himself, Ms. SNOWE, Mr. ROCKEFELLER, Mr. NELSON of Florida, Ms. LANDRIEU, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To create the National Endowment for the Oceans 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Endowment for the Oceans Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Findings.
- Sec. 4. Definitions.
- Sec. 5. National Endowment for the Oceans.
- Sec. 6. Eligible uses.
- Sec. 7. Grant programs.
- Sec. 8. National Endowment for the Oceans Council.
- Sec. 9. Annual report.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are to protect, conserve, re-
3 store, and understand the oceans, coasts, and Great Lakes
4 of the United States, ensuring present and future genera-
5 tions will benefit from the full range of ecological, eco-
6 nomic, educational, social, cultural, nutritional, and rec-
7 reational opportunities and services these resources are ca-
8 pable of providing.

9 **SEC. 3. FINDINGS.**

10 Congress finds the following:

11 (1) Covering more than two-thirds of the
12 Earth's surface, the oceans and Great Lakes sustain
13 a large part of Earth's biodiversity, provide an im-
14 portant source of food and other natural products,
15 act as a frontier for scientific exploration, are crit-
16 ical to national security and economic well-being,
17 and are a vital means of transportation.

18 (2) The coastal regions of the United States
19 have high biological productivity and contribute ap-
20 proximately 50 percent of the gross domestic prod-
21 uct of the United States.

1 (3) The oceans, coasts, and Great Lakes are
2 susceptible to change as a direct and indirect result
3 of human activities, which can inhibit ecosystem in-
4 tegrity and productivity, biodiversity, environmental
5 quality, national security, economic competitiveness,
6 availability of energy, resistance to natural hazards,
7 and transportation safety and efficiency.

8 (4) Human pressure on ocean, coastal, and
9 Great Lakes resources is drastically increasing, with
10 50 percent of the population of the United States
11 living within 50 miles of the coast and, if population
12 trends continue as expected, coastal development
13 and urbanization impacts will present serious chal-
14 lenges and increase our vulnerability to natural haz-
15 ards.

16 (5) The oceans, coasts, and Great Lakes, and
17 their resources are held in trust for the people of the
18 United States by Federal, State, local, and tribal
19 governments, and their conservation benefits present
20 and future generations.

21 (6) A variety of human activities have caused
22 dramatic declines in the health and productivity of
23 ocean, coastal, and Great Lakes ecosystems of the
24 United States, including—

1 (A) chemical, nutrient, thermal, and bio-
2 logical pollution, including the introduction of
3 invasive species, and the introduction of marine
4 debris;

5 (B) unwise land use and coastal develop-
6 ment;

7 (C) loss and degradation of habitat, includ-
8 ing upstream freshwater habitat for anad-
9 romous, diadromous, and migratory fish spe-
10 cies;

11 (D) overfishing and bycatch of nontarget
12 marine species; and

13 (E) global climate change and ocean acidi-
14 fication.

15 (7) Activities harming ocean, coastal, and Great
16 Lakes ecosystems jeopardize the economies and so-
17 cial structure of communities dependent on re-
18 sources from such ecosystems.

19 (8) While there is an abundance of Federal,
20 State, local, and tribal laws, government agencies,
21 and programs designed to study, observe, protect,
22 and manage ocean, coastal, and Great Lakes re-
23 sources, activities thereunder are poorly coordinated
24 and do not constitute a unified and comprehensive
25 public policy to enhance understanding, protection,

1 conservation, and restoration of the oceans, coasts,
2 and Great Lakes.

3 (9) Improving and coordinating Federal govern-
4 ance will require close partnership with States, tak-
5 ing into account their public trust responsibilities,
6 their economic and ecological interests in ocean,
7 coastal, and Great Lakes resources, and the role of
8 State and local governments in the implementation
9 of policies governing their use.

10 (10) It is the continuing mission of the Federal
11 Government to create, foster, and maintain condi-
12 tions, incentives, policies, and programs that will fa-
13 cilitate the sustainable and effective conservation,
14 management, and protection of the oceans, coasts,
15 and Great Lakes, and encourage greater scientific
16 understanding of these areas, to fulfill the responsi-
17 bility of each generation as trustee in protecting the
18 resources in these areas and ensuring their avail-
19 ability for future generations.

20 (11) The oceans, coasts, and Great Lakes of
21 the United States, and their resources are dependent
22 upon and connected to those of other countries
23 throughout the world, and collaboration with inter-
24 national bodies and governments will help protect
25 and manage our shared and linked marine eco-

1 systems and resources for the benefit of the world's
2 population.

3 (12) Programs that facilitate greater collabora-
4 tion and coordination among stakeholders and
5 strengthen the relationship between governmental
6 and nongovernmental partners will support our un-
7 derstanding of complex ecosystems and more effec-
8 tively leverage existing resources and expertise.

9 (13) Supporting science, research, monitoring,
10 modeling, forecasting, exploration, and assessment
11 will continually improve the understanding of ocean,
12 coastal, and Great Lakes ecosystems.

13 **SEC. 4. DEFINITIONS.**

14 In this Act:

15 (1) COASTAL POPULATION.—The term “coastal
16 population” means the population of all political
17 subdivisions, as determined by the most recent offi-
18 cial data of the Census Bureau, contained in whole
19 or in part within the designated coastal boundary of
20 a State as defined in a State’s coastal zone manage-
21 ment program under the Coastal Zone Management
22 Act of 1972 (16 U.S.C. 1451 et seq.) as of the date
23 of enactment of this Act.

24 (2) COASTAL STATE.—The term “coastal
25 State” has the meaning given the term “coastal

1 state” in section 304 of the Coastal Zone Manage-
2 ment Act of 1972 (16 U.S.C. 1453).

3 (3) COUNCIL.—The term “Council” means the
4 National Endowment for the Oceans Council estab-
5 lished under section 8.

6 (4) ENDOWMENT.—The term “Endowment”
7 means the National Endowment for the Oceans es-
8 tablished under section 5.

9 (5) INDIAN TRIBE.—The term “Indian tribe”
10 has the meaning given that term in section 4 of the
11 Indian Self-Determination and Education Assistance
12 Act (25 U.S.C. 450b).

13 (6) LOCAL GOVERNMENT.—The term “local
14 government” means a political subdivision all or part
15 of which is within a coastal zone (as defined in sec-
16 tion 304 of the Coastal Zone Management Act of
17 1972 (16 U.S.C. 1453)).

18 (7) OUTER CONTINENTAL SHELF.—The term
19 “outer Continental Shelf” has the meaning given
20 that term in section 2 of the Outer Continental
21 Shelf Lands Act (43 U.S.C. 1331).

22 (8) REGIONAL PLANNING BODY.—The term
23 “regional planning body” means a regional entity
24 that includes representatives of Federal and State
25 agencies and, if applicable, Indian tribes and indige-

1 nous community representatives, with jurisdictional
2 responsibilities or other interests (such as resource
3 management, science, homeland and national secu-
4 rity, transportation, and public health) for the devel-
5 opment and implementation of regional coordination
6 and planning to understand, protect, maintain, and
7 restore ocean, coastal, and Great Lakes ecosystems.

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

11 (10) TIDAL SHORELINE.—The term “tidal
12 shoreline” has the meaning given that term pursu-
13 ant to section 923.110(c)(2)(i) of title 15, Code of
14 Federal Regulations or a similar successor regula-
15 tion.

16 **SEC. 5. NATIONAL ENDOWMENT FOR THE OCEANS.**

17 (a) ESTABLISHMENT.—There is established in the
18 Treasury of the United States a National Endowment for
19 the Oceans, to be administered by the Secretary, solely
20 for use in accordance with the requirements established
21 under this Act.

22 (b) USE OF ENDOWMENT FUNDS.—Of the amounts
23 deposited in the Endowment for each fiscal year—

1 (1) at least 49 percent shall be used by the Sec-
2 retary to make grants to coastal States and affected
3 Indian tribes under section 7(b);

4 (2) at least 19 percent shall be used by the Sec-
5 retary to make grants to regional planning bodies
6 under section 7(c);

7 (3) at least 29 percent shall be allocated by the
8 Secretary to the National Grant Program for
9 Oceans, Coasts, and Great Lakes established by sec-
10 tion 7(d); and

11 (4) not more than 3 percent may be used for
12 administrative expenses to carry out the programs
13 created under this Act.

14 (c) FUNDING.—

15 (1) INTEREST ON OSLTF INVESTMENTS.—

16 (A) IN GENERAL.—Notwithstanding any
17 other provision of law, amounts credited under
18 section 9602(b) of the Internal Revenue Code
19 of 1986 to the Oil Spill Liability Trust Fund
20 established under section 9509(a) of such Code
21 for any fiscal year beginning after fiscal year
22 2011 in which the average daily balance of the
23 Fund is \$1,500,000,000 or more shall be trans-
24 ferred to the Endowment.

1 (B) AVAILABILITY OF FUNDS.—Amounts
2 transferred to the Endowment under subpara-
3 graph (A) shall be available—

4 (i) not later than 90 days after the
5 last day of a fiscal year for use during the
6 next following fiscal year; and

7 (ii) as provided in appropriations
8 Acts.

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

13 “(q) DEPOSITS IN THE NATIONAL ENDOWMENT FOR
14 THE OCEANS.—

15 “(1) IN GENERAL.—Beginning with fiscal year
16 2011, the Secretary shall deposit 12.5 percent of the
17 revenue paid to the United States under this section,
18 excluding any such revenue from Arctic drilling that
19 begins after the date of the enactment of the Na-
20 tional Endowment for the Oceans Act, in the Na-
21 tional Endowment for the Oceans established by sec-
22 tion 5(a) of that Act.

23 “(2) AVAILABILITY OF FUNDS.—Amounts de-
24 posited in the Endowment under paragraph (1) shall
25 be available as provided in appropriations Acts.”.

1 (3) FINES COLLECTED FOR VIOLATIONS OF
2 FEDERAL LAW.—

3 (A) IN GENERAL.—Beginning with fiscal
4 year 2011, the President shall ensure that 10
5 percent of the civil penalties paid to the United
6 States for a violation of a law set out under
7 subparagraph (B) or for a violation of any re-
8 quirement or prohibition of any rule, order, or
9 permit promulgated, issued, or approved under
10 such a law that occurs on the outer Continental
11 Shelf are deposited in the Endowment.

12 (B) LAWS.—The laws set out under this
13 subparagraph are the following:

14 (i) The Federal Water Pollution Con-
15 trol Act (commonly referred to as the
16 “Clean Water Act”) (33 U.S.C. 1251 et
17 seq.) other than penalties provided for
18 under section 311 of such Act (33 U.S.C.
19 1321).

20 (ii) The Comprehensive Environ-
21 mental Response, Compensation, and Li-
22 ability Act of 1980 (42 U.S.C. 9601 et
23 seq.).

24 (iii) The Marine Protection, Research,
25 and Sanctuaries Act of 1972 (commonly

1 known as the “Ocean Dumping Act”) (33
2 U.S.C. 1401 et seq.).

3 (iv) The Oil Pollution Act of 1990 (33
4 U.S.C. 2701 et seq.).

5 (v) Chapter 601 of title 49, United
6 States Code.

7 (vi) The Act of March 3, 1899 (30
8 Stat. 1151, chapter 425; 33 U.S.C. 401 et
9 seq.).

10 (C) AVAILABILITY OF FUNDS.—Amounts
11 deposited in the Endowment under subpara-
12 graph (A) shall be available as provided in ap-
13 propriations Acts.

14 (4) SPLIT RECOVERY FROM PUNITIVE DAMAGE
15 AWARDS.—

16 (A) IN GENERAL.—In all Federal civil ac-
17 tions arising from a tort allegedly occurring on
18 the outer Continental Shelf resulting in an
19 award of punitive damages, 25 percent of the
20 amount of punitive damages awarded in excess
21 of \$100,000 shall be remitted to the Endow-
22 ment.

23 (B) AVAILABILITY OF FUNDS.—Amounts
24 remitted to the Endowment pursuant to sub-

1 paragraph (A) shall available without further
2 appropriation or fiscal year limitation.

3 (d) INVESTMENT OF ENDOWMENT.—

4 (1) IN GENERAL.—It shall be the duty of the
5 Secretary of the Treasury to invest such portion of
6 the Endowment that is not, in the Secretary’s judg-
7 ment, required to meet current withdrawals, in in-
8 terest-bearing obligations of the United States in ac-
9 cordance with section 9602 of the Internal Revenue
10 Code of 1986.

11 (2) INTEREST ON CERTAIN PROCEEDS.—The
12 interest on, and the proceeds from the sale or re-
13 demption of, any obligations invested under para-
14 graph (1) shall be credited to and form a part of the
15 Endowment.

16 (e) AUTHORIZATION OF APPROPRIATIONS.—Begin-
17 ning with fiscal year 2015, there is authorized to be appro-
18 priated to the Endowment for any fiscal year in which the
19 sum of the amounts authorized to be transferred to, and
20 deposited in, the Endowment under this section is esti-
21 mated to be less than \$100,000,000, an amount equal to
22 the difference between \$100,000,000 and the estimated
23 amount of such transfers and deposits for such fiscal year.

24 (f) SAVINGS PROVISION.—Nothing in this section
25 shall decrease the amount any State may receive pursuant

1 to section 8(g) of the Outer Continental Shelf Lands Act
2 (43 U.S.C. 1337(g)) or section 105 of the Gulf of Mexico
3 Energy Security Act of 2006 (Public Law 109–432; 43
4 U.S.C. 1331 note).

5 **SEC. 6. ELIGIBLE USES.**

6 (a) IN GENERAL.—Amounts in the Endowment may
7 be allocated by the Secretary only to fund grants for pro-
8 grams and activities intended to restore, protect, main-
9 tain, or understand living marine resources and their habi-
10 tats and ocean, coastal, and Great Lakes resources, in-
11 cluding baseline scientific research, ocean observing, and
12 other programs and activities carried out in coordination
13 with Federal and State departments or agencies, that are
14 consistent with Federal environmental laws and that avoid
15 environmental degradation, including—

16 (1) ocean, coastal, and Great Lakes restoration
17 and protection, including the protection of the envi-
18 ronmental integrity of such areas, and their related
19 watersheds, including efforts to adapt to and with-
20 stand the impacts of global climate change;

21 (2) restoration, protection, or maintenance of
22 living ocean, coastal, and Great Lakes resources and
23 their habitats, including marine protected areas and
24 riparian migratory habitat of coastal and marine
25 species;

1 (3) planning for and managing coastal develop-
2 ment to minimize the loss of life and property asso-
3 ciated with global climate change and the coastal
4 hazards resulting from global climate change;

5 (4) analyses of current and anticipated climate
6 change and ocean acidification and assessment of
7 potential actions to minimize harm to ocean, coastal,
8 and Great Lakes ecosystems from climate change
9 and ocean acidification;

10 (5) analyses of, and planning for, current and
11 anticipated uses of ocean, coastal, and Great Lakes
12 areas and identification of areas most suitable for
13 various types of classes of activities and for restora-
14 tion, protection, and maintenance of ecosystem
15 health and to reduce conflicts among uses, reduce
16 environmental impacts, facilitate compatible uses,
17 and preserve critical ecosystem services to meet eco-
18 nomic, environmental, security, and social objectives;

19 (6) regional, subregional, and site-specific man-
20 agement efforts designed to manage, protect, or re-
21 store ocean, coastal, and Great Lakes resources and
22 ecosystems;

23 (7) research, assessment, monitoring, observa-
24 tion, modeling, and sharing of information that con-
25 tribute to the understanding of ocean, coastal, and

1 Great Lakes ecosystems and support the purposes of
2 this Act;

3 (8) efforts to better understand the processes
4 that govern the fate and transport of petroleum hy-
5 drocarbons released into the marine environment
6 from natural and anthropogenic sources, including
7 spills;

8 (9) acquiring property or interests in property
9 in coastal and estuarine areas, if such property or
10 interest is acquired in a manner that will ensure
11 such property or interest will be administered to
12 support the purposes of this Act; and

13 (10) protection and relocation of critical coastal
14 public infrastructure affected by erosion, sea level
15 rise, or impacts of global climate change.

16 (b) REQUIREMENT FOR STATE MATCHING FUNDS.—

17 Any amount from the Endowment provided to fund a
18 project described in paragraph (9) or (10) of subsection
19 (a) may not exceed 50 percent of the total project cost
20 and may only be provided if the State in which such
21 project will be carried out provides the remainder of the
22 total project cost.

23 (c) CONSIDERATIONS FOR GREAT LAKES STATES.—

24 Programs and activities funded in Great Lakes States
25 shall also seek to attain the goals embodied in the Great

1 Lakes Restoration Initiative Plan, the Great Lakes Re-
2 gional Collaboration Strategy, the Great Lakes Water
3 Quality Agreement, or other collaborative planning efforts
4 of the Great Lakes Region.

5 **SEC. 7. GRANT PROGRAMS.**

6 (a) **AUTHORITY OF THE SECRETARY.**—The Sec-
7 retary, in consultation with the Secretary of the Interior,
8 the Administrator of the Environmental Protection Agen-
9 cy, the Chair of the Council on Environmental Quality,
10 the Director of the Office of Science and Technology Pol-
11 icy, and the Director of the National Science Foundation,
12 shall establish and make available for public comment—

13 (1) application and review procedures for the
14 grant programs described in subsections (b), (c), and
15 (d), including requirements ensuring that any
16 amounts provided pursuant to such programs may
17 only be used for an eligible use described under sec-
18 tion 6;

19 (2) performance accountability and monitoring
20 measures for programs and activities funded by a
21 grant program described in subsections (b), (c), or
22 (d);

23 (3) procedures and methods to ensure accurate
24 accounting and appropriate administration for each

1 of the grant programs described in subsections (b),
2 (c), or (d), including standards of record keeping;

3 (4) procedures to carry out audits of the En-
4 dowment as necessary, but not less frequently than
5 once every 5 years; and

6 (5) procedures to carry out audits of the recipi-
7 ents of grants under subsection (b), (c), or (d), in-
8 cluding States.

9 (b) GRANTS TO COASTAL STATES.—

10 (1) IN GENERAL.—Subject to paragraphs (2),
11 (3), and (4), the Secretary shall make grants of
12 amounts allocated under section 5(c)(1) to coastal
13 States or affected Indian tribes, based on the fol-
14 lowing formula:

15 (A) Fifty percent of the funds are allocated
16 equally among coastal States that have a coast-
17 al management program approved under the
18 Coastal Zone Management Act of 1972 (16
19 U.S.C. 1451 et seq.).

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

24 (C) Twenty-five percent of the funds are
25 allocated on the basis of the ratio of coastal

1 population density of a coastal State to the
2 coastal population density of all coastal States.

3 (2) ALLOCATION TO INDIAN TRIBES.—Amounts
4 allocated under paragraph (1)(A) shall be allocated
5 to affected Indian tribes based on, and directly pro-
6 portional to, any specific coastal and ocean manage-
7 ment authority granted to an affected tribe pursuant
8 to affirmation of a Federal reserved right.

9 (3) MAXIMUM ALLOCATION TO STATES.—Not-
10 withstanding paragraph (1), not more than 10 per-
11 cent of the total funds distributed under this sub-
12 section may be allocated to any single State. Any
13 amount exceeding this limit shall be redistributed
14 among the remaining States according to the for-
15 mula established under paragraph (1).

16 (4) MAXIMUM ALLOCATION TO CERTAIN GEO-
17 GRAPHIC AREAS.—

18 (A) IN GENERAL.—Notwithstanding para-
19 graph (1), each geographic area described in
20 subparagraph (B) may not receive more than 1
21 percent of the total funds distributed under this
22 subsection. Any amount exceeding this limit
23 shall be redistributed among the remaining
24 States according to the formula established
25 under paragraph (1).

1 (B) GEOGRAPHIC AREAS DESCRIBED.—

2 The geographic areas described in this subpara-
3 graph are the following:

4 (i) American Samoa.

5 (ii) The Commonwealth of the North-
6 ern Mariana Islands.

7 (iii) Guam.

8 (iv) Puerto Rico.

9 (v) The Virgin Islands.

10 (5) REQUIREMENT TO SUBMIT PLANS.—To be
11 eligible to receive a grant under this subsection, a
12 coastal State or Indian tribe shall submit, and the
13 Secretary shall review—

14 (A) a 5-year plan, which shall include—

15 (i) a prioritized list of goals the coast-
16 al State or Indian tribe intends to achieve
17 during the time period covered by the 5-
18 year plan;

19 (ii) identification and general descrip-
20 tions of existing State projects or activities
21 that contribute to realization of such goals,
22 including a description of the entities con-
23 ducting those projects or activities;

24 (iii) general descriptions of projects or
25 activities, consistent with the eligible uses

1 described in section 6 and existing Federal
2 ocean policy, that could contribute to real-
3 ization of such goals;

4 (iv) criteria to determine eligibility for
5 entities which may receive grants under
6 this program; and

7 (v) a description of the competitive
8 process the coastal State or Indian tribe
9 will use in allocating funds received from
10 the Endowment, which shall include—

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

18 (II) a demonstration that such
19 competitive process is consistent with
20 the application and review procedures
21 established by the Secretary pursuant
22 to the authority set forth in sub-
23 section (a)(1); and

24 (B) an annual work plan which shall in-
25 clude—

1 (i) a detailed, specific, prioritized list
2 of projects or activities to be funded by the
3 Endowment, and desired outcomes of those
4 projects or activities;

5 (ii) for each project or activity, a de-
6 scription of how such project or activity is
7 consistent with the eligible uses of the En-
8 dowment; and

9 (iii) for each project or activity, a
10 schedule for completion and a description
11 of how such project or activity helps
12 achieve the goals established in the appli-
13 cable 5-year plan.

14 (6) OPPORTUNITY FOR PUBLIC COMMENT.—In
15 determining whether to approve a plan described in
16 paragraph (5)(A), the Secretary shall provide the
17 opportunity for, and take into consideration, public
18 input and comment on the plan.

19 (7) APPROVAL PROCEDURE.—

20 (A) IN GENERAL.—Not later than 90 days
21 after receiving a 5-year plan or annual work
22 plan from a coastal State or Indian tribe, the
23 Secretary shall notify such coastal State or In-
24 dian tribe that the Secretary—

25 (i) approves the plan as submitted;

1 (ii) disapproves the plan as submitted;

2 or

3 (iii) needs up to an additional 30 days

4 for additional review of the plan.

5 (B) DISAPPROVAL.—If the Secretary dis-
6 approves a proposed 5-year plan or annual work
7 plan, the Secretary shall provide notice of such
8 disapproval to the submitting coastal State or
9 Indian tribe in writing, and include in such no-
10 tice the rationale for the Secretary’s decision.
11 The submitting State shall resubmit the plan to
12 the Secretary not later than 30 days after re-
13 ceiving the notice of disapproval.

14 (c) GRANTS TO REGIONAL PLANNING BODIES.—

15 (1) IN GENERAL.—The Secretary shall use
16 amounts allocated under section 5(c)(2) to award
17 grants to regional planning bodies to create and im-
18 plement Regional Strategic Plans, as described in
19 this subsection.

20 (2) REQUIREMENTS FOR PLAN.—In order to be
21 eligible to receive a grant under this subsection, a
22 regional planning body being considered for such a
23 grant shall submit an application that demonstrates
24 how activities to be carried out with grant funds
25 would facilitate the creation or implementation of a

1 Regional Strategic Plan, as described in this sub-
2 section.

3 (3) REGIONAL STRATEGIC PLAN.—

4 (A) REQUIREMENT.—Not later than 5
5 years after receiving a grant under this section,
6 each regional planning body shall prepare and
7 submit to the Secretary for review, a Regional
8 Strategic Plan.

9 (B) CONTENTS.—Each Regional Strategic
10 Plan submitted under this paragraph shall—

11 (i) be based on initial assessments
12 of—

13 (I) the region's ocean, coastal,
14 and Great Lakes ecosystem health de-
15 termined through—

16 (aa) science-based ecosystem
17 assessments;

18 (bb) monitoring; and

19 (cc) forecasting physical,
20 chemical, and biological ocean
21 parameters;

22 (II) the cultural and economic
23 role of the ocean, coasts, or Great
24 Lakes in the region; and

1 (III) existing, emerging, and cu-
2 mulative threats to ocean, coastal, and
3 Great Lakes ecosystem health of the
4 region;

5 (ii) specify essential areas within the
6 ocean, coastal, or Great Lakes region;

7 (iii) describe short-term and long-
8 term—

9 (I) goals for improving ocean,
10 coastal, and Great Lakes ecosystem
11 health in the region covered by the
12 Plan; and

13 (II) indicators of improvements
14 in economic sustainability in the re-
15 gion resulting from improved eco-
16 system health and enhanced collabora-
17 tion and coordination among Federal
18 and State agencies;

19 (iv) include recommendations for long-
20 term observing and monitoring measures
21 for the region covered by the Plan;

22 (v) identify Federal and State priority
23 issues within the region covered by the
24 Plan;

1 (vi) describe potential management
2 solutions and policies to address the pri-
3 ority issues, consistent with existing Fed-
4 eral ocean policy;

5 (vii) identify research, information,
6 and data needed to carry out the Plan;

7 (viii) identify performance measures
8 and benchmarks for purposes of clauses
9 (ii) through (vi) to evaluate the Plan's ef-
10 fectiveness; and

11 (ix) define responsibilities and include
12 an analysis of the gaps in authority, co-
13 ordination, and resources, including fund-
14 ing, that must be filled in order to fully
15 achieve those performance measures and
16 benchmarks.

17 (4) PUBLIC PARTICIPATION.—Each regional
18 planning body shall provide adequate opportunities
19 for public input during the development of the Re-
20 gional Strategic Plan for the region and any revi-
21 sions to such Plan.

22 (5) PLAN REVISION.—Each approved Regional
23 Strategic Plan shall be reviewed and revised by the
24 appropriate regional planning body at least once
25 every 5 years. The revised Plan shall be submitted

1 to the Secretary for review and approval pursuant to
2 paragraph (6).

3 (6) APPROVAL PROCEDURE.—

4 (A) IN GENERAL.—Not later than 90 days
5 after receiving a Regional Strategic Plan from
6 a regional planning body, the Secretary shall
7 notify the regional planning body that the Sec-
8 retary—

9 (i) approves the plan as submitted;

10 (ii) disapproves the plan as submitted;

11 or

12 (iii) needs up to an additional 30 days
13 to further review the plan.

14 (B) DISAPPROVAL.—If the Secretary dis-
15 approves a proposed Regional Strategic Plan,
16 the Secretary shall provide notice of such dis-
17 approval to the submitting regional planning
18 body in writing, and include in such notice the
19 rationale for the Secretary's decision. The re-
20 gional planning body shall resubmit the Plan
21 not later than 30 days after receiving such no-
22 tice and rationale for initial disapproval.

23 (7) OPPORTUNITY FOR PUBLIC COMMENT.—In
24 determining whether to approve a Regional Strategic
25 Plan under this subsection, the Secretary shall pro-

1 vide opportunity for, and take into consideration,
2 public input and comment on such Plan from stake-
3 holders and the general public.

4 (d) NATIONAL GRANTS FOR OCEANS, COASTS, AND
5 GREAT LAKES.—

6 (1) IN GENERAL.—The Secretary may use
7 amounts allocated under section 5(e)(3) to make
8 grants to support activities consistent with section 6.

9 (2) CRITERIA FOR ENTITIES.—The Secretary,
10 in consultation with the Council, shall establish cri-
11 teria to determine the types of entities eligible for
12 grants under this subsection, including—

13 (A) coastal State, noncoastal State, local,
14 and affected Indian tribal governments and
15 agencies;

16 (B) regional agencies, associations, or or-
17 ganizations other than regional planning bodies;

18 (C) fishery or wildlife management organi-
19 zations;

20 (D) nonprofit organizations; and

21 (E) academic institutions.

22 (3) APPROVAL.—The Secretary shall—

23 (A) review the Council's recommendations
24 submitted under section 8(h);

1 (B) subject to approval, allocate amounts
2 allocated under section 5(c)(3) on the basis of
3 the Council's recommendations; and

4 (C) if the Secretary disapproves a grant
5 recommended by the Council, explain that dis-
6 approval in writing.

7 **SEC. 8. NATIONAL ENDOWMENT FOR THE OCEANS COUN-**
8 **CIL.**

9 (a) **ESTABLISHMENT.**—Except as provided in sub-
10 section (j), the Secretary shall establish a National En-
11 dowment for the Oceans Council which shall consist of 7
12 members with expertise in the conservation and manage-
13 ment of ocean, coastal, and Great Lakes ecosystems and
14 marine resources.

15 (b) **MEMBERSHIP; APPOINTMENT.**—The members of
16 the Council shall be as follows:

17 (1) Two representatives of the National Oceanic
18 and Atmospheric Administration, appointed by the
19 Administrator of the National Oceanic and Atmos-
20 pheric Administration.

21 (2) One representative of the Office of Water of
22 the Environmental Protection Agency, appointed by
23 the Administrator of the Environmental Protection
24 Agency.

1 (3) One representative of the United States
2 Fish and Wildlife Service, appointed by the Director
3 of the United States Fish and Wildlife Service.

4 (4) One representative of the National Science
5 Foundation, appointed by the Director of the Na-
6 tional Science Foundation.

7 (5) One representative of the Council on Envi-
8 ronmental Quality, appointed by the Chair of the
9 Council on Environmental Quality.

10 (6) One representative of the United States Ge-
11 ological Survey, appointed by the Director of the
12 United States Geological Survey.

13 (c) TERM; VACANCY.—

14 (1) TERM.—The term of office of a member of
15 the Council is 5 years, except that—

16 (A) of the members initially appointed
17 under paragraph (1) of subsection (b), 1 shall
18 be appointed for a term of 4 years;

19 (B) the member initially appointed under
20 paragraphs (2), (3), and (4) of such subsection
21 shall be appointed for a term of 3 years; and

22 (C) the member initially appointed under
23 paragraph (5) of such subsection (b) shall be
24 appointed for a term of 4 years.

1 (2) VACANCY.—Whenever a vacancy occurs
2 among members of the Council, the Secretary, or the
3 head of the appropriate agency shall appoint an indi-
4 vidual to fill that vacancy for the remainder of the
5 applicable term.

6 (d) CHAIR.—

7 (1) IN GENERAL.—The Council shall elect a
8 chair from among its members.

9 (2) TERM.—The chair shall serve for a 3-year
10 term, except that the first chair may be elected for
11 a term of less than 3 years, as determined by the
12 Council.

13 (e) QUORUM.—Five members of the Council shall
14 constitute a quorum for the transaction of business.

15 (f) MEETINGS.—

16 (1) IN GENERAL.—The Council shall meet at
17 the call of the chair, but in no case less frequently
18 than twice each year.

19 (2) PUBLIC ACCESS.—Meetings of the Council
20 shall be open to the public, and the chair shall take
21 appropriate steps to provide adequate notice to the
22 public of the time and place of such meetings.

23 (3) FAILURE TO ATTEND.—If a Council mem-
24 ber misses 3 consecutively scheduled meetings, the

1 Secretary may revoke that member's appointment to
2 the Council.

3 (g) STAFF.—

4 (1) EMPLOYMENT.—The Secretary may employ
5 and fix the compensation of staff, as the Council de-
6 termines necessary, to carry out such duties as the
7 Council may require and, with assistance from the
8 National Oceanic and Atmospheric Administration,
9 facilitate consideration of grant applications and
10 otherwise assist the Council in carrying out its re-
11 sponsibilities.

12 (2) PAY AND BENEFITS.—The pay and benefits
13 of the staff shall be derived from amounts available
14 from the Endowment for administrative costs sub-
15 ject to section 5(c)(4).

16 (3) STATUS AS FEDERAL EMPLOYEES.—

17 (A) IN GENERAL.—Except as provided in
18 subparagraph (B), employees of the Council
19 shall be considered Federal employees only for
20 purposes of—

21 (i) injury compensation as provided in
22 chapter 81 of title 5, United States Code,
23 and tort claims liability under chapter 171
24 of title 28, United States Code;

1 (ii) the Ethics in Government Act of
2 1978 (5 U.S.C. App.) and the provisions of
3 chapter 11 of title 18, United States Code;
4 and

5 (iii) any other statute or regulation
6 governing the conduct of Federal employ-
7 ees.

8 (B) EXCEPTION.—Notwithstanding sub-
9 paragraph (A), section 208(a) of title 18,
10 United States Code, shall not apply to such an
11 individual if, after review of the financial disclo-
12 sure report filed by the individual pursuant to
13 the Ethics in Government Act of 1978 (5
14 U.S.C. App.), the Secretary, or the Secretary's
15 designee, certifies in writing that the need for
16 the individual's services outweighs the potential
17 for a conflict of interest created by the financial
18 interest involved.

19 (h) FUNCTIONS.—The Council shall—

20 (1) receive and review, according to procedures
21 established under section 7(d)(1), applications for
22 grants under subsections (b) and (c) of section 7;
23 and

24 (2) submit to the Secretary a list of rec-
25 ommended applications for such grants, consistent

1 with existing Federal ocean policy and criteria estab-
2 lished under this Act, and include—

3 (A) a recommended priority order for
4 funding such applications;

5 (B) the amount of the grant each such ap-
6 plication should receive; and

7 (C) any specific requirements, conditions,
8 or limitations for such an application rec-
9 ommended for funding under this Act.

10 (i) ADVISORY PANEL.—In reviewing applications for
11 grants under subsections (b) and (c) of section 7, the
12 Council shall establish an external review process through
13 working groups or by other means, including consultation
14 with persons representing—

15 (1) a balanced and diverse range of ocean,
16 coastal, and Great Lakes dependent industries;

17 (2) a balanced and diverse range of regions;

18 (3) nonprofit conservation organizations with a
19 mission that includes the conservation and protec-
20 tion of living marine resources and their habitats;
21 and

22 (4) academic institutions with strong scientific
23 or technical credentials and experience in marine
24 science or policy.

1 (j) RELIANCE ON EXISTING FEDERAL INTERAGENCY
2 BODY.—Rather than establish a National Endowment for
3 the Oceans Council, the Secretary may designate an exist-
4 ing Federal interagency body created to implement Fed-
5 eral ocean policy to perform the functions set forth in sec-
6 tion 8(h).

7 **SEC. 9. ANNUAL REPORT.**

8 (a) REQUIREMENT FOR ANNUAL REPORT.—Begin-
9 ning with fiscal year 2012, not later than 60 days after
10 the end of each fiscal year, the Secretary shall submit a
11 report on the operation of the Endowment during the fis-
12 cal year to the Committee on Commerce, Science, and
13 Transportation of the Senate and the Committee on Nat-
14 ural Resources of the House of Representatives.

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

17 (1) a statement of the amounts deposited in the
18 Endowment and the balance remaining in the En-
19 dowment at the end of the fiscal year;

20 (2) a description of the expenditures made from
21 the Endowment for the fiscal year, including the
22 purpose of the expenditures; and

23 (3) recommendations for additional authority
24 necessary to fulfill the purpose of the Endowment.

○