

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.

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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

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## 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.).”.

○