

112TH CONGRESS
2D SESSION

S. 2184

To provide exclusive funding to support fisheries and the communities that rely upon them, to clear unnecessary regulatory burdens and streamline Federal fisheries management, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2012

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

A BILL

To provide exclusive funding to support fisheries and the communities that rely upon them, to clear unnecessary regulatory burdens and streamline Federal fisheries management, 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 “Fisheries Investment
5 and Regulatory Relief Act of 2012”.

1 **SEC. 2. DEFINITIONS.**

2 Section 2(a) of the Act of August 11, 1939 (com-
3 monly known as the “Saltonstall-Kennedy Act”) (15
4 U.S.C. 713c-3(a)), is amended—

5 (1) by redesignating paragraph (1) as para-
6 graph (2);

7 (2) by inserting before paragraph (2), as redес-
8 igned, the following:

9 “(1) The term ‘fishery investment committee’
10 means a committee of a regional fishery manage-
11 ment council established under subsection (c)(1).”;

12 (3) by redesignating paragraphs (2), (3), (4),
13 and (5) as paragraphs (4), (5), (6), and (7), respec-
14 tively;

15 (4) by inserting before paragraph (4), as redес-
16 igned, the following:

17 “(3) The term ‘regional fishery investment
18 plan’ means a plan developed by a fishery invest-
19 ment committee under subsection (c)(2).”; and

20 (5) by adding at the end the following:

21 “(8) The applicable definition under section 3
22 of the Magnuson-Stevens Fishery Conservation and
23 Management Act (16 U.S.C. 1802), shall apply to
24 any term used in this Act that is not defined under
25 this subsection.”.

1 **SEC. 3. REGIONAL FISHERIES INVESTMENT GRANT PRO-**
 2 **GRAM.**

3 (a) REGIONAL FISHERIES INVESTMENT GRANT PRO-
 4 GRAM AND FISHERY INVESTMENT PLANS.—Section 2 of
 5 the Act of August 11, 1939 (commonly known as the
 6 “Saltonstall-Kennedy Act”) (15 U.S.C. 713c-3), is
 7 amended by amending subsection (c) to read as follows:

8 “(c) STRENGTHENING REGIONAL FISHERIES MAN-
 9 AGEMENT.—

10 “(1) FISHERY INVESTMENT COMMITTEES.—

11 “(A) ESTABLISHMENT.—Each Council
 12 shall establish and maintain, under the author-
 13 ity of section 302(g) of the Magnuson-Stevens
 14 Fishery Conservation and Management Act (16
 15 U.S.C. 1852(g)), a fishery investment com-
 16 mittee. Each fishery investment committee shall
 17 be comprised of not more than 13 individuals.

18 “(B) AUTHORITY.—Each fishery invest-
 19 ment committee shall—

20 “(i) develop a regional fishery invest-
 21 ment plan under subsection (c)(2);

22 “(ii) review grant applications and
 23 projects to implement its regional fishery
 24 investment plan; and

25 “(iii) make recommendations, based
 26 on its findings, to the Council on grant ap-

1 lications and projects to implement its re-
2 gional fishery investment plan.

3 “(C) MEMBERSHIP.—

4 “(i) QUALIFICATIONS.—Each member
5 of a fishery investment committee shall be
6 an individual who, by reason of the individ-
7 ual’s occupational experience or other expe-
8 rience, scientific expertise, or training, is
9 knowledgeable of the conservation and
10 management of, or the commercial or rec-
11 reational catch of, the fishery resources of
12 the geographical area concerned.

13 “(ii) NOMINATIONS.—Each member
14 of a fishery investment committee—

15 “(I) shall be nominated and
16 elected by the applicable Council dur-
17 ing a public meeting of the Council;

18 “(II) shall serve for a 3 year
19 term; and

20 “(III) may be re-elected for an
21 additional 3 year consecutive term.

22 “(iii) CONFLICTS OF INTEREST.—A
23 member of a fishery investment committee
24 shall recuse himself or herself from consid-
25 ering any grant application that the mem-

1 ber has a financial interest that would re-
2 quire disclosure under section 302(j)(2) of
3 the Magnuson-Stevens Fishery Conserva-
4 tion and Management Act (16 U.S.C.
5 1852(j)(2)).

6 “(D) COMPOSITION.—Each fishery invest-
7 ment committee shall be multi-disciplinary, re-
8 flect the geographic balance of the Council, and
9 include at least 1 representative of—

10 “(i) the commercial fishing commu-
11 nity;

12 “(ii) the private recreational angling
13 community;

14 “(iii) the for-profit charter fishing
15 community;

16 “(iv) the public interest in marine
17 conservation who—

18 “(I) does not derive an annual
19 income from commercial or rec-
20 reational fishing; and

21 “(II) is not employed by any per-
22 son who derives an annual income
23 from commercial or recreational fish-
24 ing;

1 “(v) each State government in the re-
2 gion;

3 “(vi) relevant interstate commissions;

4 “(vii) federally recognized tribes,
5 where applicable; and

6 “(viii) research institutions.

7 “(2) REGIONAL FISHERY INVESTMENT
8 PLANS.—Each fishery investment committee shall
9 develop a regional fishery investment plan that iden-
10 tifies critical research, conservation, and manage-
11 ment needs and corresponding actions to facilitate
12 rebuilding and maintaining healthy fish populations
13 and sustainable fisheries over a 5 year period. Each
14 plan shall—

15 “(A) be consistent with the current 5 year
16 research priority plans developed under section
17 302(h)(7) of the Magnuson-Stevens Fishery
18 Conservation and Management Act (16 U.S.C.
19 1852(h)(7));

20 “(B) include areas of investment that are
21 critical for rebuilding and maintaining healthy
22 United States fish populations and promoting
23 sustainable fisheries, including—

24 “(i) stock surveys, stock assessments
25 and analysis, and cooperative fishery re-

1 search, in conjunction with NOAA, involv-
2 ing fishery participants, academic institu-
3 tions, and other interested parties;

4 “(ii) efforts to improve the collection
5 and accuracy of fishery catch data, includ-
6 ing—

7 “(I) expanding the use of, and
8 research and development on, catch
9 monitoring and reporting programs
10 and technology, both at-sea and shore-
11 side, including the use of electronic
12 monitoring devices and satellite track-
13 ing systems; and

14 “(II) improving data collection
15 for recreational fisheries, including
16 improvements to the Marine Rec-
17 reational Fishery Statistics Survey in
18 accordance with section 401(g)(3) of
19 the Magnuson-Stevens Fishery Con-
20 servation and Management Act (16
21 U.S.C. 1881(g)(3));

22 “(iii) analyzing the social and eco-
23 nomic impacts of fishery management deci-
24 sions;

1 “(iv) providing financial assistance to,
2 and investment in, fishermen and fishing
3 communities through—

4 “(I) fishing capacity reduction,
5 including vessel, permit, and gear
6 buybacks; and

7 “(II) investment in permit banks
8 or trusts and other entities, including
9 community fishing associations and
10 projects designed to help sustain fish-
11 ery dependent communities and small-
12 scale fisheries;

13 “(v) development of methods or tech-
14 nologies to improve the quality and value
15 of fish landed;

16 “(vi) research and development of
17 conservation engineering technologies and
18 methods in both commercial and rec-
19 reational fisheries; and

20 “(vii) habitat restoration and protec-
21 tion;

22 “(C) be revised by the regional fishery in-
23 vestment committee and approved by the Coun-
24 cil at least once every 5 years;

1 “(D) be submitted to the Secretary for re-
2 view to ensure the plan is consistent with the
3 requirements of the Magnuson-Stevens Fishery
4 Conservation and Management Act (16 U.S.C.
5 1801 et seq.), and this section;

6 “(E) be published in the Federal Register
7 and made available for public comment; and

8 “(F) become effective not later than 60
9 days after the date of receipt unless the Sec-
10 retary makes a negative consistency finding.

11 “(3) NEGATIVE CONSISTENCY FINDING.—If the
12 Secretary makes a negative consistency finding
13 under paragraph (2)(F), each portion of the plan
14 that is the subject of the negative consistency find-
15 ing shall not be effective until it is made consistent
16 by the regional fishery investment committee and
17 the Council.

18 “(4) REGIONAL FISHERY INVESTMENT GRANT
19 PROGRAM.—Not later than 30 days after the date of
20 enactment of the Fisheries Investment and Regu-
21 latory Relief Act of 2012, the Secretary shall estab-
22 lish an annual competitive grant program to provide
23 funds for projects, activities, and research that ad-
24 vance the regional priorities that are included in the
25 regional fishery investment plans.

1 “(A) ELIGIBLE RECIPIENTS.—State, Fed-
2 eral, regional, or private entities or persons
3 shall be eligible for funding with preference
4 given to public-private partnerships.

5 “(B) AWARDS.—The Secretary may only
6 award a grant for a project, activity, or re-
7 search that—

8 “(i) implements regional fishery in-
9 vestment plans; and

10 “(ii) has been recommended for fund-
11 ing by the respective regional fishery in-
12 vestment committee and approved by the
13 Council.”.

14 (b) NATIONAL FISHERIES INVESTMENT PROGRAM.—
15 Section 2(d) of the Act of August 11, 1939 (commonly
16 known as the “Saltonstall-Kennedy Act”) (15 U.S.C.
17 713c-3(d)), is amended—

18 (1) in paragraph (1), by striking “research and
19 development addressed to such aspects of United
20 States fisheries (including, but not limited to, har-
21 vesting, processing, marketing, and associated infra-
22 structures) if not adequately covered by projects as-
23 sisted under subsection (c), as the Secretary deems
24 appropriate” and inserting “fisheries research and
25 investment that supports rebuilding and maintaining

1 healthy United States fish populations and promotes
2 sustainable fisheries. The program shall address
3 fisheries needs and problems described under sub-
4 section (e)(1)(B).”; and

5 (2) in paragraph (2)—

6 (A) by striking “, after consultation with
7 appropriate representatives of the fishing indus-
8 try,”;

9 (B) by striking “Merchant Marine and
10 Fisheries” and inserting “Natural Resources”;

11 (C) in subparagraph (A), by striking “de-
12 velopment goals and funding priorities under
13 paragraph (1)” and inserting “investment pri-
14 orities”;

15 (D) in subparagraph (B), by striking “all
16 pending projects assisted under subsection (c)”
17 and all that follows and inserting “the projects
18 funded by the Secretary under this subsection;
19 and”;

20 (E) in subparagraph (C), by striking “each
21 project assisted” and all that follows and insert-
22 ing “how well the project met the fisheries
23 needs described in subsection (e)(1).”.

24 (c) DIVISION OF RESOURCES.—Section 2(e) of the
25 Act of August 11, 1939 (commonly known as the

1 “Saltonstall-Kennedy Act”) (15 U.S.C. 713c-3(e)), is
2 amended—

3 (1) by striking “moneys” each place it appears
4 and inserting “monies”;

5 (2) by striking “purpose of promoting” and in-
6 serting “purposes of investing in”;

7 (3) by inserting “or diverted” following “shall
8 be transferred”; and

9 (4) by striking subparagraph (A) and all the
10 follows, and inserting the following:

11 “(A) The Secretary shall allocate 70 per-
12 cent of these funds available at the beginning of
13 each fiscal year to the 8 Council regions and
14 the Secretary in accordance with the following
15 formula pursuant to subsection (c):

16 “(i) One half allocated equally among
17 the Council regions.

18 “(ii) One half allocated proportionally
19 among the Council regions based on the
20 combined economic impact of commercial
21 landings and recreational fishing in each
22 region.

23 “(B) 20 percent of these funds shall be
24 available to the Secretary under subsection (d)
25 for projects addressing fisheries needs and

1 problems, as identified by the Secretary, as fol-
2 lows:

3 “(i) Up to one fifth shall be allocated
4 to, and apportioned as the Secretary deems
5 appropriate among, the Atlantic States
6 Marine Fisheries Commission, the Gulf
7 States Marine Fisheries Commission, and
8 the Pacific States Marine Fisheries Com-
9 mission.

10 “(ii) Up to one fifth shall be allocated
11 to seafood promotion and sustainable cer-
12 tification efforts.

13 “(iii) Up to one fifth shall be allocated
14 to improve fisheries management through
15 research, monitoring or evaluation, and
16 modification of regulations and procedures.

17 “(iv) Up to one fifth shall be allocated
18 to fisheries disasters, and shoreside infra-
19 structure and access needs.

20 “(v) Up to one fifth shall be allocated
21 to other special needs, including manage-
22 ment of highly migratory species and inter-
23 national fisheries.

24 “(C) Any amounts remaining after the an-
25 nual fiscal year allocations made pursuant to

1 subparagraph (B) shall remain available to the
2 Secretary without fiscal year limitation for fu-
3 ture such allocations.

4 “(2) LIMITATION.—Not more than 10 percent
5 of these funds may be used to offset receipts for the
6 National Oceanic and Atmospheric Administration’s
7 Operations, Research, and Facilities account.

8 “(3) ANNUAL NOTIFICATION.—The Secretary
9 shall notify annually each Council of funds available
10 for grants in its region.

11 “(4) ADMINISTRATIVE COSTS.—Prior to the al-
12 location of funds under paragraph (1), the Sec-
13 retary—

14 “(A) may reserve up to 3 percent of the
15 funds available in a fiscal year for the adminis-
16 tration of the grant program; and

17 “(B) shall distribute 3 percent of the funds
18 available in a fiscal year equally among each of
19 the 8 Councils for the development and imple-
20 mentation of fishery investment plans and
21 grant review.

22 “(5) MAINTENANCE OF EFFORT.—Except as
23 provided in paragraph (2), the Secretary may not re-
24 duce or eliminate funding for any research, survey,
25 monitoring, or assessment activities necessary to

1 meet the conservation and management require-
 2 ments of the Magnuson-Stevens Fishery Conserva-
 3 tion and Management Act (16 U.S.C. 1801 et seq.)
 4 as a result of funding provided under this section.”.

5 **SEC. 4. FOCUSING ASSETS FOR IMPROVED FISHERIES OUT-**
 6 **COMES.**

7 Section 2(b) of the Act of August 11, 1939 (com-
 8 monly known as the “Saltonstall-Kennedy Act”) (15
 9 U.S.C. 713c-3(b)), is amended—

10 (1) by striking “(1)”;

11 (2) by striking “and ending on June 30,
 12 1957,”;

13 (3) by striking “moneys” the first place it ap-
 14 pears and inserting “monies”; and

15 (4) by striking “shall be maintained in a sepa-
 16 rate fund only for” and all that follows and inserting
 17 “and shall only be used for the purposes described
 18 under subsection (c).”.

19 **SEC. 5. REGULATION AND PROCEDURE STREAMLINING.**

20 (a) IN GENERAL.—For the 2 fiscal years following
 21 the date of enactment of this Act, the Secretary of Com-
 22 merce shall use funds available under section 2(e)(2) of
 23 the Act of August 11, 1939 (commonly known as the
 24 “Saltonstall-Kennedy Act”) (15 U.S.C. 713c-3), to con-
 25 duct a review of the regulations and procedures used to

1 implement title III of the Magnuson-Stevens Fishery Con-
2 servation and Management Act (90 Stat. 346).

3 (b) REVIEW REQUIREMENTS.—The review under
4 subsection (a) shall—

5 (1) identify redundant and inefficient regula-
6 tions and procedures;

7 (2) make recommendations for streamlining
8 such regulations and procedures, including rec-
9 ommendations to eliminate unnecessary paperwork,
10 reduce bureaucratic restrictions, and speed the inclu-
11 sion of new information into management decisions;
12 and

13 (3) ensure that any recommended modifications
14 to regulations or procedures are consistent with the
15 Magnuson-Stevens Fishery Conservation and Man-
16 agement Act (16 U.S.C. 1801 et seq.), and any
17 other applicable law.

18 **SEC. 6. PROMULGATION OF REGULATIONS.**

19 Not later than 90 days after the date of enactment
20 of this Act, the Secretary shall promulgate regulations to
21 implement the requirements of this Act.

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