

112TH CONGRESS
1ST SESSION

S. _____

To direct the Secretary of the Interior to establish a program to build on and help coordinate funding for restoration and protection efforts of the 4-State Delaware River Basin region, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To direct the Secretary of the Interior to establish a program to build on and help coordinate funding for restoration and protection efforts of the 4-State Delaware River Basin region, 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 “Delaware River Basin
5 Conservation Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the Delaware River Basin is a national
2 treasure of great cultural, environmental, and eco-
3 logical importance;

4 (2) the Basin contains over 12,500 square miles
5 of land in the States of Delaware, New Jersey, New
6 York, and Pennsylvania, including nearly 800 square
7 miles of bay and more than 2,000 tributary rivers
8 and streams;

9 (3) the Basin is home to more than 8,000,000
10 people who depend on the Delaware River and the
11 Delaware Bay as an economic engine, a place of
12 recreation, and a vital habitat for fish and wildlife;

13 (4) the Basin provides clean drinking water to
14 more than 15,000,000 people, including New York
15 City, which relies on the Basin for approximately
16 half of the drinking water supply of the city, and
17 Philadelphia, whose most significant threat to the
18 drinking water supply of the city is forest clearing
19 in the Upper Basin, according to a study conducted
20 by the Philadelphia Water Department;

21 (5) almost 180 species of fish and wildlife are
22 considered special status species in the Basin due to
23 habitat loss and degradation, particularly sturgeon,
24 eastern oyster, and red knots, which have been iden-

1 tified as unique species in need of habitat improve-
2 ment;

3 (6) the Basin provides habitat for over 200
4 resident and migrant fish species, includes signifi-
5 cant recreational fisheries, and is a prolific source of
6 eastern oyster, blue crab, and the largest population
7 of the American horseshoe crab;

8 (7) as of the date of enactment of this Act, oys-
9 ter landings in the Delaware Bay are at 100,000
10 bushels, down from the 500,000 bushels that were
11 harvested in the 1980s, due, in part, to water pollu-
12 tion and disease;

13 (8) the Delaware Bay has the second largest
14 concentration of shorebirds in North America and is
15 designated as 1 of the 4 most important shorebird
16 migration sites in the world;

17 (9) the Basin, 50 percent of which is forested,
18 also has 1,000,000 acres of wetland, more than
19 126,000 acres of which are recognized as inter-
20 nationally important, resulting in a landscape that
21 provides essential ecosystem services, including
22 recreation, commercial, and water quality benefits;

23 (10) much of the remaining exemplary natural
24 landscape in the Basin is vulnerable to further deg-
25 radation, as the Basin gains approximately 14

1 square miles of developed land annually, and with
2 new development, urban watersheds are increasingly
3 covered by impervious surfaces, amplifying the quan-
4 tity of polluted runoff into rivers and streams;

5 (11) the Delaware River is the longest
6 undammed river east of the Mississippi, and a crit-
7 ical component of the National Wild and Scenic Riv-
8 ers System in the Northeast;

9 (12) management of water volume in the Basin
10 is critical to flood mitigation and habitat for fish
11 and wildlife, and following 3 major floods along the
12 Delaware River since 2004, the Governors of the
13 States of Delaware, New Jersey, New York, and
14 Pennsylvania have called for natural flood damage
15 reduction measures to combat the problem, including
16 restoring the function of riparian corridors;

17 (13) the Delaware River Port Complex (includ-
18 ing docking facilities in the States of Delaware, New
19 Jersey, and Pennsylvania) is the largest freshwater
20 port in the world, the Port of Philadelphia handles
21 the largest volume of international tonnage and 70
22 percent of the oil shipped to the East Coast, and the
23 Port of Wilmington, a full-service deepwater port
24 and marine terminal, is the busiest terminal on the
25 Delaware River, handling more than 400 vessels per

1 year with an annual import/export cargo tonnage of
2 more than 4,000,000 tons;

3 (14) the Delaware Estuary, where freshwater
4 from the Delaware River mixes with saltwater from
5 the Atlantic Ocean, is 1 of the largest and most
6 complex of the 28 estuaries in the National Estuary
7 Program, and the Partnership for the Delaware Es-
8 tuary works to improve the environmental health of
9 the Delaware Estuary;

10 (15) the Delaware River Basin Commission is a
11 Federal-interstate compact government agency
12 charged with overseeing a unified approach to man-
13 aging the river system and implementing important
14 water resources management projects and activities
15 throughout the Basin that are in the national inter-
16 est; and

17 (16) restoration activities in the Basin are sup-
18 ported through several Federal and State agency
19 programs, and funding for those important pro-
20 grams should continue and complement the estab-
21 lishment of the Delaware River Basin Restoration
22 Program, which is intended to build on and help co-
23 ordinate restoration and protection funding mecha-
24 nisms at the Federal, State, regional, and local lev-
25 els.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) **BASIN.**—The term “Basin” means the 4-
4 State Delaware Basin region, including all of Dela-
5 ware Bay and portions of the States of Delaware,
6 New Jersey, New York, and Pennsylvania located in
7 the Delaware River watershed.

8 (2) **BASIN STATE.**—The term “Basin State”
9 means each of the States of Delaware, New Jersey,
10 New York, and Pennsylvania.

11 (3) **DIRECTOR.**—The term “Director” means
12 the Director of the United States Fish and Wildlife
13 Service.

14 (4) **FOUNDATION.**—The term “Foundation”
15 means the National Fish and Wildlife Foundation, a
16 congressionally chartered foundation established by
17 section 2 of the National Fish and Wildlife Founda-
18 tion Establishment Act (16 U.S.C. 3701).

19 (5) **GRANT PROGRAM.**—The term “grant pro-
20 gram” means the Delaware River Basin restoration
21 grant program established under section 5.

22 (6) **PROGRAM.**—The term “program” means
23 the Delaware River Basin restoration program es-
24 tablished under section 4.

1 (7) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior, acting through the Di-
3 rector.

4 (8) SERVICE.—The term “Service” means the
5 United States Fish and Wildlife Service.

6 **SEC. 4. PROGRAM ESTABLISHMENT.**

7 (a) ESTABLISHMENT.—Not later than 180 days after
8 amounts are made available to carry out this Act, the Sec-
9 retary shall establish a program to be known as the “Dela-
10 ware River Basin restoration program”.

11 (b) DUTIES.—In carrying out the program, the Sec-
12 retary shall—

13 (1) draw on existing and new management
14 plans for the Basin and work in consultation with
15 applicable management entities, including represent-
16 atives of the Partnership for the Delaware Estuary,
17 the Delaware River Basin Commission, the Federal
18 Government, and other State and local governments,
19 and regional and nonprofit organizations, as appro-
20 priate, to identify, prioritize, and implement restora-
21 tion and protection activities within the Basin;

22 (2) adopt an investment strategy that—

23 (A) supports the implementation of a
24 shared set of restoration and protection activi-

1 ties developed in accordance with paragraph
2 (1);

3 (B) targets cost-effective conservation
4 projects; and

5 (C) supports measurable conservation ef-
6 forts;

7 (3) establish the grant program in accordance
8 with section 5; and

9 (4) provide for technical assistance in accord-
10 ance with this Act.

11 (c) COORDINATION.—In establishing the program,
12 the Secretary shall consult, as appropriate, with—

13 (1) the heads of Federal agencies, including—

14 (A) the Administrator of the Environ-
15 mental Protection Agency;

16 (B) the Administrator of the National Oce-
17 anic Atmospheric Administration;

18 (C) the Chief of the Natural Resource
19 Conservation Service;

20 (D) the Chief of Engineers of the United
21 States Army Corps of Engineers;

22 (E) the Director of the National Park
23 Service; and

24 (F) the head of any other applicable agen-
25 cy;

- 1 (2) the Governors of the Basin States;
- 2 (3) the Partnership for the Delaware Estuary;
- 3 (4) the Delaware River Basin Commission;
- 4 (5) fish and wildlife joint venture partnerships;

5 and

- 6 (6) other public agencies and organizations with
- 7 authority for the planning and implementation of
- 8 conservation strategies in the Basin.

9 (d) PURPOSES.—The purposes of the program in-
10 clude—

- 11 (1) coordinating restoration and protection ac-
- 12 tivities among Federal, State, local, and regional en-
- 13 tities and conservation partners throughout the
- 14 Basin;

- 15 (2) carrying out coordinated restoration and
- 16 protection activities throughout the Basin and Basin
- 17 States—

- 18 (A) to sustain and enhance habitat restora-
- 19 tion and protection activities;

- 20 (B) to sustain and enhance water quality
- 21 improvements, including drinking water quality;

- 22 (C) to sustain and enhance water manage-
- 23 ment and flood damage mitigation improve-
- 24 ments to benefit fish and wildlife habitat;

1 (D) to improve opportunities for public ac-
2 cess and recreation in the Basin;

3 (E) to encourage environmentally sensitive
4 land use planning and development;

5 (F) to increase the capacity to implement
6 coordinated restoration and protection activities
7 in the Basin by conducting public outreach and
8 education and promoting citizen involvement;
9 and

10 (G) to coordinate, conduct, and support
11 the planning, monitoring, and research activi-
12 ties necessary to carry out coordinated restora-
13 tion and protection activities; and

14 (3) providing competitive grants for technical
15 assistance to carry out restoration and protection ac-
16 tivities in the Basin, with priority given to activities
17 with multiple benefits, including habitat, water qual-
18 ity, and flood protection.

19 **SEC. 5. GRANTS AND ASSISTANCE.**

20 (a) DELAWARE RIVER BASIN RESTORATION PRO-
21 GRAM.—To the extent that funds are available to carry
22 out this section, the Secretary shall establish a grant pro-
23 gram to be known as the “Delaware River Basin restora-
24 tion grant program” to provide competitive matching
25 grants of varying amounts to State and local governments,

1 nonprofit organizations, community organizations, institu-
2 tions of higher education, and other eligible entities to
3 carry out activities described in section 4(d).

4 (b) CRITERIA.—The Secretary, in consultation with
5 the organizations described in section 4(c), shall develop
6 criteria for the grant program to help ensure that activi-
7 ties funded under this section accomplish 1 or more of
8 the following:

9 (1) Restoration or protection of fish and wildlife
10 species and the habitats of those species.

11 (2) Improvement or protection of water quality
12 by reducing nonpoint and point source pollutants.

13 (3) Reduction or improvement of the manage-
14 ment of water volume and flooding.

15 (4) Inclusion of priority needs or actions identi-
16 fied in the single investment strategy adopted under
17 section 4(b)(2).

18 (5) Inclusion of restoration and protection ac-
19 tivities with multiple benefits in the Basin, including
20 habitat, water quality, and flood damage reduction.

21 (c) COST SHARING.—

22 (1) FEDERAL SHARE.—The Federal share of
23 the cost of a project funded under the grant pro-
24 gram shall not exceed 75 percent of the total cost
25 of the activity, as determined by the Secretary.

1 (2) NON-FEDERAL SHARE.—The non-Federal
2 share of the cost of a project funded under the grant
3 program may be provided in cash or in the form of
4 an in-kind contribution of services or materials.

5 (d) ADMINISTRATION.—

6 (1) IN GENERAL.—The Secretary may enter
7 into an agreement to manage the grant program
8 with the National Fish and Wildlife Foundation or
9 a similar organization with applicable expertise.

10 (2) FUNDING.—If the Secretary enters into an
11 agreement under paragraph (1), the organization se-
12 lected shall—

13 (A) for each fiscal year, receive amounts to
14 carry out this section in an advance payment of
15 the entire amount on October 1, or as soon as
16 practicable thereafter, of that fiscal year;

17 (B) invest and reinvest those amounts for
18 the benefit of the grant program; and

19 (C) otherwise administer the grant pro-
20 gram to support partnerships between the pub-
21 lic and private sectors in accordance with this
22 Act.

23 (3) REQUIREMENTS.—If the Secretary enters
24 into an agreement with the Foundation under para-
25 graph (1), any amounts received by the Foundation

1 under this section shall be subject to the National
2 Fish and Wildlife Foundation Establishment Act (16
3 U.S.C. 3701 et seq.), excluding section 10(a) of that
4 Act (16 U.S.C. 3709(a)).

5 (e) TECHNICAL ASSISTANCE.—The Secretary may
6 provide, or provide for, technical assistance to carry out
7 this section, on a nonreimbursable basis, to—

- 8 (1) other Federal agencies;
- 9 (2) State and local governments;
- 10 (3) nonprofit organizations;
- 11 (4) community organizations;
- 12 (5) institutions of higher education; or
- 13 (6) other entities, as the Secretary determines
14 to be appropriate.

15 **SEC. 6. ANNUAL REPORTS.**

16 Not later than 180 days after the date of enactment
17 of this Act and annually thereafter, the Secretary shall
18 submit to Congress a report on the implementation of this
19 Act, including a description of each project that has re-
20 ceived funding under this Act.

21 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) IN GENERAL.—There is authorized to be appro-
23 priated to the Secretary to carry out this Act \$5,000,000
24 for each of fiscal years 2012 through 2017.

1 (b) USE.—Of any amount made available for each
2 fiscal year, the Secretary shall use at least 75 percent to
3 carry out the grant program and to provide, or provide
4 for, technical assistance under section 5(e).