

106TH CONGRESS
2D SESSION

S. 835

AN ACT

To encourage the restoration of estuary habitat through more efficient project financing and enhanced coordination of Federal and non-Federal restoration programs, 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 “Estuary Habitat and Chesapeake Bay Restoration Act
6 of 2000”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ESTUARY HABITAT RESTORATION

Sec. 101. Short title.

Sec. 102. Findings.

Sec. 103. Purposes.

Sec. 104. Definitions.

Sec. 105. Establishment of Collaborative Council.

Sec. 106. Duties of Collaborative Council.

Sec. 107. Cost sharing of estuary habitat restoration projects.

Sec. 108. Monitoring and maintenance of estuary habitat restoration projects.

Sec. 109. Cooperative agreements; memoranda of understanding.

Sec. 110. Distribution of appropriations for estuary habitat restoration activities.

Sec. 111. Authorization of appropriations.

Sec. 112. National estuary program.

Sec. 113. General provisions.

TITLE II—CHESAPEAKE BAY RESTORATION

Sec. 201. Short title.

Sec. 202. Findings and purposes.

Sec. 203. Chesapeake Bay restoration.

TITLE III—LONG ISLAND SOUND

Sec. 301. Reauthorization.

3 **TITLE I—ESTUARY HABITAT** 4 **RESTORATION**

5 **SEC. 101. SHORT TITLE.**

6 This title may be cited as the “Estuary Habitat Res-
 7 toration Partnership Act of 2000”.

8 **SEC. 102. FINDINGS.**

9 Congress finds that—

10 (1) estuaries provide some of the most eco-
 11 logically and economically productive habitat for an
 12 extensive variety of plants, fish, wildlife, and water-
 13 fowl;

1 (2) the estuaries and coastal regions of the
2 United States are home to one-half the population of
3 the United States and provide essential habitat for
4 75 percent of the commercial fish and 80 to 90 per-
5 cent of the recreational fish catches of the United
6 States;

7 (3) estuaries are gravely threatened by habitat
8 alteration and loss from pollution, development, and
9 overuse;

10 (4) successful restoration of estuaries demands
11 the coordination of Federal, State, and local estuary
12 habitat restoration programs; and

13 (5) the Federal, State, local, and private co-
14 operation in estuary habitat restoration activities in
15 existence on the date of enactment of this Act
16 should be strengthened and new public and public-
17 private estuary habitat restoration partnerships es-
18 tablished.

19 **SEC. 103. PURPOSES.**

20 The purposes of this Act are—

21 (1) to establish a voluntary program to restore
22 1,000,000 acres of estuary habitat by 2010;

23 (2) to ensure coordination of Federal, State,
24 and community estuary habitat restoration pro-
25 grams, plans, and studies;

1 (3) to establish effective estuary habitat res-
2 toration partnerships among public agencies at all
3 levels of government and between the public and pri-
4 vate sectors;

5 (4) to promote efficient financing of estuary
6 habitat restoration activities; and

7 (5) to develop and enhance monitoring and re-
8 search capabilities, through use of the environmental
9 technology innovation program associated with the
10 National Estuarine Research Reserve System (estab-
11 lished by section 315 of the Coastal Zone Manage-
12 ment Act of 1972 (16 U.S.C. 1461)), to ensure that
13 restoration efforts are based on sound scientific un-
14 derstanding and innovative technologies.

15 **SEC. 104. DEFINITIONS.**

16 In this title:

17 (1) **COLLABORATIVE COUNCIL.**—The term “Col-
18 laborative Council” means the interagency council
19 established by section 105.

20 (2) **DEGRADED ESTUARY HABITAT.**—The term
21 “degraded estuary habitat” means estuary habitat
22 where natural ecological functions have been im-
23 paired and normal beneficial uses have been reduced.

24 (3) **ESTUARY.**—The term “estuary” means—

1 (A) a body of water in which fresh water
2 from a river or stream meets and mixes with
3 salt water from the ocean, including the area lo-
4 cated in the Great Lakes Biogeographic Region
5 and designated as a National Estuarine Re-
6 search Reserve under the Coastal Zone Man-
7 agement Act of 1972 (16 U.S.C. 1451 et seq.)
8 as of the date of enactment of this Act; and

9 (B) the physical, biological, and chemical
10 elements associated with such a body of water.

11 (4) ESTUARY HABITAT.—

12 (A) IN GENERAL.—The term “estuary
13 habitat” means the complex of physical and hy-
14 drologic features and living organisms within
15 estuaries and associated ecosystems.

16 (B) INCLUSIONS.—The term “estuary
17 habitat” includes salt and fresh water coastal
18 marshes, coastal forested wetlands and other
19 coastal wetlands, maritime forests, coastal
20 grasslands, tidal flats, natural shoreline areas,
21 shellfish beds, sea grass meadows, kelp beds,
22 river deltas, and river and stream banks under
23 tidal influence.

24 (5) ESTUARY HABITAT RESTORATION ACTIV-
25 ITY.—

1 (A) IN GENERAL.—The term “estuary
2 habitat restoration activity” means an activity
3 that results in improving degraded estuary
4 habitat (including both physical and functional
5 restoration), with the goal of attaining a self-
6 sustaining system integrated into the sur-
7 rounding landscape.

8 (B) INCLUDED ACTIVITIES.—The term
9 “estuary habitat restoration activity”
10 includes—

11 (i) the reestablishment of physical fea-
12 tures and biological and hydrologic func-
13 tions;

14 (ii) except as provided in subpara-
15 graph (C)(ii), the cleanup of contamination
16 related to the restoration of estuary habi-
17 tat;

18 (iii) the control of non-native and
19 invasive species;

20 (iv) the reintroduction of native spe-
21 cies through planting or natural succes-
22 sion; and

23 (v) other activities that improve estu-
24 ary habitat.

1 (C) EXCLUDED ACTIVITIES.—The term
2 “estuary habitat restoration activity” does not
3 include—

4 (i) an act that constitutes mitigation
5 for the adverse effects of an activity regu-
6 lated or otherwise governed by Federal or
7 State law; or

8 (ii) an act that constitutes restitution
9 for natural resource damages required
10 under any Federal or State law.

11 (6) ESTUARY HABITAT RESTORATION
12 PROJECT.—The term “estuary habitat restoration
13 project” means an estuary habitat restoration activ-
14 ity under consideration or selected by the Collabo-
15 rative Council, in accordance with this title, to re-
16 ceive financial, technical, or another form of assist-
17 ance.

18 (7) ESTUARY HABITAT RESTORATION STRAT-
19 EGY.—The term “estuary habitat restoration strat-
20 egy” means the estuary habitat restoration strategy
21 developed under section 106(a).

22 (8) FEDERAL ESTUARY MANAGEMENT OR HABI-
23 TAT RESTORATION PLAN.—The term “Federal estu-
24 ary management or habitat restoration plan” means

1 any Federal plan for restoration of degraded estuary
2 habitat that—

3 (A) was developed by a public body with
4 the substantial participation of appropriate
5 public and private stakeholders; and

6 (B) reflects a community-based planning
7 process.

8 (9) SECRETARY.—The term “Secretary” means
9 the Secretary of the Army, or a designee.

10 (10) UNDER SECRETARY.—The term “Under
11 Secretary” means the Under Secretary for Oceans
12 and Atmosphere of the Department of Commerce, or
13 a designee.

14 **SEC. 105. ESTABLISHMENT OF COLLABORATIVE COUNCIL.**

15 (a) COLLABORATIVE COUNCIL.—There is established
16 an interagency council to be known as the “Estuary Habi-
17 tat Restoration Collaborative Council”.

18 (b) MEMBERSHIP.—

19 (1) IN GENERAL.—The Collaborative Council
20 shall be composed of the Secretary, the Under Sec-
21 retary, the Administrator of the Environmental Pro-
22 tection Agency, and the Secretary of the Interior
23 (acting through the Director of the United States
24 Fish and Wildlife Service), or their designees.

1 (2) CHAIRPERSON; LEAD AGENCY.—The Sec-
2 retary, or designee, shall chair the Collaborative
3 Council, and the Department of the Army shall
4 serve as the lead agency.

5 (c) CONVENING OF COLLABORATIVE COUNCIL.—The
6 Secretary shall—

7 (1) convene the first meeting of the Collabo-
8 rative Council not later than 30 days after the date
9 of enactment of this Act; and

10 (2) convene additional meetings as often as ap-
11 propriate to ensure that this title is fully carried out,
12 but not less often than quarterly.

13 (d) COLLABORATIVE COUNCIL PROCEDURES.—

14 (1) QUORUM.—Three members of the Collabo-
15 rative Council shall constitute a quorum.

16 (2) VOTING AND MEETING PROCEDURES.—The
17 Collaborative Council shall establish procedures for
18 voting and the conduct of meetings by the Council.

19 **SEC. 106. DUTIES OF COLLABORATIVE COUNCIL.**

20 (a) ESTUARY HABITAT RESTORATION STRATEGY.—

21 (1) IN GENERAL.—Not later than 1 year after
22 the date of enactment of this Act, the Collaborative
23 Council, in consultation with non-Federal partici-
24 pants, including nonprofit sectors, as appropriate,
25 shall develop an estuary habitat restoration strategy

1 designed to ensure a comprehensive approach to the
2 selection and prioritization of estuary habitat res-
3 toration projects and the coordination of Federal
4 and non-Federal activities related to restoration of
5 estuary habitat.

6 (2) INTEGRATION OF PREVIOUSLY AUTHORIZED
7 ESTUARY HABITAT RESTORATION PLANS, PROGRAMS,
8 AND PARTNERSHIPS.—In developing the estuary
9 habitat restoration strategy, the Collaborative Coun-
10 cil shall—

11 (A) conduct a review of—

12 (i) Federal estuary management or
13 habitat restoration plans; and

14 (ii) Federal programs established
15 under other law that provide funding for
16 estuary habitat restoration activities;

17 (B) develop a set of proposals for—

18 (i) using programs established under
19 this Act or any other Act to maximize the
20 incentives for the creation of new public-
21 private partnerships to carry out estuary
22 habitat restoration projects; and

23 (ii) using Federal resources to encour-
24 age increased private sector involvement in
25 estuary habitat restoration activities; and

1 (C) ensure that the estuary habitat res-
2 toration strategy is developed and will be imple-
3 mented in a manner that is consistent with the
4 findings and requirements of Federal estuary
5 management or habitat restoration plans.

6 (3) ELEMENTS TO BE CONSIDERED.—Con-
7 sistent with the requirements of this section, the
8 Collaborative Council, in the development of the es-
9 tuary habitat restoration strategy, shall consider—

10 (A) the contributions of estuary habitat
11 to—

12 (i) wildlife, including endangered and
13 threatened species, migratory birds, and
14 resident species of an estuary watershed;

15 (ii) fish and shellfish, including com-
16 mercial and sport fisheries;

17 (iii) surface and ground water quality
18 and quantity, and flood control;

19 (iv) outdoor recreation; and

20 (v) other areas of concern that the
21 Collaborative Council determines to be ap-
22 propriate for consideration;

23 (B) the estimated historic losses, estimated
24 current rate of loss, and extent of the threat of

1 future loss or degradation of each type of estu-
2 ary habitat; and

3 (C) the most appropriate method for se-
4 lecting a balance of smaller and larger estuary
5 habitat restoration projects.

6 (4) **ADVICE.**—The Collaborative Council shall
7 seek advice in restoration of estuary habitat from ex-
8 perts in the private and nonprofit sectors to assist
9 in the development of an estuary habitat restoration
10 strategy.

11 (5) **PUBLIC REVIEW AND COMMENT.**—Before
12 adopting a final estuary habitat restoration strategy,
13 the Collaborative Council shall publish in the Fed-
14 eral Register a draft of the estuary habitat restora-
15 tion strategy and provide an opportunity for public
16 review and comment.

17 (b) **PROJECT APPLICATIONS.**—

18 (1) **IN GENERAL.**—An application for an estu-
19 ary habitat restoration project shall originate from a
20 non-Federal organization and shall require, when ap-
21 propriate, the approval of State or local agencies.

22 (2) **FACTORS TO BE TAKEN INTO ACCOUNT.**—
23 In determining the eligibility of an estuary habitat
24 restoration project for financial assistance under this

1 title, the Collaborative Council shall consider the fol-
2 lowing:

3 (A) Whether the proposed estuary habitat
4 restoration project meets the criteria specified
5 in the estuary habitat restoration strategy.

6 (B) The technical merit and feasibility of
7 the proposed estuary habitat restoration
8 project.

9 (C) Whether the non-Federal persons pro-
10 posing the estuary habitat restoration project
11 provide satisfactory assurances that they will
12 have adequate personnel, funding, and author-
13 ity to carry out and properly maintain the estu-
14 ary habitat restoration project.

15 (D) Whether, in the State in which a pro-
16 posed estuary habitat restoration project is to
17 be carried out, there is a State dedicated source
18 of funding for programs to acquire or restore
19 estuary habitat, natural areas, and open spaces.

20 (E) Whether the proposed estuary habitat
21 restoration project will encourage the increased
22 coordination and cooperation of Federal, State,
23 and local government agencies.

1 (F) The amount of private funds or in-
2 kind contributions for the estuary habitat res-
3 toration project.

4 (G) Whether the proposed habitat restora-
5 tion project includes a monitoring plan to en-
6 sure that short-term and long-term restoration
7 goals are achieved.

8 (H) Other factors that the Collaborative
9 Council determines to be reasonable and nec-
10 essary for consideration.

11 (3) PRIORITY ESTUARY HABITAT RESTORATION
12 PROJECTS.—An estuary habitat restoration project
13 shall be given a higher priority in receipt of funding
14 under this title if, in addition to meeting the selec-
15 tion criteria specified in this section—

16 (A) the estuary habitat restoration project
17 is part of an approved Federal estuary manage-
18 ment or habitat restoration plan;

19 (B) the non-Federal share with respect to
20 the estuary habitat restoration project exceeds
21 50 percent;

22 (C) there is a program within the water-
23 shed of the estuary habitat restoration project
24 that addresses sources of water pollution that

1 would otherwise re-impair the restored habitat;

2 or

3 (D) the estuary habitat restoration project

4 includes—

5 (i) pilot testing; or

6 (ii) a demonstration of an innovative

7 technology having potential for improved

8 cost-effectiveness in restoring—

9 (I) the estuary that is the subject

10 of the project; or

11 (II) any other estuary.

12 (c) INTERIM ACTIONS.—

13 (1) IN GENERAL.—Pending completion of the

14 estuary habitat restoration strategy developed under

15 subsection (a), the Collaborative Council may pay

16 the Federal share of the cost of an interim action to

17 carry out an estuary habitat restoration activity.

18 (2) FEDERAL SHARE.—The Federal share shall

19 not exceed 25 percent.

20 (d) COOPERATION OF NON-FEDERAL PARTNERS.—

21 (1) IN GENERAL.—The Collaborative Council

22 shall not select an estuary habitat restoration project

23 until a non-Federal interest has entered into a writ-

24 ten agreement with the Secretary in which it agrees

1 to provide the required non-Federal cooperation for
2 the project.

3 (2) NONPROFIT ENTITIES.—Notwithstanding
4 section 221(b) of the Flood Control Act of 1970 (42
5 U.S.C. 1962d–5b), for any project undertaken under
6 this section, the Secretary may, after coordination
7 with the official responsible for the political jurisdic-
8 tion in which a project would occur, allow a non-
9 profit entity to serve as the non-Federal interest.

10 (3) MAINTENANCE AND MONITORING.—A co-
11 operation agreement entered into under paragraph
12 (1) shall provide for maintenance and monitoring of
13 the estuary habitat restoration project to the extent
14 determined necessary by the Collaborative Council.

15 (e) LEAD COLLABORATIVE COUNCIL MEMBER.—The
16 Collaborative Council shall designate a lead Collaborative
17 Council member for each proposed estuary habitat res-
18 toration project. The lead Collaborative Council member
19 shall have primary responsibility for overseeing and assist-
20 ing others in implementing the proposed project.

21 (f) AGENCY CONSULTATION AND COORDINATION.—
22 In carrying out this section, the Collaborative Council
23 shall, as the Collaborative Council determines it to be nec-
24 essary, consult with, cooperate with, and coordinate its ac-

1 tivities with the activities of other appropriate Federal
2 agencies.

3 (g) BENEFITS AND COSTS OF ESTUARY HABITAT
4 RESTORATION PROJECTS.—The Collaborative Council
5 shall evaluate the benefits and costs of estuary habitat res-
6 toration projects in accordance with section 907 of the
7 Water Resources Development Act of 1986 (33 U.S.C.
8 2284).

9 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
10 authorized to be appropriated to the Department of the
11 Army for the administration and operation of the Collabo-
12 rative Council \$4,000,000 for each of fiscal years 2001
13 through 2005.

14 **SEC. 107. COST SHARING OF ESTUARY HABITAT RESTORA-**
15 **TION PROJECTS.**

16 (a) IN GENERAL.—No financial assistance in car-
17 rying out an estuary habitat restoration project shall be
18 available under this title from any Federal agency unless
19 the non-Federal applicant for assistance demonstrates
20 that the estuary habitat restoration project meets—

- 21 (1) the requirements of this title; and
22 (2) any criteria established by the Collaborative
23 Council under this title.

1 (b) FEDERAL SHARE.—The Federal share of the cost
2 of an estuary habitat restoration and protection project
3 assisted under this title shall be not more than 65 percent.

4 (c) NON-FEDERAL SHARE.—The non-Federal share
5 of the cost of an estuary habitat restoration project may
6 be provided in the form of land, easements, rights-of-way,
7 services, or any other form of in-kind contribution deter-
8 mined by the Collaborative Council to be an appropriate
9 contribution equivalent to the monetary amount required
10 for the non-Federal share of the estuary habitat restora-
11 tion project.

12 (d) ALLOCATION OF FUNDS BY STATES TO POLIT-
13 ICAL SUBDIVISIONS.—With the approval of the Secretary,
14 a State may allocate to any local government, area-wide
15 agency designated under section 204 of the Demonstration
16 Cities and Metropolitan Development Act of 1966 (42
17 U.S.C. 3334), regional agency, or interstate agency, a por-
18 tion of any funds disbursed in accordance with this title
19 for the purpose of carrying out an estuary habitat restora-
20 tion project.

21 (e) INNOVATIVE TECHNOLOGY COSTS.—The Federal
22 share of the incremental additional cost of including in
23 a project pilot testing or a demonstration of an innovative
24 technology described in section 106(b)(3)(D) shall be 100
25 percent.

1 **SEC. 108. MONITORING AND MAINTENANCE OF ESTUARY**
2 **HABITAT RESTORATION PROJECTS.**

3 (a) DATABASE OF RESTORATION PROJECT INFORMA-
4 TION.—The Under Secretary shall maintain an appro-
5 priate database of information concerning estuary habitat
6 restoration projects funded under this title, including in-
7 formation on project techniques, project completion, moni-
8 toring data, and other relevant information.

9 (b) REPORT.—

10 (1) IN GENERAL.—The Collaborative Council
11 shall biennially submit a report to the Committee on
12 Environment and Public Works of the Senate and
13 the Committee on Transportation and Infrastructure
14 of the House of Representatives on the results of ac-
15 tivities carried out under this title.

16 (2) CONTENTS OF REPORT.—A report under
17 paragraph (1) shall include—

18 (A) data on the number of acres of estuary
19 habitat restored under this title, including the
20 number of projects approved and completed
21 that comprise those acres;

22 (B) the percentage of restored estuary
23 habitat monitored under a plan to ensure that
24 short-term and long-term restoration goals are
25 achieved;

1 (C) an estimate of the long-term success of
2 varying restoration techniques used in carrying
3 out estuary habitat restoration projects;

4 (D) a review of how the information de-
5 scribed in subparagraphs (A) through (C) has
6 been incorporated in the selection and imple-
7 mentation of estuary habitat restoration
8 projects;

9 (E) a review of efforts made to maintain
10 an appropriate database of restoration projects
11 funded under this title; and

12 (F) a review of the measures taken to pro-
13 vide the information described in subparagraphs
14 (A) through (C) to persons with responsibility
15 for assisting in the restoration of estuary habi-
16 tat.

17 **SEC. 109. COOPERATIVE AGREEMENTS; MEMORANDA OF**
18 **UNDERSTANDING.**

19 In carrying out this title, the Collaborative Council
20 may—

21 (1) enter into cooperative agreements with Fed-
22 eral, State, and local government agencies and other
23 persons and entities; and

24 (2) execute such memoranda of understanding
25 as are necessary to reflect the agreements.

1 **SEC. 110. DISTRIBUTION OF APPROPRIATIONS FOR ESTU-**
2 **ARY HABITAT RESTORATION ACTIVITIES.**

3 The Secretary shall allocate funds made available to
4 carry out this title based on the need for the funds and
5 such other factors as are determined to be appropriate to
6 carry out this title.

7 **SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) AUTHORIZATION OF APPROPRIATIONS UNDER
9 OTHER LAW.—Funds authorized to be appropriated
10 under section 908 of the Water Resources Development
11 Act of 1986 (33 U.S.C. 2285) and section 206 of the
12 Water Resources Development Act of 1996 (33 U.S.C.
13 2330) may be used by the Secretary in accordance with
14 this title to assist States and other non-Federal persons
15 in carrying out estuary habitat restoration projects or in-
16 terim actions under section 106(c).

17 (b) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Secretary to carry
19 out estuary habitat restoration activities—

20 (1) \$40,000,000 for fiscal year 2001;

21 (2) \$50,000,000 for fiscal year 2002; and

22 (3) \$75,000,000 for each of fiscal years 2003
23 through 2005.

24 **SEC. 112. NATIONAL ESTUARY PROGRAM.**

25 (a) GRANTS FOR COMPREHENSIVE CONSERVATION
26 AND MANAGEMENT PLANS.—Section 320(g)(2) of the

1 Federal Water Pollution Control Act (33 U.S.C.
2 1330(g)(2)) is amended by inserting “and implementa-
3 tion” after “development”.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
5 320(i) of the Federal Water Pollution Control Act (33
6 U.S.C. 1330(i)) is amended by striking “1987” and all
7 that follows through “1991” and inserting the following:
8 “1987 through 1991, such sums as may be necessary for
9 fiscal years 1992 through 2000, and \$25,000,000 for each
10 of fiscal years 2001 and 2002”.

11 **SEC. 113. GENERAL PROVISIONS.**

12 (a) ADDITIONAL AUTHORITY FOR ARMY CORPS OF
13 ENGINEERS.—The Secretary—

14 (1) may carry out estuary habitat restoration
15 projects in accordance with this title; and

16 (2) shall give estuary habitat restoration
17 projects the same consideration as projects relating
18 to irrigation, navigation, or flood control.

19 (b) INAPPLICABILITY OF CERTAIN LAW.—Sections
20 203, 204, and 205 of the Water Resources Development
21 Act of 1986 (33 U.S.C. 2231, 2232, 2233) shall not apply
22 to an estuary habitat restoration project selected in ac-
23 cordance with this title.

1 (c) ESTUARY HABITAT RESTORATION MISSION.—

2 The Secretary shall establish restoration of estuary habi-
3 tat as a primary mission of the Army Corps of Engineers.

4 (d) FEDERAL AGENCY FACILITIES AND PER-
5 SONNEL.—

6 (1) IN GENERAL.—Federal agencies may co-
7 operate in carrying out scientific and other programs
8 necessary to carry out this title, and may provide fa-
9 cilities and personnel, for the purpose of assisting
10 the Collaborative Council in carrying out its duties
11 under this title.

12 (2) REIMBURSEMENT FROM COLLABORATIVE
13 COUNCIL.—Federal agencies may accept reimburse-
14 ment from the Collaborative Council for providing
15 services, facilities, and personnel under paragraph
16 (1).

17 (e) ADMINISTRATIVE EXPENSES AND STAFFING.—

18 Not later than 180 days after the date of enactment of
19 this Act, the Comptroller General of the United States
20 shall submit to Congress and the Secretary an analysis
21 of the extent to which the Collaborative Council needs ad-
22 ditional personnel and administrative resources to fully
23 carry out its duties under this title. The analysis shall in-
24 clude recommendations regarding necessary additional
25 funding.

1 **TITLE II—CHESAPEAKE BAY**
2 **RESTORATION**

3 **SEC. 201. SHORT TITLE.**

4 This title may be cited as the “Chesapeake Bay Res-
5 toration Act of 2000”.

6 **SEC. 202. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the Chesapeake Bay is a national treasure
9 and a resource of worldwide significance;

10 (2) over many years, the productivity and water
11 quality of the Chesapeake Bay and its watershed
12 were diminished by pollution, excessive sedimenta-
13 tion, shoreline erosion, the impacts of population
14 growth and development in the Chesapeake Bay wa-
15 tershed, and other factors;

16 (3) the Federal Government (acting through
17 the Administrator of the Environmental Protection
18 Agency), the Governor of the State of Maryland, the
19 Governor of the Commonwealth of Virginia, the Gov-
20 ernor of the Commonwealth of Pennsylvania, the
21 Chairperson of the Chesapeake Bay Commission,
22 and the Mayor of the District of Columbia, as
23 Chesapeake Bay Agreement signatories, have com-
24 mitted to a comprehensive cooperative program to

1 achieve improved water quality and improvements in
2 the productivity of living resources of the Bay;

3 (4) the cooperative program described in para-
4 graph (3) serves as a national and international
5 model for the management of estuaries; and

6 (5) there is a need to expand Federal support
7 for monitoring, management, and restoration activi-
8 ties in the Chesapeake Bay and the tributaries of
9 the Bay in order to meet and further the original
10 and subsequent goals and commitments of the
11 Chesapeake Bay Program.

12 (b) PURPOSES.—The purposes of this title are—

13 (1) to expand and strengthen cooperative ef-
14 forts to restore and protect the Chesapeake Bay;
15 and

16 (2) to achieve the goals established in the
17 Chesapeake Bay Agreement.

18 **SEC. 203. CHESAPEAKE BAY RESTORATION.**

19 The Federal Water Pollution Control Act is amended
20 by striking section 117 (33 U.S.C. 1267) and inserting
21 the following:

22 **“SEC. 117. CHESAPEAKE BAY.**

23 **“(a) DEFINITIONS.—**In this section:

24 **“(1) ADMINISTRATIVE COST.—**The term ‘ad-
25 ministrative cost’ means the cost of salaries and

1 fringe benefits incurred in administering a grant
2 under this section.

3 “(2) CHESAPEAKE BAY AGREEMENT.—The
4 term ‘Chesapeake Bay Agreement’ means the for-
5 mal, voluntary agreements executed to achieve the
6 goal of restoring and protecting the Chesapeake Bay
7 ecosystem and the living resources of the Chesa-
8 peake Bay ecosystem and signed by the Chesapeake
9 Executive Council.

10 “(3) CHESAPEAKE BAY ECOSYSTEM.—The term
11 ‘Chesapeake Bay ecosystem’ means the ecosystem of
12 the Chesapeake Bay and its watershed.

13 “(4) CHESAPEAKE BAY PROGRAM.—The term
14 ‘Chesapeake Bay Program’ means the program di-
15 rected by the Chesapeake Executive Council in ac-
16 cordance with the Chesapeake Bay Agreement.

17 “(5) CHESAPEAKE EXECUTIVE COUNCIL.—The
18 term ‘Chesapeake Executive Council’ means the sig-
19 natories to the Chesapeake Bay Agreement.

20 “(6) SIGNATORY JURISDICTION.—The term
21 ‘signatory jurisdiction’ means a jurisdiction of a sig-
22 natory to the Chesapeake Bay Agreement.

23 “(b) CONTINUATION OF CHESAPEAKE BAY PRO-
24 GRAM.—

1 “(1) IN GENERAL.—In cooperation with the
2 Chesapeake Executive Council (and as a member of
3 the Council), the Administrator shall continue the
4 Chesapeake Bay Program.

5 “(2) PROGRAM OFFICE.—

6 “(A) IN GENERAL.—The Administrator
7 shall maintain in the Environmental Protection
8 Agency a Chesapeake Bay Program Office.

9 “(B) FUNCTION.—The Chesapeake Bay
10 Program Office shall provide support to the
11 Chesapeake Executive Council by—

12 “(i) implementing and coordinating
13 science, research, modeling, support serv-
14 ices, monitoring, data collection, and other
15 activities that support the Chesapeake Bay
16 Program;

17 “(ii) developing and making available,
18 through publications, technical assistance,
19 and other appropriate means, information
20 pertaining to the environmental quality
21 and living resources of the Chesapeake
22 Bay ecosystem;

23 “(iii) in cooperation with appropriate
24 Federal, State, and local authorities, as-
25 sisting the signatories to the Chesapeake

1 Bay Agreement in developing and imple-
2 menting specific action plans to carry out
3 the responsibilities of the signatories to the
4 Chesapeake Bay Agreement;

5 “(iv) coordinating the actions of the
6 Environmental Protection Agency with the
7 actions of the appropriate officials of other
8 Federal agencies and State and local au-
9 thorities in developing strategies to—

10 “(I) improve the water quality
11 and living resources in the Chesa-
12 peake Bay ecosystem; and

13 “(II) obtain the support of the
14 appropriate officials of the agencies
15 and authorities in achieving the objec-
16 tives of the Chesapeake Bay Agree-
17 ment; and

18 “(v) implementing outreach programs
19 for public information, education, and par-
20 ticipation to foster stewardship of the re-
21 sources of the Chesapeake Bay.

22 “(c) INTERAGENCY AGREEMENTS.—The Adminis-
23 trator may enter into an interagency agreement with a
24 Federal agency to carry out this section.

1 “(d) TECHNICAL ASSISTANCE AND ASSISTANCE
2 GRANTS.—

3 “(1) IN GENERAL.—In cooperation with the
4 Chesapeake Executive Council, the Administrator
5 may provide technical assistance, and assistance
6 grants, to nonprofit organizations, State and local
7 governments, colleges, universities, and interstate
8 agencies to carry out this section, subject to such
9 terms and conditions as the Administrator considers
10 appropriate.

11 “(2) FEDERAL SHARE.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), the Federal share of an as-
14 sistance grant provided under paragraph (1)
15 shall be determined by the Administrator in ac-
16 cordance with guidance issued by the Adminis-
17 trator.

18 “(B) SMALL WATERSHED GRANTS PRO-
19 GRAM.—The Federal share of an assistance
20 grant provided under paragraph (1) to carry
21 out an implementing activity under subsection
22 (g)(2) shall not exceed 75 percent of eligible
23 project costs, as determined by the Adminis-
24 trator.

1 “(3) NON-FEDERAL SHARE.—An assistance
2 grant under paragraph (1) shall be provided on the
3 condition that non-Federal sources provide the re-
4 mainder of eligible project costs, as determined by
5 the Administrator.

6 “(4) ADMINISTRATIVE COSTS.—Administrative
7 costs shall not exceed 10 percent of the annual grant
8 award.

9 “(e) IMPLEMENTATION AND MONITORING
10 GRANTS.—

11 “(1) IN GENERAL.—If a signatory jurisdiction
12 has approved and committed to implement all or
13 substantially all aspects of the Chesapeake Bay
14 Agreement, on the request of the chief executive of
15 the jurisdiction, the Administrator—

16 “(A) shall make a grant to the jurisdiction
17 for the purpose of implementing the manage-
18 ment mechanisms established under the Chesa-
19 peake Bay Agreement, subject to such terms
20 and conditions as the Administrator considers
21 appropriate; and

22 “(B) may make a grant to a signatory ju-
23 risdiction for the purpose of monitoring the
24 Chesapeake Bay ecosystem.

25 “(2) PROPOSALS.—

1 “(A) IN GENERAL.—A signatory jurisdic-
2 tion described in paragraph (1) may apply for
3 a grant under this subsection for a fiscal year
4 by submitting to the Administrator a com-
5 prehensive proposal to implement management
6 mechanisms established under the Chesapeake
7 Bay Agreement.

8 “(B) CONTENTS.—A proposal under sub-
9 paragraph (A) shall include—

10 “(i) a description of proposed man-
11 agement mechanisms that the jurisdiction
12 commits to take within a specified time pe-
13 riod, such as reducing or preventing pollu-
14 tion in the Chesapeake Bay and its water-
15 shed or meeting applicable water quality
16 standards or established goals and objec-
17 tives under the Chesapeake Bay Agree-
18 ment; and

19 “(ii) the estimated cost of the actions
20 proposed to be taken during the fiscal
21 year.

22 “(3) APPROVAL.—If the Administrator finds
23 that the proposal is consistent with the Chesapeake
24 Bay Agreement and the national goals established

1 under section 101(a), the Administrator may ap-
2 prove the proposal for a grant award.

3 “(4) FEDERAL SHARE.—The Federal share of
4 an implementation grant under this subsection shall
5 not exceed 50 percent of the cost of implementing
6 the management mechanisms during the fiscal year.

7 “(5) NON-FEDERAL SHARE.—An implementa-
8 tion grant under this subsection shall be made on
9 the condition that non-Federal sources provide the
10 remainder of the costs of implementing the manage-
11 ment mechanisms during the fiscal year.

12 “(6) ADMINISTRATIVE COSTS.—Administrative
13 costs shall not exceed 10 percent of the annual grant
14 award.

15 “(7) REPORTING.—On or before October 1 of
16 each fiscal year, the Administrator shall make avail-
17 able to the public a document that lists and de-
18 scribes, in the greatest practicable degree of detail—

19 “(A) all projects and activities funded for
20 the fiscal year;

21 “(B) the goals and objectives of projects
22 funded for the previous fiscal year; and

23 “(C) the net benefits of projects funded for
24 previous fiscal years.

1 “(f) FEDERAL FACILITIES AND BUDGET COORDINA-
2 TION.—

3 “(1) SUBWATERSHED PLANNING AND RESTORA-
4 TION.—A Federal agency that owns or operates a
5 facility (as defined by the Administrator) within the
6 Chesapeake Bay watershed shall participate in re-
7 gional and subwatershed planning and restoration
8 programs.

9 “(2) COMPLIANCE WITH AGREEMENT.—The
10 head of each Federal agency that owns or occupies
11 real property in the Chesapeake Bay watershed shall
12 ensure that the property, and actions taken by the
13 agency with respect to the property, comply with the
14 Chesapeake Bay Agreement, the Federal Agencies
15 Chesapeake Ecosystem Unified Plan, and any subse-
16 quent agreements and plans.

17 “(3) BUDGET COORDINATION.—

18 “(A) IN GENERAL.—As part of the annual
19 budget submission of each Federal agency with
20 projects or grants related to restoration, plan-
21 ning, monitoring, or scientific investigation of
22 the Chesapeake Bay ecosystem, the head of the
23 agency shall submit to the President a report
24 that describes plans for the expenditure of the
25 funds under this section.

1 “(B) DISCLOSURE TO THE COUNCIL.—The
2 head of each agency referred to in subpara-
3 graph (A) shall disclose the report under that
4 subparagraph with the Chesapeake Executive
5 Council as appropriate.

6 “(g) CHESAPEAKE BAY PROGRAM.—

7 “(1) MANAGEMENT STRATEGIES.—The Admin-
8 istrator, in coordination with other members of the
9 Chesapeake Executive Council, shall ensure that
10 management plans are developed and implementa-
11 tion is begun by signatories to the Chesapeake Bay
12 Agreement to achieve and maintain—

13 “(A) the nutrient goals of the Chesapeake
14 Bay Agreement for the quantity of nitrogen and
15 phosphorus entering the Chesapeake Bay and
16 its watershed;

17 “(B) the water quality requirements nec-
18 essary to restore living resources in the Chesa-
19 peake Bay ecosystem;

20 “(C) the Chesapeake Bay Basinwide Tox-
21 ins Reduction and Prevention Strategy goal of
22 reducing or eliminating the input of chemical
23 contaminants from all controllable sources to
24 levels that result in no toxic or bioaccumulative

1 impact on the living resources of the Chesapeake Bay ecosystem or on human health;

2 “(D) habitat restoration, protection, and
3 enhancement goals established by Chesapeake
4 Bay Agreement signatories for wetlands, ripar-
5 ian forests, and other types of habitat associ-
6 ated with the Chesapeake Bay ecosystem; and

7 “(E) the restoration, protection, and en-
8 hancement goals established by the Chesapeake
9 Bay Agreement signatories for living resources
10 associated with the Chesapeake Bay ecosystem.

11 “(2) SMALL WATERSHED GRANTS PROGRAM.—
12 The Administrator, in cooperation with the Chesapeake
13 Executive Council, shall—

14 “(A) establish a small watershed grants
15 program as part of the Chesapeake Bay Pro-
16 gram; and

17 “(B) offer technical assistance and assist-
18 ance grants under subsection (d) to local gov-
19 ernments and nonprofit organizations and indi-
20 viduals in the Chesapeake Bay region to
21 implement—

22 “(i) cooperative tributary basin strate-
23 gies that address the water quality and liv-
24

1 ing resource needs in the Chesapeake Bay
2 ecosystem; and

3 “(ii) locally based protection and res-
4 toration programs or projects within a wa-
5 tershed that complement the tributary
6 basin strategies.

7 “(h) STUDY OF CHESAPEAKE BAY PROGRAM.—

8 “(1) IN GENERAL.—Not later than April 22,
9 2001, and every 5 years thereafter, the Adminis-
10 trator, in coordination with the Chesapeake Execu-
11 tive Council, shall complete a study and submit to
12 Congress a comprehensive report on the results of
13 the study.

14 “(2) REQUIREMENTS.—The study and report
15 shall—

16 “(A) assess the state of the Chesapeake
17 Bay ecosystem;

18 “(B) assess the appropriateness of commit-
19 ments and goals of the Chesapeake Bay Pro-
20 gram and the management strategies estab-
21 lished under the Chesapeake Bay Agreement
22 for improving the state of the Chesapeake Bay
23 ecosystem;

24 “(C) assess the effectiveness of manage-
25 ment strategies being implemented on the date

1 of enactment of this subsection and the extent
2 to which the priority needs are being met;

3 “(D) make recommendations for the im-
4 proved management of the Chesapeake Bay
5 Program either by strengthening strategies
6 being implemented on the date of enactment of
7 this subsection or by adopting new strategies;
8 and

9 “(E) be presented in such a format as to
10 be readily transferable to and usable by other
11 watershed restoration programs.

12 “(i) SPECIAL STUDY OF LIVING RESOURCE RE-
13 SPONSE.—

14 “(1) IN GENERAL.—Not later than 180 days
15 after the date of enactment of this subsection, the
16 Administrator shall commence a 5-year special study
17 with full participation of the scientific community of
18 the Chesapeake Bay to establish and expand under-
19 standing of the response of the living resources of
20 the Chesapeake Bay ecosystem to improvements in
21 water quality that have resulted from investments
22 made through the Chesapeake Bay Program.

23 “(2) REQUIREMENTS.—The study shall—

24 “(A) determine the current status and
25 trends of living resources, including grasses,

1 benthos, phytoplankton, zooplankton, fish, and
2 shellfish;

3 “(B) establish to the extent practicable the
4 rates of recovery of the living resources in re-
5 sponse to improved water quality condition;

6 “(C) evaluate and assess interactions of
7 species, with particular attention to the impact
8 of changes within and among trophic levels; and

9 “(D) recommend management actions to
10 optimize the return of a healthy and balanced
11 ecosystem in response to improvements in the
12 quality and character of the waters of the
13 Chesapeake Bay.

14 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
15 is authorized to be appropriated to carry out this section
16 \$30,000,000 for each of fiscal years 2001 through 2006.”.

17 **TITLE III—LONG ISLAND SOUND**

18 **SEC. 301. REAUTHORIZATION.**

19 Section 119(e) of the Federal Water Pollution Con-
20 trol Act (33 U.S.C. 1269(e)) is amended—

21 (1) in paragraph (1), by striking “1991
22 through 2001” and inserting “2001 through 2006”;
23 and

24 (2) in paragraph (2), by striking “not to exceed
25 \$3,000,000 for each of the fiscal years 1991 through

- 1 2001” and inserting “not to exceed \$10,000,000 for
- 2 each of fiscal years 2001 through 2006”.

Passed the Senate March 30, 2000.

Attest:

Secretary.

106TH CONGRESS
2D SESSION

S. 835

AN ACT

To encourage the restoration of estuary habitat through more efficient project financing and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes.

S 835 ES—2

S 835 ES—3

S 835 ES—4

S 835 ES—5