

Calendar No. 507

105TH CONGRESS
2^D SESSION

S. 1222

[Report No. 105-273]

A BILL

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

JULY 29, 1998

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1997

Mr. CHAFEE (for himself, Mr. BREAUX, Mr. LIEBERMAN, Mr. FAIRCLOTH, Mr. ROBB, Mr. SARBANES, Mr. D'AMATO, Mrs. MURRAY, Mr. MURKOWSKI, Mr. WARNER, Mr. REED, Ms. LANDRIEU, Mr. GRAHAM, Ms. MIKULSKI, Mr. DODD, Mr. MOYNIHAN, Mr. MACK, Mr. LOTT, Mr. GREGG, Mr. AKAKA, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. TORRICELLI, Mrs. BOXER, Mr. COVERDELL, Mr. WYDEN, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JULY 29, 1998

Reported by Mr. CHAFEE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To catalyze restoration of estuary habitat through more efficient financing of projects 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.**

4 This Act may be cited as the “Estuary Habitat Res-
5 toration Partnership Act of 1997”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the estuaries and coastal regions of the
9 United States are home to half the population of the
10 United States;

11 (2) the traditions, economy, and quality of life
12 of many communities depend on the natural abun-
13 dance and health of the estuaries;

14 (3) approximately 75 percent of the commercial
15 fish and shellfish of the United States depend on es-
16 tuaries at some stage in their life cycle;

17 (4) the varied habitats of estuaries and other
18 coastal waters provide jobs to 28,000,000 United
19 States citizens in commercial and sport fishing, tour-
20 ism, recreation, and other industries, with fishing
21 alone contributing \$111,000,000,000 to the United
22 States economy each year;

23 (5) despite the many values of estuaries, estu-
24 aries are gravely threatened by estuary habitat alter-
25 ation and loss;

1 (6) the accumulated loss of estuary habitat,
2 reaching over 90 percent in some estuaries, threat-
3 ens the ecological and economic bounty of regions
4 experiencing the loss, and can be reversed only by
5 action to restore lost and degraded estuary habitat;

6 (7) the demands on Federal, State, and local
7 funding for estuary habitat restoration activities ex-
8 ceed available resources and prompt serious concerns
9 about the ability of the United States to restore es-
10 tuary habitat vital to efforts to restore, preserve,
11 and protect the health of estuaries;

12 (8) successful restoration of estuaries demands
13 the full coordination of Federal and State estuary
14 habitat restoration programs;

15 (9) to succeed in restoring estuaries, it is im-
16 portant to link estuary habitat restoration projects
17 to broader ecosystem planning in order to establish
18 restoration programs that are effective in the long
19 term;

20 (10) efficient leveraging of scarce public re-
21 sources and new and innovative market-based fund-
22 ing for estuary habitat restoration activities would
23 generate real returns on investments for commu-
24 nities through improvement of the vibrancy and
25 health of estuaries;

1 (11) the Federal, State, and private cooperation
2 in estuary habitat restoration activities in existence
3 on the date of enactment of this Act should be
4 strengthened and new public and public-private estu-
5 ary habitat restoration partnerships established; and

6 (12) such new partnerships would help ensure
7 the ecological and economic vibrancy of estuaries for
8 the benefit of future generations.

9 **SEC. 3. PURPOSES.**

10 The purposes of this Act are—

11 (1) to establish a voluntary, community-driven,
12 incentive-based program that will catalyze the res-
13 toration of 1,000,000 acres of estuary habitat by
14 2010;

15 (2) to encourage enhanced coordination and
16 leveraging of Federal, State, and community estuary
17 habitat restoration programs, plans, and studies;

18 (3) to establish effective estuary habitat res-
19 toration partnerships among public agencies at all
20 levels of government and between the public and pri-
21 vate sectors;

22 (4) to promote efficient financing of estuary
23 habitat restoration activities to help better leverage
24 limited Federal funding; and

1 (5) to develop and enhance monitoring and
 2 maintenance capabilities designed to ensure that res-
 3 toration efforts build on the successes of past and
 4 current efforts and scientific understanding.

5 **SEC. 4. DEFINITIONS.**

6 In this Act:

7 (1) **COLLABORATIVE COUNCIL.**—The term “Col-
 8 laborative Council” means the interagency council
 9 established by section 5.

10 (2) **DEGRADED ESTUARY HABITAT.**—The term
 11 “degraded estuary habitat” means estuary habitat
 12 where natural ecological functions have been im-
 13 paired and normal beneficial uses have been reduced.

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

15 (A) a body of water in which fresh water
 16 from a river or stream meets and mixes with
 17 salt water from the ocean; and

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

20 (4) **ESTUARY HABITAT.**—

21 (A) **IN GENERAL.**—The term “estuary
 22 habitat” means the complex of physical and hy-
 23 drologic features and living organisms within
 24 estuaries and associated ecosystems.

1 (B) INCLUSIONS.—The term “estuary
 2 habitat” includes salt and fresh water coastal
 3 marshes, coastal forested wetlands and other
 4 coastal wetlands, tidal flats, natural shoreline
 5 areas, shellfish beds, sea grass meadows, kelp
 6 beds, river deltas, and river and stream banks
 7 under tidal influence.

8 (5) ESTUARY HABITAT RESTORATION ACTIV-
 9 ITY.—

10 (A) IN GENERAL.—The term “estuary
 11 habitat restoration activity” means an activity
 12 that results in improving degraded estuary
 13 habitat (including both physical and functional
 14 restoration), with the goal of attaining a self-
 15 sustaining, ecologically based system integrated
 16 into the surrounding landscape.

17 (B) INCLUDED ACTIVITIES.—The term
 18 “estuary habitat restoration activity” in-
 19 cludes—

20 (i) the reestablishment of physical fea-
 21 tures and biological and hydrologic func-
 22 tions;

23 (ii) except as provided in subpara-
 24 graph (C)(ii), the cleanup of contamina-
 25 tion;

1 (iii) the control of nonnative and
2 invasive species;

3 (iv) the reintroduction of native or
4 ecologically beneficial species through
5 planting or natural succession; and

6 (v) other activities that improve estu-
7 ary habitat.

8 (C) EXCLUDED ACTIVITIES.—The term
9 “estuary habitat restoration activity” does not
10 include—

11 (i) an act that constitutes mitigation
12 for the adverse effects of an activity regu-
13 lated or otherwise governed by Federal or
14 State law; or

15 (ii) an act that constitutes satisfaction
16 of liability for natural resource damages
17 under any Federal or State law.

18 (6) ESTUARY HABITAT RESTORATION
19 PROJECT.—The term “estuary habitat restoration
20 project” means an estuary habitat restoration activ-
21 ity under consideration or selected by the Collabo-
22 rative Council, in accordance with this Act, to re-
23 ceive financial, technical, or another form of assist-
24 ance.

1 (7) ESTUARY HABITAT RESTORATION STRAT-
2 EGY.—The term “estuary habitat restoration strat-
3 egy” means the estuary habitat restoration strategy
4 developed under section 6(a).

5 (8) FEDERAL ESTUARY MANAGEMENT OR HABI-
6 TAT RESTORATION PLAN.—The term “Federal estu-
7 ary management or habitat restoration plan” means
8 any Federal plan for restoration of degraded estuary
9 habitat that—

10 (A) was developed by a public body with
11 the substantial participation of appropriate
12 public and private stakeholders; and

13 (B) reflects a community-based planning
14 process.

15 (9) PERSON.—The term “person” includes an
16 entity of a Federal, State, or local government, an
17 Indian tribe, an entity organized or existing under
18 the law of a State, and a nongovernmental organiza-
19 tion.

20 (10) SECRETARY.—The term “Secretary”
21 means the Secretary of the Army, or a designee.

22 (11) UNDER SECRETARY.—The term “Under
23 Secretary” means the Under Secretary for Oceans
24 and Atmosphere of the Department of Commerce, or
25 a designee.

1 **SEC. 5. ESTABLISHMENT OF COLLABORATIVE COUNCIL.**

2 (a) **COLLABORATIVE COUNCIL.**—There is established
3 an interagency council to be known as the “Estuary Habi-
4 tat Restoration Collaborative Council”.

5 (b) **MEMBERSHIP.**—The Collaborative Council shall
6 be composed of the Secretary, the Under Secretary, the
7 Administrator of the Environmental Protection Agency,
8 the Secretary of the Interior (acting through the Director
9 of the United States Fish and Wildlife Service), the Sec-
10 retary of Agriculture, and the Secretary of Transpor-
11 tation, or their designees.

12 (c) **CONVENING OF COLLABORATIVE COUNCIL.**—The
13 Secretary shall—

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

17 (2) convene additional meetings as often as ap-
18 propriate to ensure that this Act is fully carried out,
19 but not less often than quarterly.

20 (d) **COLLABORATIVE COUNCIL PROCEDURES.**—

21 (1) **QUORUM.**—Three members of the Collabo-
22 rative Council shall constitute a quorum.

23 (2) **VOTING AND MEETING PROCEDURES.**—The
24 Collaborative Council shall establish procedures for
25 voting and the conduct of meetings by the Council.

1 **SEC. 6. DUTIES OF COLLABORATIVE COUNCIL.**

2 (a) **ESTUARY HABITAT RESTORATION STRATEGY.**—

3 (1) **IN GENERAL.**—

4 (A) **DEVELOPMENT.**—Not later than 1
5 year after the date of enactment of this Act, the
6 Collaborative Council, in consultation with rep-
7 resentatives from coastal States and nonprofit
8 organizations with expertise in estuary habitat
9 restoration, shall develop an estuary habitat
10 restoration strategy designed to ensure a com-
11 prehensive approach to the selection and
12 prioritization of estuary habitat restoration
13 projects and the full coordination of Federal
14 and non-Federal activities related to restoration
15 of estuary habitat.

16 (B) **PROVISION OF NATIONAL FRAME-**
17 **WORK.**—The estuary habitat restoration strat-
18 egy shall provide a national framework for estu-
19 ary habitat restoration activities by—

20 (i) identifying existing estuary habitat
21 restoration plans;

22 (ii) integrating overlapping estuary
23 habitat restoration plans; and

24 (iii) identifying appropriate processes
25 for the development of estuary habitat res-
26 toration plans where needed.

1 (2) INTEGRATION OF PREVIOUSLY AUTHORIZED
2 ESTUARY HABITAT RESTORATION PLANS, PROGRAMS,
3 AND PARTNERSHIPS.—In developing the estuary
4 habitat restoration strategy, the Collaborative Council shall—
5

6 (A) conduct a review of—

7 (i) Federal estuary management or
8 habitat restoration plans; and

9 (ii) Federal programs established
10 under other law that provide funding for
11 estuary habitat restoration activities;

12 (B) develop, based on best management
13 practices, a framework for fully coordinating
14 and streamlining the activities of the Federal
15 plans and programs referred to in subpara-
16 graph (A);

17 (C) develop a set of proposals for—

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

23 (ii) leveraging Federal resources to
24 encourage increased private sector involve-

1 ment in estuary habitat restoration activi-
2 ties; and

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

8 ~~(3) ELEMENTS TO BE CONSIDERED.—~~Consist-
9 ent with the requirements of this section, the Col-
10 laborative Council, in the development of the estuary
11 habitat restoration strategy, shall consider—

12 ~~(A)~~ the contributions of estuary habitat
13 to—

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

17 (ii) fish and shellfish, including com-
18 mercial and sport fisheries;

19 (iii) surface and ground water quality
20 and quantity, and flood control;

21 (iv) outdoor recreation; and

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

1 (B) the estimated historic losses, estimated
2 current rate of loss, and extent of the threat of
3 future loss or degradation of each type of estu-
4 ary habitat;

5 (C) the most appropriate method for se-
6 lecting estuary habitat restoration projects es-
7 sential to—

8 (i) the proper protection and preserva-
9 tion of an estuary ecosystem;

10 (ii) the implementation of a Federal
11 estuary management or habitat restoration
12 plan; or

13 (iii) the selection by the Collaborative
14 Council of an appropriate balance of small-
15 er and larger estuary habitat restoration
16 projects; and

17 (D) procedures to minimize duplicative and
18 conflicting application requirements for public
19 and private landowners seeking assistance for
20 estuary habitat restoration activities.

21 (4) COMMUNITY ADVICE.—The Collaborative
22 Council shall seek the advice of experts in restora-
23 tion of estuary habitat from the private, including
24 nonprofit, sectors to assist in the development of an
25 estuary habitat restoration strategy.

1 (5) PUBLIC REVIEW AND COMMENT.—Before
2 adopting a final estuary habitat restoration strategy,
3 the Collaborative Council shall publish in the Fed-
4 eral Register a draft of the estuary habitat restora-
5 tion strategy and provide an opportunity for public
6 review and comment.

7 (b) ESTABLISHMENT OF PROJECT APPLICATION AND
8 SELECTION CRITERIA.—

9 (1) IN GENERAL.—Consistent with the other
10 provisions of this section, the Collaborative Council
11 shall establish—

12 (A) application procedures to be followed
13 by States and other non-Federal persons to
14 nominate estuary habitat restoration activities
15 for consideration by the Collaborative Council
16 for assistance under this Act;

17 (B) criteria for determining eligibility for
18 financial assistance under this Act for an estu-
19 ary habitat restoration project;

20 (C) application procedures and criteria for
21 granting a reduction in the minimum non-Fed-
22 eral share requirement, in accordance with sec-
23 tion 7(d)(2); and

1 ~~(D)~~ such other criteria as the Collaborative
2 Council determines to be reasonable and nec-
3 essary in carrying out this Act.

4 ~~(2)~~ PROPOSALS.—A proposal for an estuary
5 habitat restoration project shall originate from a
6 non-Federal person and shall require, when appro-
7 priate, the approval of State or local agencies.

8 ~~(3)~~ FACTORS TO BE TAKEN INTO ACCOUNT.—
9 The criteria established under paragraph ~~(1)~~ shall
10 provide for the consideration of the following factors
11 in determining the eligibility of an estuary habitat
12 restoration project for financial assistance under this
13 Act and in prioritizing the selection of estuary habi-
14 tat restoration projects by the Collaborative Council:

15 ~~(A)~~ Whether the proposed estuary habitat
16 restoration project meets the criteria specified
17 in the estuary habitat restoration strategy.

18 ~~(B)~~ The technical merit and feasibility of
19 the proposed estuary habitat restoration
20 project.

21 ~~(C)~~ Whether the non-Federal persons pro-
22 posing the estuary habitat restoration project
23 can provide satisfactory assurances that they
24 will have adequate personnel, funding, and au-

1 thority to carry out and properly maintain the
2 estuary habitat restoration project.

3 ~~(D) Whether, in the State in which a pro-~~
4 ~~posed estuary habitat restoration project is to~~
5 ~~be carried out, there is a State dedicated source~~
6 ~~of funding for programs to acquire or restore~~
7 ~~estuary habitat, natural areas, and open spaces.~~

8 ~~(E) Whether the proposed estuary habitat~~
9 ~~restoration project will encourage the increased~~
10 ~~coordination and cooperation of Federal, State,~~
11 ~~and local Government agencies.~~

12 ~~(F) The level of private matching fund or~~
13 ~~in-kind contributions to the estuary habitat res-~~
14 ~~toration project.~~

15 ~~(G) Whether the proposed habitat restora-~~
16 ~~tion project includes a monitoring plan to en-~~
17 ~~sure that short-term and long-term restoration~~
18 ~~goals are achieved.~~

19 ~~(H) Other factors that the Collaborative~~
20 ~~Council determines to be reasonable and nec-~~
21 ~~essary for consideration.~~

22 ~~(4) PRIORITY ESTUARY HABITAT RESTORATION~~
23 ~~PROJECTS.—~~

24 ~~(A) DESIGNATION.—The Collaborative~~
25 ~~Council may designate an estuary habitat res-~~

1 toration project as a priority estuary habitat
2 restoration project if, in addition to meeting the
3 selection criteria specified in this section—

4 (i) the estuary habitat restoration
5 project addresses a restoration goal identi-
6 fied in the estuary habitat restoration
7 strategy;

8 (ii) the estuary habitat restoration
9 project is part of an approved Federal es-
10 tuary management or habitat restoration
11 plan;

12 (iii) the non-Federal share with re-
13 spect to the estuary habitat restoration
14 project exceeds 50 percent; or

15 (iv) there is a nonpoint source pro-
16 gram upstream of the estuary habitat res-
17 toration project that addresses upstream
18 sources that would otherwise re-impair the
19 restored habitat.

20 (B) EFFECT OF DESIGNATION.—A priority
21 estuary habitat restoration project shall be
22 given a higher priority in receipt of funding
23 under this Act.

24 (c) INTERIM ACTIONS.—

1 (1) ~~IN GENERAL.~~—Pending completion of the
2 estuary habitat restoration strategy developed under
3 subsection (a), the Collaborative Council may pay
4 the Federal share of the cost of an interim action to
5 carry out an estuary habitat restoration activity.

6 (2) ~~FEDERAL SHARE.~~—The Federal share shall
7 not exceed 25 percent.

8 (d) ~~COOPERATION OF NON-FEDERAL PARTNERS.~~—

9 (1) ~~IN GENERAL.~~—The Collaborative Council
10 shall not select an estuary habitat restoration project
11 until each non-Federal interest has entered into a
12 written cooperation agreement in accordance with
13 section 221(a) of the Flood Control Act of 1970 (42
14 U.S.C. 1962d-5b(a)).

15 (2) ~~MAINTENANCE AND MONITORING.~~—A co-
16 operation agreement entered into under paragraph
17 (1) shall provide for maintenance and monitoring of
18 the estuary habitat restoration project to the extent
19 determined necessary by the Collaborative Council.

20 (e) ~~LEAD COLLABORATIVE COUNCIL MEMBER.~~—The
21 Collaborative Council shall designate a lead Collaborative
22 Council member for each proposed estuary habitat res-
23 toration project. The lead Collaborative Council member
24 shall have primary responsibility for overseeing and assist-
25 ing others in implementing the proposed project.

1 (f) AGENCY CONSULTATION AND COORDINATION.—

2 (1) IN GENERAL.—In carrying out this section,
3 the Collaborative Council shall consult with, cooper-
4 ate with, and coordinate its activities with the activi-
5 ties of other appropriate Federal agencies, as deter-
6 mined by the Collaborative Council.

7 (2) USE OF COORDINATING MECHANISMS.—The
8 Collaborative Council shall work to ensure that Fed-
9 eral agency coordinating and streamlining mecha-
10 nisms established under other law are fully used in
11 cases in which the Collaborative Council determines
12 the use of the mechanisms to be appropriate.

13 (g) BENEFITS AND COSTS OF ESTUARY HABITAT
14 RESTORATION PROJECTS.—The Collaborative Council
15 shall evaluate the benefits and costs of estuary habitat res-
16 toration projects in accordance with section 907 of the
17 Water Resources Development Act of 1986 (33 U.S.C.
18 2284).

19 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to the Department of the
21 Army for the administration and operation of the Collabo-
22 rative Council \$4,000,000 for each fiscal year.

1 **SEC. 7. COST SHARING OF ESTUARY HABITAT RESTORA-**
2 **TION PROJECTS.**

3 (a) **IN GENERAL.**—No financial assistance in carry-
4 ing out an estuary habitat restoration project shall be
5 available under this Act from any Federal agency unless
6 the non-Federal applicant for assistance demonstrates to
7 the satisfaction of the Collaborative Council that the estu-
8 ary habitat restoration project meets—

9 (1) the requirements of this Act; and

10 (2) any criteria established by the Collaborative
11 Council under this Act.

12 (b) **FEDERAL SHARE.**—

13 (1) **IN GENERAL.**—Except as provided in para-
14 graph (2), for each fiscal year, the Federal share of
15 the cost of an estuary habitat restoration project as-
16 sisted under this Act shall be not less than 25 per-
17 cent and not more than 65 percent.

18 (2) **INCREASED FEDERAL SHARE.**—In the case
19 of an estuary habitat restoration project with respect
20 to which the applicant demonstrates need under sub-
21 section (d)(2), the Federal share of the cost of the
22 project shall not exceed 75 percent.

23 (c) **PAYMENT OF FEDERAL SHARE UNDER OTHER**
24 **LAW.**—The Collaborative Council may use funds made
25 available under this Act to pay all or part of the Federal
26 share of the cost of an estuary habitat restoration activity

1 eligible for funding under a program established under an-
2 other provision of law, if the activity would also be eligible
3 for funding under this Act as an estuary habitat restora-
4 tion project.

5 (d) NON-FEDERAL SHARE.—

6 (1) IN-KIND CONTRIBUTIONS.—The non-Fed-
7 eral share of the cost of an estuary habitat restora-
8 tion project may be provided in the form of land,
9 easements, rights-of-way, services, or any other form
10 of in-kind contribution determined by the Collabora-
11 tive Council to be an appropriate contribution
12 equivalent to the monetary amount required for the
13 non-Federal share of the estuary habitat restoration
14 project.

15 (2) REDUCED NON-FEDERAL SHARE.—An ap-
16 plicant for assistance in carrying out an estuary
17 habitat restoration project may submit an applica-
18 tion for a reduction in the requirement of the pay-
19 ment of a non-Federal share of at least 35 percent,
20 if the applicant submits a statement of need and
21 demonstrates a need for a reduced non-Federal
22 share in accordance with section 103(m) of the
23 Water Resources Development Act of 1986 (33
24 U.S.C. 2213(m)).

1 (c) ALLOCATION OF FUNDS BY STATES TO POLITI-
 2 CAL SUBDIVISIONS.—With the approval of the Secretary,
 3 a State may allocate to any local government, area wide
 4 agency designated under section 204 of the Demonstration
 5 Cities and Metropolitan Development Act of 1966 (42
 6 U.S.C. 3334), regional agency, or interstate agency, a por-
 7 tion of any funds disbursed by the Collaborative Council
 8 to the State for the purpose of carrying out an estuary
 9 habitat restoration project.

10 **SEC. 8. MONITORING AND MAINTENANCE OF ESTUARY**
 11 **HABITAT RESTORATION PROJECTS.**

12 (a) DATABASE OF RESTORATION PROJECT INFORMA-
 13 TION.—The Under Secretary shall maintain an appro-
 14 priate database of information concerning estuary habitat
 15 restoration projects funded by the Collaborative Council,
 16 including information on project techniques, project com-
 17 pletion, monitoring data, and other relevant information.

18 (b) REPORT.—

19 (1) IN GENERAL.—The Collaborative Council
 20 shall biennially submit a report to the Committee on
 21 Environment and Public Works of the Senate and
 22 the Committee on Transportation and Infrastructure
 23 of the House of Representatives on the results of ac-
 24 tivities carried out under this Act.

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

3 (A) data on the number of acres of estuary
4 habitat restored under this Act, including the
5 number of projects approved and completed
6 that comprise those acres;

7 (B) the percentage of restored estuary
8 habitat monitored under a plan to ensure that
9 short-term and long-term restoration goals are
10 achieved;

11 (C) an estimate of the long-term success of
12 varying restoration techniques used in carrying
13 out estuary habitat restoration projects;

14 (D) a review of how the Collaborative
15 Council has incorporated the information de-
16 scribed in subparagraphs (A) through (C) in
17 the selection and implementation of estuary
18 habitat restoration projects;

19 (E) a review of efforts made by the Col-
20 laborative Council to maintain an appropriate
21 database of restoration projects funded under
22 this Act; and

23 (F) a review of the measures that the Col-
24 laborative Council has taken to provide the in-
25 formation described in subparagraphs (A)

1 through (C) to persons with responsibility for
2 assisting in the restoration of estuary habitat.

3 **SEC. 9. MEMORANDA OF UNDERSTANDING.**

4 In carrying out this Act, the Collaborative Council
5 may—

6 (1) enter into cooperative agreements with per-
7 sons; and

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

10 **SEC. 10. DISTRIBUTION OF APPROPRIATIONS FOR ESTU-
11 ARY HABITAT RESTORATION ACTIVITIES.**

12 The Secretary shall allocate funds made available to
13 carry out this Act based on the need for the funds and
14 such other factors as the Collaborative Council determines
15 to be appropriate to carry out this Act.

16 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) AUTHORIZATIONS OF APPROPRIATIONS UNDER
18 OTHER LAW.—Funds authorized to be appropriated
19 under section 908 of the Water Resources Development
20 Act of 1986 (33 U.S.C. 2285) and section 206 of the
21 Water Resources Development Act of 1996 (33 U.S.C.
22 2330) may be used by the Secretary in accordance with
23 this Act to assist States and other non-Federal persons
24 in carrying out estuary habitat restoration projects or in-
25 terim actions under section 6(c).

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary to carry
3 out this Act—

4 (1) \$40,000,000 for fiscal year 1999;

5 (2) \$50,000,000 for fiscal year 2000; and

6 (3) \$75,000,000 for each of fiscal years 2001
7 through 2003.

8 **SEC. 12. GENERAL PROVISIONS.**

9 (a) ADDITIONAL AUTHORITY FOR ARMY CORPS OF
10 ENGINEERS.—The Secretary—

11 (1) may carry out estuary habitat restoration
12 projects as determined by the Collaborative Council;
13 and

14 (2) shall give estuary habitat restoration
15 projects the same consideration (as determined by
16 the Collaborative Council) as projects relating to ir-
17 rigation, navigation, or flood control.

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

23 (c) ESTUARY HABITAT RESTORATION MISSION.—
24 The Secretary shall establish restoration of estuary habi-
25 tat as a primary mission of the Army Corps of Engineers.

1 (d) FEDERAL AGENCY FACILITIES AND PERSON-
2 NEL.—

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

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

14 (e) COLLABORATIVE COUNCIL ADMINISTRATIVE EX-
15 PENSES AND STAFFING.—Not later than 180 days after
16 the date of enactment of this Act, the Comptroller General
17 of the United States shall submit to Congress and the Sec-
18 retary an analysis of the extent to which the Collaborative
19 Council needs additional personnel and administrative re-
20 sources to fully carry out its duties under this Act. The
21 analysis shall include recommendations regarding nec-
22 essary additional funding.

23 (f) APPLICATION OF AND CONSISTENCY WITH
24 OTHER LAWS.—Except as specifically provided in this
25 Act—

1 (1) nothing in this Act supersedes or modifies
2 any Federal law in existence on the date of enact-
3 ment of this Act; and

4 (2) each action by a Federal agency under this
5 Act shall be carried out in a manner that is consist-
6 ent with such law.

7 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

8 (a) *SHORT TITLE.*—This Act may be cited as the “Es-
9 tuary Habitat Restoration Partnership Act of 1998”.

10 (b) *TABLE OF CONTENTS.*—The table of contents of this
11 Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ESTUARY HABITAT RESTORATION

Sec. 101. Findings.

Sec. 102. Purposes.

Sec. 103. Definitions.

Sec. 104. Establishment of Collaborative Council.

Sec. 105. Duties of Collaborative Council.

Sec. 106. Cost sharing of estuary habitat restoration projects.

Sec. 107. Monitoring and maintenance of estuary habitat restoration projects.

Sec. 108. Cooperative agreements; memoranda of understanding.

Sec. 109. Distribution of appropriations for estuary habitat restoration activities.

Sec. 110. Authorization of appropriations.

Sec. 111. National estuary program.

Sec. 112. General provisions.

TITLE II—CHESAPEAKE BAY AND OTHER REGIONAL INITIATIVES

Sec. 201. Chesapeake Bay.

Sec. 202. Chesapeake Bay gateways and watertrails.

Sec. 203. Pfiesteria and other aquatic toxins research and grant program.

Sec. 204. Long Island Sound.

12 **TITLE I—ESTUARY HABITAT**
13 **RESTORATION**

14 **SEC. 101. FINDINGS.**

15 *Congress finds that—*

1 (1) *estuaries provide some of the most eco-*
2 *logically and economically productive habitat for an*
3 *extensive variety of plants, fish, wildlife, and water-*
4 *fowl;*

5 (2) *the estuaries and coastal regions of the*
6 *United States are home to one-half the population of*
7 *the United States and provide essential habitat for 75*
8 *percent of the Nation's commercial fish catch and 80*
9 *to 90 percent of its recreational fish catch;*

10 (3) *estuaries are gravely threatened by habitat*
11 *alteration and loss from pollution, development, and*
12 *overuse;*

13 (4) *successful restoration of estuaries demands*
14 *the coordination of Federal, State, and local estuary*
15 *habitat restoration programs; and*

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

21 **SEC. 102. PURPOSES.**

22 *The purposes of this title are—*

23 (1) *to establish a voluntary program to restore*
24 *1,000,000 acres of estuary habitat by 2010;*

1 (2) *to ensure coordination of Federal, State, and*
2 *community estuary habitat restoration programs,*
3 *plans, and studies;*

4 (3) *to establish effective estuary habitat restora-*
5 *tion partnerships among public agencies at all levels*
6 *of government and between the public and private sec-*
7 *tors;*

8 (4) *to promote efficient financing of estuary*
9 *habitat restoration activities; and*

10 (5) *to develop and enhance monitoring and re-*
11 *search capabilities to ensure that restoration efforts*
12 *are based on sound scientific understanding.*

13 **SEC. 103. DEFINITIONS.**

14 *In this title:*

15 (1) *COLLABORATIVE COUNCIL.*—*The term “Col-*
16 *laborative Council” means the interagency council es-*
17 *tablished by section 104.*

18 (2) *DEGRADED ESTUARY HABITAT.*—*The term*
19 *“degraded estuary habitat” means estuary habitat*
20 *where natural ecological functions have been impaired*
21 *and normal beneficial uses have been reduced.*

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

23 (A) *a body of water in which fresh water*
24 *from a river or stream meets and mixes with salt*
25 *water from the ocean; and*

1 (B) *the physical, biological, and chemical*
2 *elements associated with such a body of water.*

3 (4) *ESTUARY HABITAT.—*

4 (A) *IN GENERAL.—The term “estuary habi-*
5 *tat” means the complex of physical and hydro-*
6 *logic features and living organisms within estu-*
7 *aries and associated ecosystems.*

8 (B) *INCLUSIONS.—The term “estuary habi-*
9 *tat” includes salt and fresh water coastal*
10 *marshes, coastal forested wetlands and other*
11 *coastal wetlands, maritime forests, coastal grass-*
12 *lands, tidal flats, natural shoreline areas, shell-*
13 *fish beds, sea grass meadows, kelp beds, river del-*
14 *tas, and river and stream banks under tidal in-*
15 *fluence.*

16 (5) *ESTUARY HABITAT RESTORATION ACTIV-*
17 *ITY.—*

18 (A) *IN GENERAL.—The term “estuary habi-*
19 *tat restoration activity” means an activity that*
20 *results in improving degraded estuary habitat*
21 *(including both physical and functional restora-*
22 *tion), with the goal of attaining a self-sustaining*
23 *system integrated into the surrounding land-*
24 *scape.*

1 (B) *INCLUDED ACTIVITIES.*—The term “es-
2 tuary habitat restoration activity” includes—

3 (i) *the reestablishment of physical fea-*
4 *tures and biological and hydrologic func-*
5 *tions;*

6 (ii) *except as provided in subpara-*
7 *graph (C)(ii), the cleanup of contamination*
8 *related to the restoration of estuary habitat;*

9 (iii) *the control of non-native and*
10 *invasive species;*

11 (iv) *the reintroduction of native species*
12 *through planting or natural succession; and*

13 (v) *other activities that improve estu-*
14 *ary habitat.*

15 (C) *EXCLUDED ACTIVITIES.*—The term “es-
16 tuary habitat restoration activity” does not in-
17 clude—

18 (i) *an act that constitutes mitigation*
19 *for the adverse effects of an activity regu-*
20 *lated or otherwise governed by Federal or*
21 *State law; or*

22 (ii) *an act that constitutes restitution*
23 *for natural resource damages required*
24 *under any Federal or State law.*

1 (6) *ESTUARY HABITAT RESTORATION*
2 *PROJECT.—The term “estuary habitat restoration*
3 *project” means an estuary habitat restoration activity*
4 *under consideration or selected by the Collaborative*
5 *Council, in accordance with this title, to receive fi-*
6 *nancial, technical, or another form of assistance.*

7 (7) *ESTUARY HABITAT RESTORATION STRAT-*
8 *EGY.—The term “estuary habitat restoration strat-*
9 *egy” means the estuary habitat restoration strategy*
10 *developed under section 105(a).*

11 (8) *FEDERAL ESTUARY MANAGEMENT OR HABI-*
12 *TAT RESTORATION PLAN.—The term “Federal estuary*
13 *management or habitat restoration plan” means any*
14 *Federal plan for restoration of degraded estuary habi-*
15 *tat that—*

16 (A) *was developed by a public body with the*
17 *substantial participation of appropriate public*
18 *and private stakeholders; and*

19 (B) *reflects a community-based planning*
20 *process.*

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

23 (10) *UNDER SECRETARY.—The term “Under*
24 *Secretary” means the Under Secretary for Oceans*

1 *and Atmosphere of the Department of Commerce, or*
2 *a designee.*

3 **SEC. 104. ESTABLISHMENT OF COLLABORATIVE COUNCIL.**

4 *(a) COLLABORATIVE COUNCIL.—There is established*
5 *an interagency council to be known as the “Estuary Habi-*
6 *tat Restoration Collaborative Council”.*

7 *(b) MEMBERSHIP.—*

8 *(1) IN GENERAL.—The Collaborative Council*
9 *shall be composed of the Secretary, the Under Sec-*
10 *retary, the Administrator of the Environmental Pro-*
11 *tection Agency, and the Secretary of the Interior (act-*
12 *ing through the Director of the United States Fish*
13 *and Wildlife Service), or their designees.*

14 *(2) CHAIRPERSON; LEAD AGENCY.—The Sec-*
15 *retary, or designee, shall chair the Collaborative*
16 *Council, and the Department of the Army shall serve*
17 *as the lead agency.*

18 *(c) CONVENING OF COLLABORATIVE COUNCIL.—The*
19 *Secretary shall—*

20 *(1) convene the first meeting of the Collaborative*
21 *Council not later than 30 days after the date of enact-*
22 *ment of this Act; and*

23 *(2) convene additional meetings as often as ap-*
24 *propriate to ensure that this title is fully carried out,*
25 *but not less often than quarterly.*

1 (d) *COLLABORATIVE COUNCIL PROCEDURES.*—

2 (1) *QUORUM.*—Three members of the Collaborative Council shall constitute a quorum.

3
4 (2) *VOTING AND MEETING PROCEDURES.*—The Collaborative Council shall establish procedures for voting and the conduct of meetings by the Council.

7 **SEC. 105. DUTIES OF COLLABORATIVE COUNCIL.**

8 (a) *ESTUARY HABITAT RESTORATION STRATEGY.*—

9 (1) *IN GENERAL.*—Not later than 1 year after the date of enactment of this Act, the Collaborative Council, in consultation with non-Federal participants, including nonprofit sectors, as appropriate, shall develop an estuary habitat restoration strategy designed to ensure a comprehensive approach to the selection and prioritization of estuary habitat restoration projects and the coordination of Federal and non-Federal activities related to restoration of estuary habitat.

19 (2) *INTEGRATION OF PREVIOUSLY AUTHORIZED ESTUARY HABITAT RESTORATION PLANS, PROGRAMS, AND PARTNERSHIPS.*—In developing the estuary habitat restoration strategy, the Collaborative Council shall—

24 (A) conduct a review of—

1 (i) *Federal estuary management or*
2 *habitat restoration plans; and*

3 (ii) *Federal programs established*
4 *under other law that provide funding for es-*
5 *tuary habitat restoration activities;*

6 (B) *develop a set of proposals for—*

7 (i) *using programs established under*
8 *this or any other Act to maximize the in-*
9 *centives for the creation of new public-pri-*
10 *vate partnerships to carry out estuary habi-*
11 *tat restoration projects; and*

12 (ii) *using Federal resources to encour-*
13 *age increased private sector involvement in*
14 *estuary habitat restoration activities; and*

15 (C) *ensure that the estuary habitat restora-*
16 *tion strategy is developed and will be imple-*
17 *mented in a manner that is consistent with the*
18 *findings and requirements of Federal estuary*
19 *management or habitat restoration plans.*

20 (3) *ELEMENTS TO BE CONSIDERED.—Consistent*
21 *with the requirements of this section, the Collabo-*
22 *rative Council, in the development of the estuary*
23 *habitat restoration strategy, shall consider—*

24 (A) *the contributions of estuary habitat*
25 *to—*

1 (i) *wildlife, including endangered and*
2 *threatened species, migratory birds, and*
3 *resident species of an estuary watershed;*

4 (ii) *fish and shellfish, including com-*
5 *mercial and sport fisheries;*

6 (iii) *surface and ground water quality*
7 *and quantity, and flood control;*

8 (iv) *outdoor recreation; and*

9 (v) *other areas of concern that the Col-*
10 *laborative Council determines to be appro-*
11 *priate for consideration;*

12 (B) *the estimated historic losses, estimated*
13 *current rate of loss, and extent of the threat of*
14 *future loss or degradation of each type of estuary*
15 *habitat; and*

16 (C) *the most appropriate method for select-*
17 *ing a balance of smaller and larger estuary habi-*
18 *tat restoration projects.*

19 (4) *ADVICE.—The Collaborative Council shall*
20 *seek advice in restoration of estuary habitat from ex-*
21 *perts in the private and nonprofit sectors to assist in*
22 *the development of an estuary habitat restoration*
23 *strategy.*

24 (5) *PUBLIC REVIEW AND COMMENT.—Before*
25 *adopting a final estuary habitat restoration strategy,*

1 *the Collaborative Council shall publish in the Federal*
2 *Register a draft of the estuary habitat restoration*
3 *strategy and provide an opportunity for public review*
4 *and comment.*

5 *(b) PROJECT APPLICATIONS.—*

6 *(1) IN GENERAL.—An application for an estuary*
7 *habitat restoration project shall originate from a non-*
8 *Federal organization and shall require, when appro-*
9 *priate, the approval of State or local agencies.*

10 *(2) FACTORS TO BE TAKEN INTO ACCOUNT.—In*
11 *determining the eligibility of an estuary habitat res-*
12 *toration project for financial assistance under this*
13 *title, the Collaborative Council shall consider the fol-*
14 *lowing:*

15 *(A) Whether the proposed estuary habitat*
16 *restoration project meets the criteria specified in*
17 *the estuary habitat restoration strategy.*

18 *(B) The technical merit and feasibility of*
19 *the proposed estuary habitat restoration project.*

20 *(C) Whether the non-Federal persons pro-*
21 *posing the estuary habitat restoration project*
22 *provide satisfactory assurances that they will*
23 *have adequate personnel, funding, and authority*
24 *to carry out and properly maintain the estuary*
25 *habitat restoration project.*

1 (D) Whether, in the State in which a pro-
2 posed estuary habitat restoration project is to be
3 carried out, there is a State dedicated source of
4 funding for programs to acquire or restore estu-
5 ary habitat, natural areas, and open spaces.

6 (E) Whether the proposed estuary habitat
7 restoration project will encourage the increased
8 coordination and cooperation of Federal, State,
9 and local government agencies.

10 (F) The amount of private funds or in-kind
11 contributions for the estuary habitat restoration
12 project.

13 (G) Whether the proposed habitat restora-
14 tion project includes a monitoring plan to ensure
15 that short-term and long-term restoration goals
16 are achieved.

17 (H) Other factors that the Collaborative
18 Council determines to be reasonable and nec-
19 essary for consideration.

20 (4) *PRIORITY ESTUARY HABITAT RESTORATION*
21 *PROJECTS.*—An estuary habitat restoration project
22 shall be given a higher priority in receipt of funding
23 under this title if, in addition to meeting the selection
24 criteria specified in this section—

1 (A) the estuary habitat restoration project is
2 part of an approved Federal estuary manage-
3 ment or habitat restoration plan;

4 (B) the non-Federal share with respect to
5 the estuary habitat restoration project exceeds 50
6 percent; or

7 (C) there is a program within the watershed
8 of the estuary habitat restoration project that ad-
9 dresses sources of water pollution that would oth-
10 erwise re-impair the restored habitat.

11 (c) *INTERIM ACTIONS.*—

12 (1) *IN GENERAL.*—Pending completion of the es-
13 tuary habitat restoration strategy developed under
14 subsection (a), the Collaborative Council may pay the
15 Federal share of the cost of an interim action to carry
16 out an estuary habitat restoration activity.

17 (2) *FEDERAL SHARE.*—The Federal share shall
18 not exceed 25 percent.

19 (d) *COOPERATION OF NON-FEDERAL PARTNERS.*—

20 (1) *IN GENERAL.*—The Collaborative Council
21 shall not select an estuary habitat restoration project
22 until a non-Federal interest has entered into a writ-
23 ten agreement with the Secretary in which it agrees
24 to provide the required non-Federal cooperation for
25 the project.

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

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

13 (e) *LEAD COLLABORATIVE COUNCIL MEMBER.*—*The*
14 *Collaborative Council shall designate a lead Collaborative*
15 *Council member for each proposed estuary habitat restora-*
16 *tion project. The lead Collaborative Council member shall*
17 *have primary responsibility for overseeing and assisting*
18 *others in implementing the proposed project.*

19 (f) *AGENCY CONSULTATION AND COORDINATION.*—*In*
20 *carrying out this section, the Collaborative Council shall,*
21 *as the Collaborative Council determines it to be necessary,*
22 *consult with, cooperate with, and coordinate its activities*
23 *with the activities of other appropriate Federal agencies.*

24 (g) *BENEFITS AND COSTS OF ESTUARY HABITAT RES-*
25 *TORATION PROJECTS.*—*The Collaborative Council shall*

1 *evaluate the benefits and costs of estuary habitat restoration*
 2 *projects in accordance with section 907 of the Water Re-*
 3 *sources Development Act of 1986 (33 U.S.C. 2284).*

4 *(h) AUTHORIZATION OF APPROPRIATIONS.—There is*
 5 *authorized to be appropriated to the Department of the*
 6 *Army for the administration and operation of the Collabo-*
 7 *rative Council \$4,000,000 for each of fiscal years 1999*
 8 *through 2003.*

9 **SEC. 106. COST SHARING OF ESTUARY HABITAT RESTORA-**
 10 **TION PROJECTS.**

11 *(a) IN GENERAL.—No financial assistance in carrying*
 12 *out an estuary habitat restoration project shall be available*
 13 *under this title from any Federal agency unless the non-*
 14 *Federal applicant for assistance demonstrates that the estu-*
 15 *ary habitat restoration project meets—*

16 *(1) the requirements of this title; and*

17 *(2) any criteria established by the Collaborative*
 18 *Council under this title.*

19 *(b) FEDERAL SHARE.—The Federal share of the cost*
 20 *of an estuary habitat restoration and protection project as-*
 21 *sisted under this title shall be not more than 65 percent.*

22 *(c) NON-FEDERAL SHARE.—The non-Federal share of*
 23 *the cost of an estuary habitat restoration project may be*
 24 *provided in the form of land, easements, rights-of-way, serv-*
 25 *ices, or any other form of in-kind contribution determined*

1 *by the Collaborative Council to be an appropriate contribu-*
 2 *tion equivalent to the monetary amount required for the*
 3 *non-Federal share of the estuary habitat restoration project.*

4 *(d) ALLOCATION OF FUNDS BY STATES TO POLITICAL*
 5 *SUBDIVISIONS.—With the approval of the Secretary, a*
 6 *State may allocate to any local government, area-wide*
 7 *agency designated under section 204 of the Demonstration*
 8 *Cities and Metropolitan Development Act of 1966 (42*
 9 *U.S.C. 3334), regional agency, or interstate agency, a por-*
 10 *tion of any funds disbursed in accordance with this title*
 11 *for the purpose of carrying out an estuary habitat restora-*
 12 *tion project.*

13 **SEC. 107. MONITORING AND MAINTENANCE OF ESTUARY**
 14 **HABITAT RESTORATION PROJECTS.**

15 *(a) DATABASE OF RESTORATION PROJECT INFORMA-*
 16 *TION.—The Under Secretary shall maintain an appro-*
 17 *priate database of information concerning estuary habitat*
 18 *restoration projects funded under this title, including infor-*
 19 *mation on project techniques, project completion, monitor-*
 20 *ing data, and other relevant information.*

21 *(b) REPORT.—*

22 *(1) IN GENERAL.—The Collaborative Council*
 23 *shall biennially submit a report to the Committee on*
 24 *Environment and Public Works of the Senate and the*
 25 *Committee on Transportation and Infrastructure of*

1 *the House of Representatives on the results of activi-*
2 *ties carried out under this title.*

3 (2) *CONTENTS OF REPORT.—A report under*
4 *paragraph (1) shall include—*

5 (A) *data on the number of acres of estuary*
6 *habitat restored under this title, including the*
7 *number of projects approved and completed that*
8 *comprise those acres;*

9 (B) *the percentage of restored estuary habi-*
10 *tat monitored under a plan to ensure that short-*
11 *term and long-term restoration goals are*
12 *achieved;*

13 (C) *an estimate of the long-term success of*
14 *varying restoration techniques used in carrying*
15 *out estuary habitat restoration projects;*

16 (D) *a review of how the information de-*
17 *scribed in subparagraphs (A) through (C) has*
18 *been incorporated in the selection and implemen-*
19 *tation of estuary habitat restoration projects;*

20 (E) *a review of efforts made to maintain an*
21 *appropriate database of restoration projects*
22 *funded under this title; and*

23 (F) *a review of the measures taken to pro-*
24 *vide the information described in subparagraphs*
25 *(A) through (C) to persons with responsibility*

1 *for assisting in the restoration of estuary habi-*
2 *tat.*

3 **SEC. 108. COOPERATIVE AGREEMENTS; MEMORANDA OF UN-**
4 **DERSTANDING.**

5 *In carrying out this title, the Collaborative Council*
6 *may—*

7 (1) *enter into cooperative agreements with Fed-*
8 *eral, State, and local government agencies and other*
9 *persons and entities; and*

10 (2) *execute such memoranda of understanding as*
11 *are necessary to reflect the agreements.*

12 **SEC. 109. DISTRIBUTION OF APPROPRIATIONS FOR ESTU-**
13 **ARY HABITAT RESTORATION ACTIVITIES.**

14 *The Secretary shall allocate funds made available to*
15 *carry out this title based on the need for the funds and such*
16 *other factors as are determined to be appropriate to carry*
17 *out this title.*

18 **SEC. 110. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) *AUTHORIZATION OF APPROPRIATIONS UNDER*
20 *OTHER LAW.—Funds authorized to be appropriated under*
21 *section 908 of the Water Resources Development Act of 1986*
22 *(33 U.S.C. 2285) and section 206 of the Water Resources*
23 *Development Act of 1996 (33 U.S.C. 2330) may be used*
24 *by the Secretary in accordance with this title to assist*
25 *States and other non-Federal persons in carrying out estu-*

1 *ary habitat restoration projects or interim actions under*
2 *section 105(c).*

3 (b) *AUTHORIZATION OF APPROPRIATIONS.—There are*
4 *authorized to be appropriated to the Secretary to carry out*
5 *estuary habitat restoration activities—*

6 (1) *\$40,000,000 for fiscal year 1999;*

7 (2) *\$50,000,000 for fiscal year 2000; and*

8 (3) *\$75,000,000 for each of fiscal years 2001*
9 *through 2003.*

10 **SEC. 111. NATIONAL ESTUARY PROGRAM.**

11 (a) *GRANTS FOR COMPREHENSIVE CONSERVATION AND*
12 *MANAGEMENT PLANS.—Section 320(g)(2) of the Federal*
13 *Water Pollution Control Act (33 U.S.C. 1330(g)(2)) is*
14 *amended by inserting “and implementation” after “devel-*
15 *opment”.*

16 (b) *AUTHORIZATION OF APPROPRIATIONS.—Section*
17 *320(i) of the Federal Water Pollution Control Act (33*
18 *U.S.C. 1330(i)) is amended by striking “1987” and all that*
19 *follows through “1991” and inserting the following: “1987*
20 *through 1991, such sums as may be necessary for fiscal*
21 *years 1992 through 1998, and \$25,000,000 for each of fiscal*
22 *years 1999 and 2000”.*

23 **SEC. 112. GENERAL PROVISIONS.**

24 (a) *ADDITIONAL AUTHORITY FOR ARMY CORPS OF EN-*
25 *GINEERS.—The Secretary—*

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

3 (2) *shall give estuary habitat restoration projects*
4 *the same consideration as projects relating to irriga-*
5 *tion, navigation, or flood control.*

6 (b) *INAPPLICABILITY OF CERTAIN LAW.—Sections 203,*
7 *204, and 205 of the Water Resources Development Act of*
8 *1986 (33 U.S.C. 2231, 2232, and 2233) shall not apply to*
9 *an estuary habitat restoration project selected in accordance*
10 *with this title.*

11 (c) *ESTUARY HABITAT RESTORATION MISSION.—The*
12 *Secretary shall establish restoration of estuary habitat as*
13 *a primary mission of the Army Corps of Engineers.*

14 (d) *FEDERAL AGENCY FACILITIES AND PERSONNEL.—*

15 (1) *IN GENERAL.—Federal agencies may cooper-*
16 *ate in carrying out scientific and other programs nec-*
17 *essary to carry out this title, and may provide facili-*
18 *ties and personnel, for the purpose of assisting the*
19 *Collaborative Council in carrying out its duties under*
20 *this title.*

21 (2) *REIMBURSEMENT FROM COLLABORATIVE*
22 *COUNCIL.—Federal agencies may accept reimburse-*
23 *ment from the Collaborative Council for providing*
24 *services, facilities, and personnel under paragraph*
25 *(1).*

1 (e) *ADMINISTRATIVE EXPENSES AND STAFFING.*—Not
 2 later than 180 days after the date of enactment of this title,
 3 the Comptroller General of the United States shall submit
 4 to Congress and the Secretary an analysis of the extent to
 5 which the Collaborative Council needs additional personnel
 6 and administrative resources to fully carry out its duties
 7 under this title. The analysis shall include recommenda-
 8 tions regarding necessary additional funding.

9 **TITLE II—CHESAPEAKE BAY AND**
 10 **OTHER REGIONAL INITIATIVES**

11 **SEC. 201. CHESAPEAKE BAY.**

12 Section 117 of the Federal Water Pollution Control Act
 13 (33 U.S.C. 1267) is amended to read as follows:

14 **“SEC. 117. CHESAPEAKE BAY.**

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

16 “(1) *CHESAPEAKE BAY AGREEMENT.*—The term
 17 ‘Chesapeake Bay Agreement’ means the formal, vol-
 18 untary agreements, amendments, directives, and
 19 adoption statements executed to achieve the goal of re-
 20 storing and protecting the Chesapeake Bay ecosystem
 21 and the living resources of the ecosystem and signed
 22 by the Chesapeake Executive Council.

23 “(2) *CHESAPEAKE BAY PROGRAM.*—The term
 24 ‘Chesapeake Bay Program’ means the program di-

1 *rected by the Chesapeake Executive Council in accord-*
 2 *ance with the Chesapeake Bay Agreement.*

3 “(3) *CHESAPEAKE BAY WATERSHED.*—*The term*
 4 *‘Chesapeake Bay watershed’ shall have the meaning*
 5 *determined by the Administrator.*

6 “(4) *CHESAPEAKE EXECUTIVE COUNCIL.*—*The*
 7 *term ‘Chesapeake Executive Council’ means the sig-*
 8 *natories to the Chesapeake Bay Agreement.*

9 “(5) *SIGNATORY JURISDICTION.*—*The term ‘sig-*
 10 *natory jurisdiction’ means a jurisdiction of a signa-*
 11 *tory to the Chesapeake Bay Agreement.*

12 “(b) *CONTINUATION OF CHESAPEAKE BAY PRO-*
 13 *GRAM.*—

14 “(1) *IN GENERAL.*—*In cooperation with the*
 15 *Chesapeake Executive Council (and as a member of*
 16 *the Council), the Administrator shall continue the*
 17 *Chesapeake Bay Program.*

18 “(2) *PROGRAM OFFICE.*—*The Administrator*
 19 *shall maintain in the Environmental Protection*
 20 *Agency a Chesapeake Bay Program Office. The Ches-*
 21 *apeake Bay Program Office shall provide support to*
 22 *the Chesapeake Executive Council by—*

23 “(A) *implementing and coordinating*
 24 *science, research, modeling, support services,*

1 *monitoring, data collection, and other activities*
2 *that support the Chesapeake Bay Program;*

3 “(B) *developing and making available,*
4 *through publications, technical assistance, and*
5 *other appropriate means, information pertaining*
6 *to the environmental quality and living resources*
7 *of the Chesapeake Bay;*

8 “(C) *assisting the signatories to the Ches-*
9 *apeake Bay Agreement, in cooperation with ap-*
10 *propriate Federal, State, and local authorities,*
11 *in developing and implementing specific action*
12 *plans to carry out the responsibilities of the sig-*
13 *natories to the Chesapeake Bay Agreement;*

14 “(D) *coordinating the actions of the Envi-*
15 *ronmental Protection Agency with the actions of*
16 *the appropriate officials of other Federal agen-*
17 *cies and State and local authorities in develop-*
18 *ing strategies to—*

19 “(i) *improve the water quality and liv-*
20 *ing resources of the Chesapeake Bay; and*

21 “(ii) *obtain the support of the appro-*
22 *priate officials of the agencies and authori-*
23 *ties in achieving the objectives of the Chesa-*
24 *apeake Bay Agreement; and*

1 “(E) *implementing outreach programs for*
2 *public information, education, and participation*
3 *to foster stewardship of the resources of the*
4 *Chesapeake Bay.*

5 “(c) *INTERAGENCY AGREEMENTS.—The Administrator*
6 *may enter into an interagency agreement with a Federal*
7 *agency to carry out this section.*

8 “(d) *TECHNICAL ASSISTANCE AND ASSISTANCE*
9 *GRANTS.—*

10 “(1) *IN GENERAL.—In consultation with other*
11 *members of the Chesapeake Executive Council, the Ad-*
12 *ministrator may provide technical assistance, and as-*
13 *sistance grants, to nonprofit private organizations*
14 *and individuals, State and local governments, col-*
15 *leges, universities, and interstate agencies to carry out*
16 *this section, subject to such terms and conditions as*
17 *the Administrator considers appropriate.*

18 “(2) *FEDERAL SHARE.—*

19 “(A) *IN GENERAL.—Except as provided in*
20 *subparagraph (B), the Federal share of an assist-*
21 *ance grant provided under paragraph (1) shall*
22 *be determined by the Administrator in accord-*
23 *ance with Environmental Protection Agency*
24 *guidance.*

1 “(B) *SMALL WATERSHED GRANTS PRO-*
2 *GRAM.—The Federal share of an assistance grant*
3 *provided under paragraph (1) to carry out an*
4 *implementing activity under subsection (g)(2)*
5 *shall not exceed 75 percent of eligible project*
6 *costs, as determined by the Administrator.*

7 “(3) *NON-FEDERAL SHARE.—An assistance grant*
8 *under paragraph (1) shall be provided on the condi-*
9 *tion that non-Federal sources provide the remainder*
10 *of eligible project costs, as determined by the Admin-*
11 *istrator.*

12 “(4) *ADMINISTRATIVE COSTS.—Administrative*
13 *costs (including salaries, overhead, and indirect costs*
14 *for services provided and charged against projects*
15 *supported by funds made available under this sub-*
16 *section) incurred by a person described in paragraph*
17 *(1) in carrying out a project under this subsection*
18 *during a fiscal year shall not exceed 10 percent of the*
19 *grant made to the person under this subsection for the*
20 *fiscal year.*

21 “(e) *IMPLEMENTATION GRANTS.—*

22 “(1) *IN GENERAL.—If a signatory jurisdiction*
23 *has approved and committed to implement all or sub-*
24 *stantially all aspects of the Chesapeake Bay Agree-*
25 *ment, on the request of the chief executive of the juris-*

1 *diction, the Administrator shall make a grant to the*
2 *jurisdiction for the purpose of implementing the man-*
3 *agement mechanisms established under the Ches-*
4 *apeake Bay Agreement, subject to such terms and con-*
5 *ditions as the Administrator considers appropriate.*

6 *“(2) PROPOSALS.—A signatory jurisdiction de-*
7 *scribed in paragraph (1) may apply for a grant*
8 *under this subsection for a fiscal year by submitting*
9 *to the Administrator a comprehensive proposal to im-*
10 *plement management mechanisms established under*
11 *the Chesapeake Bay Agreement. The proposal shall in-*
12 *clude—*

13 *“(A) a description of proposed management*
14 *mechanisms that the jurisdiction commits to take*
15 *within a specified time period, such as reducing*
16 *or preventing pollution in the Chesapeake Bay*
17 *and to meet applicable water quality standards;*
18 *and*

19 *“(B) the estimated cost of the actions pro-*
20 *posed to be taken during the fiscal year.*

21 *“(3) APPROVAL.—If the Administrator finds that*
22 *the proposal is consistent with the Chesapeake Bay*
23 *Agreement and the national goals established under*
24 *section 101(a), the Administrator may approve the*
25 *proposal for a fiscal year.*

1 “(4) *FEDERAL SHARE.*—*The Federal share of an*
2 *implementation grant provided under this subsection*
3 *shall not exceed 50 percent of the costs of implement-*
4 *ing the management mechanisms during the fiscal*
5 *year.*

6 “(5) *NON-FEDERAL SHARE.*—*An implementation*
7 *grant under this subsection shall be made on the con-*
8 *dition that non-Federal sources provide the remainder*
9 *of the costs of implementing the management mecha-*
10 *nisms during the fiscal year.*

11 “(6) *ADMINISTRATIVE COSTS.*—*Administrative*
12 *costs (including salaries, overhead, and indirect costs*
13 *for services provided and charged against projects*
14 *supported by funds made available under this sub-*
15 *section) incurred by a signatory jurisdiction in car-*
16 *rying out a project under this subsection during a fis-*
17 *cal year shall not exceed 10 percent of the grant made*
18 *to the jurisdiction under this subsection for the fiscal*
19 *year.*

20 “(f) *COMPLIANCE OF FEDERAL FACILITIES.*—

21 “(1) *SUBWATERSHED PLANNING AND RESTORA-*
22 *TION.*—*A Federal agency that owns or operates a fa-*
23 *cility (as defined by the Administrator) within the*
24 *Chesapeake Bay watershed shall participate in re-*

1 *gional and subwatershed planning and restoration*
2 *programs.*

3 “(2) *COMPLIANCE WITH AGREEMENT.*—*The head*
4 *of each Federal agency that owns or occupies real*
5 *property in the Chesapeake Bay watershed shall en-*
6 *sure that the property, and actions taken by the agen-*
7 *cy with respect to the property, comply with the*
8 *Chesapeake Bay Agreement.*

9 “(g) *CHESAPEAKE BAY WATERSHED, TRIBUTARY, AND*
10 *RIVER BASIN PROGRAM.*—

11 “(1) *NUTRIENT AND WATER QUALITY MANAGE-*
12 *MENT STRATEGIES.*—*Not later than 1 year after the*
13 *date of enactment of this subsection, the Adminis-*
14 *trator, in consultation with other members of the*
15 *Chesapeake Executive Council, shall ensure that man-*
16 *agement plans are developed and implementation is*
17 *begun by signatories to the Chesapeake Bay Agree-*
18 *ment for the tributaries of the Chesapeake Bay to*
19 *achieve and maintain—*

20 “(A) *the nutrient goals of the Chesapeake*
21 *Bay Agreement for the quantity of nitrogen and*
22 *phosphorus entering the main stem Chesapeake*
23 *Bay;*

24 “(B) *the water quality requirements nec-*
25 *essary to restore living resources in both the trib-*

1 *utaries and the main stem of the Chesapeake*
2 *Bay;*

3 “(C) *the Chesapeake Bay basinwide toxics*
4 *reduction and prevention strategy goal of reduc-*
5 *ing or eliminating the input of chemical con-*
6 *taminants from all controllable sources to levels*
7 *that result in no toxic or bioaccumulative impact*
8 *on the living resources that inhabit the Bay or*
9 *on human health; and*

10 “(D) *habitat restoration, protection, and*
11 *enhancement goals established by Chesapeake*
12 *Bay Agreement signatories for wetlands, forest*
13 *riparian zones, and other types of habitat associ-*
14 *ated with the Chesapeake Bay and the tribu-*
15 *taries of the Chesapeake Bay.*

16 “(2) *SMALL WATERSHED GRANTS PROGRAM.—*
17 *The Administrator, in consultation with other mem-*
18 *bers of the Chesapeake Executive Council, may offer*
19 *the technical assistance and assistance grants author-*
20 *ized under subsection (d) to local governments and*
21 *nonprofit private organizations and individuals in*
22 *the Chesapeake Bay watershed to implement—*

23 “(A) *cooperative tributary basin strategies*
24 *that address the Chesapeake Bay’s water quality*
25 *and living resource needs; or*

1 “(B) locally based protection and restora-
2 tion programs or projects within a watershed
3 that complement the tributary basin strategies.

4 “(h) *STUDY OF CHESAPEAKE BAY PROGRAM.*—Not
5 later than December 31, 2000, and every 3 years thereafter,
6 the Administrator, in cooperation with other members of
7 the Chesapeake Executive Council, shall complete a study
8 and submit a comprehensive report to Congress on the re-
9 sults of the study. The study and report shall, at a mini-
10 mum—

11 “(1) assess the commitments and goals of the
12 management strategies established under the Ches-
13 apeake Bay Agreement and the extent to which the
14 commitments and goals are being met;

15 “(2) assess the priority needs required by the
16 management strategies and the extent to which the
17 priority needs are being met;

18 “(3) assess the effects of air pollution deposition
19 on water quality of the Chesapeake Bay;

20 “(4) assess the state of the Chesapeake Bay and
21 its tributaries and related actions of the Chesapeake
22 Bay Program;

23 “(5) make recommendations for the improved
24 management of the Chesapeake Bay Program; and

1 “(6) provide the report in a format transferable
2 to and usable by other watershed restoration pro-
3 grams.

4 “(i) *AUTHORIZATION OF APPROPRIATIONS.*—There is
5 authorized to be appropriated to carry out this section
6 \$30,000,000 for each of fiscal years 1999 through 2003.”.

7 **SEC. 202. CHESAPEAKE BAY GATEWAYS AND WATERTRAILS.**

8 (a) *CHESAPEAKE BAY GATEWAYS AND WATERTRAILS*
9 *NETWORK.*—

10 (1) *IN GENERAL.*—The Secretary of the Interior
11 (referred to in this section as the “Secretary”), in co-
12 operation with the Administrator of the Environ-
13 mental Agency (referred to in this section as the “Ad-
14 ministrator”), shall provide technical and financial
15 assistance, in cooperation with other Federal agencies,
16 State and local governments, nonprofit organizations,
17 and the private sector—

18 (A) to identify, conserve, restore, and inter-
19 pret natural, recreational, historical, and cul-
20 tural resources within the Chesapeake Bay Wa-
21 tershed;

22 (B) to identify and utilize the collective re-
23 sources as Chesapeake Bay Gateways sites for
24 enhancing public education of and access to the
25 Chesapeake Bay;

1 (C) to link the Chesapeake Bay Gateways
2 sites with trails, tour roads, scenic byways, and
3 other connections as determined by the Secretary;

4 (D) to develop and establish Chesapeake
5 Bay Watertrails comprising water routes and
6 connections to Chesapeake Bay Gateways sites
7 and other land resources within the Chesapeake
8 Bay Watershed; and

9 (E) to create a network of Chesapeake Bay
10 Gateways sites and Chesapeake Bay Watertrails.

11 (2) COMPONENTS.—Components of the Chesapeake Bay Gateways and Watertrails Network may
12 include—
13

14 (A) State or Federal parks or refuges;

15 (B) historic seaports;

16 (C) archaeological, cultural, historical, or
17 recreational sites; or

18 (D) other public access and interpretive
19 sites as selected by the Secretary.

20 (b) CHESAPEAKE BAY GATEWAYS GRANTS ASSISTANCE PROGRAM.—
21

22 (1) IN GENERAL.—The Secretary, in cooperation
23 with the Administrator, shall establish a Chesapeake
24 Bay Gateways Grants Assistance Program to aid
25 State and local governments, local communities, non-

1 *profit organizations, and the private sector in con-*
2 *servicing, restoring, and interpreting important his-*
3 *toric, cultural, recreational, and natural resources*
4 *within the Chesapeake Bay Watershed.*

5 (2) *CRITERIA.—The Secretary, in cooperation*
6 *with the Administrator, shall develop appropriate eli-*
7 *gibility, prioritization, and review criteria for grants*
8 *under this section.*

9 (3) *MATCHING FUNDS AND ADMINISTRATIVE EX-*
10 *PENSES.—A grant under this section—*

11 (A) *shall not exceed 50 percent of eligible*
12 *project costs;*

13 (B) *shall be made on the condition that*
14 *non-Federal sources, including in-kind contribu-*
15 *tions of services or materials, provide the re-*
16 *mainder of eligible project costs; and*

17 (C) *shall be made on the condition that not*
18 *more than 10 percent of all eligible project costs*
19 *be used for administrative expenses.*

20 (c) *AUTHORIZATION OF APPROPRIATIONS.—There is*
21 *authorized to be appropriated to carry out this section*
22 *\$3,000,000 for each of fiscal years 1999 through 2003.*

1 **SEC. 203. PFIESTERIA AND OTHER AQUATIC TOXINS RE-**
2 **SEARCH AND GRANT PROGRAM.**

3 (a) *IN GENERAL.*—*The Administrator of the Environ-*
4 *mental Protection Agency, the Secretary of Commerce (act-*
5 *ing through the Director of the National Marine Fisheries*
6 *Service of the National Oceanic and Atmospheric Adminis-*
7 *tration), the Secretary of Health and Human Services (act-*
8 *ing through the Director of the National Institute of Envi-*
9 *ronmental Health Sciences and the Director of the Centers*
10 *for Disease Control and Prevention), and the Secretary of*
11 *Agriculture shall—*

12 (1) *establish a research program for the eradi-*
13 *cation or control of Pfiesteria piscicida and other*
14 *aquatic toxins; and*

15 (2) *make grants to colleges, universities, and*
16 *other entities in affected States for the eradication or*
17 *control of Pfiesteria piscicida and other aquatic tox-*
18 *ins.*

19 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
20 *authorized to be appropriated to carry out this section*
21 *\$5,000,000 for each of fiscal years 1999 and 2000.*

22 **SEC. 204. LONG ISLAND SOUND.**

23 *Section 119(e) of the Federal Water Pollution Control*
24 *Act (33 U.S.C. 1269(e)) is amended—*

25 (1) *in paragraph (1), by striking “1991 through*
26 *2001” and inserting “1999 through 2003”; and*

1 (2) in paragraph (2), by striking “not to exceed
2 \$3,000,000 for each of the fiscal years 1991 through
3 2001” and inserting “\$10,000,000 for each of fiscal
4 years 1999 through 2003”.