

Union Calendar No. 366

106TH CONGRESS
2^D SESSION

H. R. 1775

[Report No. 106-561, Parts I and II]

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.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1999

Mr. GILCHREST (for himself, Mrs. TAUSCHER, Mr. FORBES, Mr. GOSS, Mr. BILBRAY, Mr. SHAYS, Mr. CARDIN, Mr. PRICE of North Carolina, Mrs. MORELLA, Mr. SAXTON, Mr. FOLEY, Mr. BENTSEN, Mr. McDERMOTT, Mr. METCALF, Mr. SMITH of Washington, Mr. GREENWOOD, Mr. INSLEE, Mr. DICKS, Ms. DELAURO, Mrs. LOWEY, Mr. ENGLISH, Mrs. KELLY, Mr. TAUZIN, and Mr. LAMPSON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

APRIL 4, 2000

Reported from the Committee on Transportation and Infrastructure with an amendment

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

APRIL 4, 2000

Referral to the Committee on Resources extended for a period ending not later than June 9, 2000

JUNE 9, 2000

Additional sponsors: Mr. HOYER, Mr. KENNEDY of Rhode Island, Mr. COOK, Mr. JOHN, Mr. ACKERMAN, Mr. JONES of North Carolina, Mr. WEYGAND, Mr. ROTHMAN, Mr. DAVIS of Florida, Mr. MEEHAN, Mr. PALLONE, Mr. FOSSELLA, Mr. EHLERS, Mr. WYNN, Mrs. JOHNSON of Connecticut, Mr. LAZIO, Mr. GEJDENSON, Mr. GREEN of Texas, Ms.

BROWN of Florida, Mr. BLUMENAUER, Mr. BAIRD, Mr. MCGOVERN, Mr. DELAHUNT, Ms. WOOLSEY, Ms. ESHOO, Ms. PELOSI, Mr. TIERNEY, Mr. DEUTSCH, Mr. CASTLE, Mr. HORN, Mr. GILMAN, Mr. FRANKS of New Jersey, Mr. CUMMINGS, Mr. WEXLER, Mr. CANADY of Florida, Mr. SMITH of New Jersey, Mr. MICA, Mr. LOBIONDO, Mr. DIAZ-BALART, Ms. VELAZQUEZ, Mr. BASS, Mr. PAYNE, Mr. HINCHEY, Mr. NADLER, Mr. GANSKE, Mr. MORAN of Virginia, Mr. DEFAZIO, Mr. TAYLOR of Mississippi, Mr. PASCRELL, Mr. FARR of California, Mr. FILNER, Mr. KUYKENDALL, Mr. WOLF, Mr. COOKSEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WAXMAN, Mr. CUNNINGHAM, Mr. LEWIS of California, Mr. HOEFFEL, Mr. HUNTER, Mr. TANCREDO, Mr. DAVIS of Virginia, Mr. ROMERO-BARCELO, Mr. CALLAHAN, Mr. WHITFIELD, Mr. JEFFERSON, Mrs. NAPOLITANO, Mr. VITTER, Mr. MCCRERY, Mr. PORTER, Mr. ABERCROMBIE, Mr. KING, Mr. EHRLICH, Mrs. FOWLER, Mr. FRELINGHUYSEN, Mrs. ROUKEMA, Mr. HOLDEN, Mr. SANDERS, Mr. ALLEN, Mr. PASTOR, Mr. KILDEE, Mr. MATSUI, Mr. GEORGE MILLER of California, Mr. BALDACCI, Mr. UPTON, Mr. HOUGHTON, Mr. RAMSTAD, Mr. BAKER, Mr. LEWIS of Kentucky, Mr. TRAFICANT, Mr. WELDON of Florida, Mr. THOMPSON of Mississippi, Mrs. THURMAN, Mr. LANTOS, Mr. CAMPBELL, Ms. LOFGREN, Ms. NORTON, Mr. FRANK of Massachusetts, and Mr. KIND.

JUNE 9, 2000

Reported from the Committee on Resources with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on May 12, 1999]

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,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Estuary Restoration Act*
3 *of 2000”.*

4 **SEC. 2. PURPOSES.**

5 *The purposes of this Act are—*

6 *(1) to promote the restoration of 1,000,000 acres*
7 *of estuary habitat by 2010;*

8 *(2) to promote the restoration of fresh water estu-*
9 *ary habitat;*

10 *(3) to develop strategies to obtain national and*
11 *regional objectives for estuary habitat restoration;*

12 *(4) to foster coordination of Federal, State, and*
13 *community estuary habitat restoration programs,*
14 *plans, and studies;*

15 *(5) to establish effective estuary habitat restora-*
16 *tion partnerships among public agencies at all levels*
17 *of government and between the public and private sec-*
18 *tors;*

19 *(6) to promote efficient financing of estuary*
20 *habitat restoration activities; and*

21 *(7) to develop and enhance monitoring and re-*
22 *search capabilities to ensure that estuary habitat res-*
23 *toration efforts are based on sound scientific under-*
24 *standing.*

25 **SEC. 3. DEFINITIONS.**

26 *In this Act, the following definitions apply:*

1 (1) *COUNCIL.*—*The term “Council” means the*
2 *Estuary Habitat Restoration Council established by*
3 *section 5.*

4 (2) *DEGRADED ESTUARY HABITAT.*—*The term*
5 *“degraded estuary habitat” means estuary habitat*
6 *where natural ecological functions have been impaired*
7 *and normal beneficial uses have been reduced.*

8 (3) *ESTUARY.*—*The term “estuary” means a*
9 *part of a river or stream or other body of water that*
10 *has an unimpaired connection with the open sea and*
11 *where the sea water is measurably diluted with fresh*
12 *water derived from land drainage. The term also in-*
13 *cludes a fresh water estuary.*

14 (4) *ESTUARY HABITAT.*—

15 (A) *IN GENERAL.*—*The term “estuary habi-*
16 *tat” means the physical, biological, and chemical*
17 *elements associated with an estuary, including*
18 *the complex of physical and hydrologic features*
19 *and living organisms within the estuary and as-*
20 *sociated ecosystems.*

21 (B) *INCLUDED HABITAT.*—*The term “estu-*
22 *ary habitat” includes salt and fresh water coast-*
23 *al marshes, coastal forested wetlands and other*
24 *coastal wetlands, maritime forests, coastal grass-*
25 *lands, tidal flats, natural shoreline areas, shell-*

1 *fish beds, sea grass meadows, kelp beds, river del-*
2 *tas, river and stream banks under tidal influ-*
3 *ence, and beds of submerged aquatic vegetation.*

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

6 (A) *IN GENERAL.—The term “estuary habi-*
7 *tat restoration activity” means an activity that*
8 *results in improving degraded estuary habitat*
9 *(including both physical and functional restora-*
10 *tion), with the goal of attaining a self-sustaining*
11 *system integrated into the surrounding land-*
12 *scape.*

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

15 (i) *the reestablishment of physical fea-*
16 *tures and biological and hydrologic func-*
17 *tions;*

18 (ii) *except as provided in section*
19 *4(b)(3), the cleanup of contamination re-*
20 *lated to the restoration of estuary habitat;*

21 (iii) *the control of nonnative and*
22 *invasive species;*

23 (iv) *the reintroduction of native spe-*
24 *cies; and*

1 (v) other activities that improve estu-
2 ary habitat.

3 (6) *ESTUARY HABITAT RESTORATION*
4 *PROJECT.—The term “estuary habitat restoration*
5 *project” means an estuary habitat restoration activity*
6 *under consideration or selected by the Secretary, in*
7 *accordance with this Act, to be carried out or receive*
8 *technical assistance under this Act.*

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

13 (8) *ESTUARY MANAGEMENT OR HABITAT RES-*
14 *TORATION PLAN.—The term “estuary management or*
15 *habitat restoration plan” means any plan for restora-*
16 *tion of degraded estuary habitat that—*

17 (A) was developed by, or in cooperation
18 with, a public body with the substantial partici-
19 pation of appropriate public and private stake-
20 holders; and

21 (B) reflects a community-based planning
22 process.

23 (9) *FRESH WATER ESTUARY.—The term “fresh*
24 *water estuary” means all or part of the mouth of a*
25 *river or stream or other body of water having*

1 *unimpaired natural connection with the Great Lakes*
2 *and within which the Great Lakes water is measur-*
3 *ably diluted with water derived from land drainage.*

4 (10) *GREAT LAKES REGION.*—*The term “Great*
5 *Lakes region” means the region consisting of the*
6 *States of Illinois, Indiana, Michigan, Minnesota, New*
7 *York, Ohio, Pennsylvania, and Wisconsin.*

8 (11) *GULF REGION.*—*The term “Gulf region”*
9 *means the region consisting of the States of Florida,*
10 *Alabama, Mississippi, Louisiana, and Texas.*

11 (12) *MIDDLE ATLANTIC REGION.*—*The term*
12 *“Middle Atlantic region” means the region consisting*
13 *of the States of New Jersey, Delaware, Maryland,*
14 *Pennsylvania, and Virginia and the District of Co-*
15 *lumbia.*

16 (13) *NORTHEAST REGION.*—*The term “Northeast*
17 *region” means the region consisting of the States of*
18 *Maine, New Hampshire, New York, Massachusetts,*
19 *Rhode Island, and Connecticut.*

20 (14) *NORTHWEST REGION.*—*The term “North-*
21 *west region” means the region consisting of the States*
22 *of Oregon, Washington, and Alaska.*

23 (15) *REGIONAL COUNCIL.*—*The term “Regional*
24 *Council” means a Regional Council of the Estuary*
25 *Habitat Restoration Council established by section 6.*

1 (16) *SECRETARY*.—The term “Secretary” means
2 the Secretary of the Army.

3 (17) *SOUTHEAST REGION*.—The term “Southeast
4 region” means the region consisting of the States of
5 North Carolina, South Carolina, Georgia, and Flor-
6 ida and the territories of Puerto Rico and the Virgin
7 Islands.

8 (18) *SOUTHWEST REGION*.—The term “South-
9 west region” means the region consisting of the States
10 of California and Hawaii and the territories of Amer-
11 ican Samoa, Guam, and the Northern Mariana Is-
12 lands.

13 (19) *STATE*.—The term “State” means a State,
14 the District of Columbia, or a territory in the Gulf,
15 Great Lakes, Middle Atlantic, Northeast, Northwest,
16 Southeast, or Southwest Region.

17 **SEC. 4. ESTUARY HABITAT RESTORATION PROGRAM.**

18 (a) *ESTABLISHMENT*.—There is established an estuary
19 habitat restoration program under which the Secretary may
20 carry out estuary habitat restoration projects in accordance
21 with the requirements of this Act.

22 (b) *SELECTION OF PROJECTS*.—

23 (1) *FACTORS TO BE TAKEN INTO ACCOUNT*.—In
24 selecting estuary habitat restoration projects to be
25 carried out under this Act, the Secretary shall, in

1 *consultation with the Council, take into account the*
2 *following factors:*

3 *(A) The recommendations of the Council.*

4 *(B) Whether the project meets the criteria*
5 *specified in the estuary habitat restoration strat-*
6 *egy.*

7 *(C) The technical merit and feasibility of*
8 *the project.*

9 *(D) Whether the non-Federal interests pro-*
10 *posing the project provide satisfactory assurances*
11 *that they will have adequate personnel, funding,*
12 *and authority to carry out and properly main-*
13 *tain the project.*

14 *(E) Whether the project will encourage in-*
15 *creased coordination and cooperation among*
16 *Federal, State, and local government agencies.*

17 *(F) Whether the project fosters public-pri-*
18 *vate partnerships and uses Federal resources to*
19 *encourage increased private sector involvement,*
20 *including consideration of the amount of private*
21 *funds or in-kind contributions for an estuary*
22 *habitat restoration activity.*

23 *(G) Whether the project includes a moni-*
24 *toring plan that is consistent with standards for*
25 *monitoring developed under section 9 to ensure*

1 *that short-term and long-term restoration goals*
2 *are achieved.*

3 *(H) Other factors that the Secretary deter-*
4 *mines to be reasonable and necessary for consid-*
5 *eration.*

6 (2) *PRIORITY.*—*In selecting estuary habitat res-*
7 *toration projects to be carried out under this Act, the*
8 *Secretary shall give priority consideration to a*
9 *project if, in addition to meeting the selection criteria*
10 *under paragraph (1)—*

11 *(A) the project is part of an estuary man-*
12 *agement or habitat restoration plan; or*

13 *(B) the project occurs within a watershed in*
14 *which there is a program being carried out that*
15 *addresses sources of pollution and other activities*
16 *that otherwise would re-impair the restored habi-*
17 *tat.*

18 (3) *EXCLUDED PROJECTS.*—*An estuary habitat*
19 *restoration project shall not be eligible to be carried*
20 *out under this Act if the project—*

21 *(A) constitutes mitigation required under*
22 *any Federal or State law for the adverse effects*
23 *of an activity regulated or otherwise governed by*
24 *Federal or State law; or*

1 (B) constitutes restoration for natural re-
2 source damages required under any Federal or
3 State law.

4 (c) COST SHARING.—

5 (1) FEDERAL SHARE.—The Federal share of the
6 cost of an estuary habitat restoration project carried
7 out under this Act shall not exceed 65 percent of such
8 cost.

9 (2) NON-FEDERAL SHARE.—The non-Federal
10 share of the cost of an estuary habitat restoration
11 project carried out under this Act shall include lands,
12 easements, rights-of-way, and relocations and may in-
13 clude services, or any other form of in-kind contribu-
14 tion determined by the Secretary to be an appropriate
15 contribution equivalent to the monetary amount re-
16 quired for the non-Federal share of the activity.

17 (d) INTERIM ACTIONS.—

18 (1) IN GENERAL.—Pending completion of the es-
19 tuary habitat restoration strategy to be developed
20 under section 7, the Secretary may take interim ac-
21 tions to carry out an estuary habitat restoration ac-
22 tivity.

23 (2) FEDERAL SHARE.—The Federal share of the
24 cost of an estuary habitat restoration activity before

1 *the completion of the estuary habitat restoration*
2 *strategy shall not exceed 25 percent of such cost.*

3 *(e) COOPERATION OF NON-FEDERAL PARTNERS.—*

4 *(1) IN GENERAL.—The Secretary shall not select*
5 *an estuary habitat restoration project until a non-*
6 *Federal interest has entered into a written agreement*
7 *with the Secretary in which the non-Federal interest*
8 *agrees to provide all lands, easements, rights-of-way,*
9 *and relocations and any other elements the Secretary*
10 *determines appropriate under subsection (c)(2).*

11 *(2) NONPROFIT ENTITIES.—Notwithstanding sec-*
12 *tion 221 of the Flood Control Act of 1970 (42 U.S.C.*
13 *1962d–5b(b)), for any project undertaken under this*
14 *Act, the Secretary may, after coordination with the*
15 *appropriate State and local officials responsible for*
16 *the political jurisdiction in which a project would*
17 *occur, allow a nonprofit entity to serve as the non-*
18 *Federal interest.*

19 *(3) MAINTENANCE AND MONITORING.—A co-*
20 *operation agreement entered into under paragraph*
21 *(1) shall provide for maintenance and monitoring of*
22 *the estuary habitat restoration project to the extent*
23 *the Secretary determines necessary.*

24 *(f) DELEGATION OF PROJECT IMPLEMENTATION.—In*
25 *carrying out this Act, the Secretary may delegate project*

1 *implementation to another Federal department or agency*
2 *on a reimbursable basis if the Secretary determines such*
3 *delegation is appropriate.*

4 **SEC. 5. ESTABLISHMENT OF ESTUARY HABITAT RESTORA-**
5 **TION COUNCIL.**

6 (a) *COUNCIL.*—*There is established a council to be*
7 *known as the “Estuary Habitat Restoration Council”.*

8 (b) *DUTIES.*—*The Council shall be responsible for—*

9 (1) *reviewing project proposals forwarded to the*
10 *Council from the Regional Councils and making rec-*
11 *ommendations concerning such proposals in accord-*
12 *ance with section 8(c);*

13 (2) *developing a national strategy for restoration*
14 *of estuary habitat; and*

15 (3) *periodically reviewing the effectiveness of the*
16 *national strategy in meeting the purposes of this Act*
17 *and, as necessary, updating the national strategy.*

18 (c) *MEMBERSHIP.*—*The Council shall be composed of*
19 *13 members as follows:*

20 (1) *The Secretary (or the Secretary’s designee).*

21 (2) *The Under Secretary for Oceans and Atmos-*
22 *phere of the Department of Commerce (or the Under*
23 *Secretary’s designee).*

24 (3) *The Administrator of the Environmental*
25 *Protection Agency (or the Administrator’s designee).*

1 (4) *The Secretary of the Interior, acting through*
2 *the Director of the United States Fish and Wildlife*
3 *Service (or the Secretary's designee).*

4 (5) *The Secretary of Agriculture (or the Sec-*
5 *retary's designee).*

6 (6) *The Secretary of Transportation (or the Sec-*
7 *retary's designee).*

8 (7) *One representative from each of the 7 Re-*
9 *gional Councils, selected by the Regional Council and*
10 *appointed by the Secretary.*

11 *(d) APPOINTMENT AND TERMS.—*

12 (1) *IN GENERAL.—Except as provided in para-*
13 *graph (2), members of the Council under subsection*
14 *(c)(7) shall be appointed for a term of 3 years.*

15 (2) *INITIAL MEMBERS.—Of the members first ap-*
16 *pointed under subsection (c)(7)—*

17 (A) *3 shall be appointed for a term of 1*
18 *year;*

19 (B) *2 shall be appointed for a term of 2*
20 *years; and*

21 (C) *2 shall be appointed for a term of 3*
22 *years.*

23 (3) *VACANCIES.—Whenever a vacancy occurs*
24 *among members of the Council appointed under sub-*
25 *section (c)(7), the Secretary shall appoint an indi-*

1 *vidual in accordance with such subsection to fill that*
2 *vacancy for the remainder of the applicable term.*

3 *(e) PROHIBITION OF COMPENSATION.—Members of the*
4 *Council may not receive compensation for their service as*
5 *members of the Council.*

6 *(f) CHAIRPERSON.—The chairperson shall be elected by*
7 *the Council from among its members for a 3-year term, ex-*
8 *cept that the first elected chairperson may serve a term of*
9 *fewer than 3 years.*

10 *(g) CONVENING OF COUNCIL.—*

11 *(1) FIRST MEETING.—The Secretary shall con-*
12 *vene the first meeting of the Council not later than*
13 *60 days after the date of enactment of this Act for the*
14 *purpose of electing a chairperson.*

15 *(2) ADDITIONAL MEETINGS.—The chairperson*
16 *shall convene additional meetings of the Council as*
17 *often as appropriate to ensure that this Act is fully*
18 *carried out, but not less often than annually.*

19 *(h) COUNCIL PROCEDURES.—The Council shall estab-*
20 *lish procedures for voting, the conduct of meetings, and*
21 *other matters, as necessary.*

22 *(i) PUBLIC PARTICIPATION.—Meetings of the Council*
23 *shall be open to the public. The Council shall provide notice*
24 *to the public of such meetings.*

1 (j) *COORDINATOR.*—*The Secretary shall appoint a Co-*
2 *ordinator who shall—*

3 (1) *be educated and experienced in estuary pro-*
4 *tection, restoration, and program management;*

5 (2) *be responsible, with assistance from the Sec-*
6 *retary, for facilitating consideration of estuary habi-*
7 *tat restoration projects by the Council and Regional*
8 *Councils and otherwise assisting the Council and Re-*
9 *gional Councils in carrying out their responsibilities*
10 *under this Act; and*

11 (3) *be compensated with funds available under*
12 *section 10(b).*

13 **SEC. 6. ESTABLISHMENT OF REGIONAL COUNCILS.**

14 (a) *REGIONAL COUNCILS.*—*There are established 7 Re-*
15 *gional Councils of the Estuary Habitat Restoration Coun-*
16 *cil. Each Regional Council shall represent a different one*
17 *of the following regions:*

18 (1) *The Gulf region.*

19 (2) *The Great Lakes region.*

20 (3) *The Middle Atlantic region.*

21 (4) *The Northeast region.*

22 (5) *The Northwest region.*

23 (6) *The Southeast region.*

24 (7) *The Southwest region.*

1 (b) *MEMBERSHIP.*—*The Governor of each State in the*
2 *region represented by the Regional Council may appoint*
3 *one representative to the Regional Council. The Regional*
4 *Council also may include such other members as the Gov-*
5 *ernors shall jointly designate.*

6 (c) *NONVOTING MEMBERSHIP.*—*A Regional Council*
7 *may appoint nonvoting members of the Regional Council*
8 *from relevant agencies, programs, and organizations,*
9 *including—*

10 (1) *relevant State agencies and regional and*
11 *field staff of relevant Federal agencies; and*

12 (2) *representatives of relevant coastal and estu-*
13 *ary programs, such as those developed under the*
14 *Coastal Zone Management Program or the National*
15 *Estuary Program.*

16 (d) *CHAIRPERSON.*—*A Regional Council shall select a*
17 *chairperson from among its members.*

18 (e) *DUTIES.*—*A Regional Council shall be responsible*
19 *for—*

20 (1) *developing a regional strategy that is con-*
21 *sistent with the national strategy for the review of*
22 *project proposals within the region;*

23 (2) *establishing technical criteria for project pro-*
24 *posals, which are consistent with the goals and prior-*
25 *ities of the regional and national strategies;*

1 (3) *soliciting, evaluating, and forwarding to the*
2 *Council proposals for estuary habitat restoration*
3 *projects;*

4 (4) *periodically reviewing the effectiveness of the*
5 *regional strategy toward meeting the goals and objec-*
6 *tives of the national strategy and recommending and*
7 *implementing improvements; and*

8 (5) *selecting from among the voting membership*
9 *a person to represent the Regional Council on the*
10 *Council.*

11 (f) *TECHNICAL SUPPORT.*—*Technical support may be*
12 *provided to a Regional Council by regional and field staff*
13 *of the Corps of Engineers, the Environmental Protection*
14 *Agency, the National Oceanic and Atmospheric Adminis-*
15 *tration, the United States Fish and Wildlife Service, the*
16 *Department of Agriculture, and the Department of Trans-*
17 *portation. The Secretary shall coordinate the provision of*
18 *such assistance.*

19 (g) *ADMINISTRATIVE SUPPORT SERVICES.*—*Upon the*
20 *request of a Regional Council, the Secretary may provide*
21 *to the Regional Council the administrative support services*
22 *necessary for the Regional Council to carry out its respon-*
23 *sibilities under this Act.*

1 **SEC. 7. ESTUARY HABITAT RESTORATION STRATEGY.**

2 (a) *IN GENERAL.*—Not later than 1 year after the date
3 of enactment of this Act, the Council, in consultation with
4 State and other non-Federal entities, including nonprofit
5 entities, as appropriate, shall develop an estuary habitat
6 restoration strategy designed to ensure a comprehensive ap-
7 proach to maximize benefits derived from estuary habitat
8 restoration projects and to foster the coordination of Federal
9 and non-Federal activities related to restoration of estuary
10 habitat.

11 (b) *INTEGRATION OF ESTUARY HABITAT RESTORA-*
12 *TION PLANS, PROGRAMS, AND PARTNERSHIPS.*—In devel-
13 oping the estuary habitat restoration strategy, the Council
14 shall—

15 (1) conduct a review of—

16 (A) estuary management or habitat restora-
17 tion plans; and

18 (B) Federal programs established under
19 other laws that authorize funding for estuary
20 habitat restoration activities;

21 (2) develop a set of proposals to maximize the in-
22 centives for the creation of new public-private part-
23 nerships to carry out estuary habitat restoration
24 projects and to use Federal resources to encourage in-
25 creased private sector involvement in estuary habitat
26 restoration activities; and

1 (3) *ensure that the estuary habitat restoration*
2 *strategy is developed and will be implemented in a*
3 *manner that is consistent with the estuary manage-*
4 *ment or habitat restoration plans.*

5 (c) *ELEMENTS TO BE CONSIDERED.*—*Consistent with*
6 *the requirements of this section, the Council in the develop-*
7 *ment of the estuary habitat restoration strategy, shall*
8 *consider—*

9 (1) *the contributions of estuary habitat to—*

10 (A) *providing healthy ecosystems in order to*
11 *support—*

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

16 (ii) *fish and shellfish, including com-*
17 *mercial and recreational fisheries;*

18 (B) *surface and ground water quality and*
19 *quantity, and flood control;*

20 (C) *outdoor recreation and other direct and*
21 *indirect values; and*

22 (D) *other areas of concern that the Council*
23 *determines to be appropriate for consideration;*

1 **(b) REVIEW BY REGIONAL COUNCILS.—**

2 **(1) IN GENERAL.—***A non-Federal interest may*
3 *submit a proposed estuary habitat restoration project*
4 *to the appropriate Regional Council for review.*

5 **(2) TECHNICAL ASSISTANCE.—***A Regional Coun-*
6 *cil receiving a proposal from a non-Federal interest*
7 *under paragraph (1) shall provide, as necessary, tech-*
8 *nical assistance to the non-Federal interest to ensure*
9 *that the proposal is complete.*

10 **(3) REVIEW.—***A Regional Council shall select for*
11 *each fiscal year those proposals for estuary habitat*
12 *restoration projects that the Regional Council deter-*
13 *mines are eligible to be carried out under this Act*
14 *under the factors specified in section 4(b)(1) and shall*
15 *transmit such proposals to the Council for further re-*
16 *view.*

17 **(c) CONSIDERATION BY COUNCIL.—***The Council shall*
18 *review the proposed estuary habitat restoration projects*
19 *transmitted to the Council by a Regional Council under*
20 *subsection (b) and, based on the factors specified in section*
21 *4(b)(1), shall recommend to the Secretary a priority order*
22 *for carrying out such projects. The Council's recommenda-*
23 *tion shall include a recommendation as to whether a project*
24 *should be carried out by the Secretary or by another Federal*
25 *department or agency under section 4(f).*

1 **SEC. 9. MONITORING AND MAINTENANCE OF ESTUARY**
2 **HABITAT RESTORATION PROJECTS.**

3 (a) *DATABASE OF RESTORATION PROJECT INFORMA-*
4 *TION.—The Under Secretary for Oceans and Atmosphere of*
5 *the Department of Commerce, in consultation with the Sec-*
6 *retary, shall develop and maintain an appropriate data-*
7 *base of information concerning estuary habitat restoration*
8 *projects carried out under this Act, including information*
9 *on project techniques, project completion, monitoring data,*
10 *and other relevant information.*

11 (b) *MONITORING DATA STANDARDS.—The Under Sec-*
12 *retary for Oceans and Atmosphere of the Department of*
13 *Commerce, in consultation with the Secretary, shall develop*
14 *standard data formats for monitoring projects, along with*
15 *requirements for types of data collected and frequency of*
16 *monitoring.*

17 (c) *REPORT.—*

18 (1) *IN GENERAL.—The Secretary, in consultation*
19 *with the Council, shall submit a report to Congress at*
20 *the end of the third and fifth fiscal years following the*
21 *date of enactment of this Act on the results of activi-*
22 *ties carried out under this Act.*

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

25 (A) *data on the number of acres of estuary*
26 *habitat restored under this Act, including the*

1 *number of projects approved and completed that*
2 *comprise those acres;*

3 *(B) the percentage of restored estuary habi-*
4 *tat monitored under a plan to ensure that short-*
5 *term and long-term restoration goals are*
6 *achieved;*

7 *(C) an estimate of the long-term success of*
8 *varying restoration techniques used in carrying*
9 *out estuary habitat restoration projects;*

10 *(D) a review of how the information de-*
11 *scribed in subparagraphs (A) through (C) has*
12 *been incorporated in the selection and implemen-*
13 *tation of estuary habitat restoration projects;*

14 *(E) a review of efforts made to maintain an*
15 *appropriate database of restoration projects car-*
16 *ried out under this Act; and*

17 *(F) a review of the measures taken to pro-*
18 *vide the information described in subparagraphs*
19 *(A) through (C) to persons with responsibility*
20 *for assisting in the restoration of estuary habi-*
21 *tat.*

22 **SEC. 10. FUNDING.**

23 *(a) AUTHORIZATION OF APPROPRIATIONS.—*

24 *(1) ESTUARY HABITAT RESTORATION*
25 *PROJECTS.—There is authorized to be appropriated to*

1 *the Secretary for estuary habitat restoration*
2 *projects—*

3 (A) \$40,000,000 for fiscal year 2001;

4 (B) \$50,000,000 for fiscal year 2002; and

5 (C) \$75,000,000 for each of fiscal years
6 2003 through 2005.

7 *Such amounts shall remain available until ex-*
8 *pended.*

9 (2) *MONITORING.—There is authorized to be ap-*
10 *propriated to the Under Secretary for Oceans and At-*
11 *mosphere of the Department of Commerce for the ac-*
12 *quisition, maintenance, and management of moni-*
13 *toring data on restoration projects carried out under*
14 *this Act, \$2,000,000 for each of fiscal years 2001*
15 *through 2005. Such amounts shall remain available*
16 *until expended.*

17 (b) *SET-ASIDE FOR ADMINISTRATIVE EXPENSES OF*
18 *THE COUNCIL AND REGIONAL COUNCILS.—Not to exceed 3*
19 *percent of the amounts appropriated for a fiscal year under*
20 *subsection (a)(1) or \$2,000,000, whichever is greater, may*
21 *be used by the Secretary for administration and operation*
22 *of the Council and Regional Councils.*

23 **SEC. 11. GENERAL PROVISIONS.**

24 (a) *ESTUARY HABITAT RESTORATION MISSION.—The*
25 *Secretary shall ensure that restoration of estuary habitat*

1 *is included as a primary mission of the Corps of Engineers*
2 *under section 306 of Water Resources Development Act of*
3 *1990 (33 U.S.C. 2316).*

4 (b) *AGENCY CONSULTATION AND COORDINATION.—In*
5 *carrying out this Act, the Secretary shall, as necessary, con-*
6 *sult with, cooperate with, and coordinate its activities with*
7 *the activities of other Federal departments and agencies.*

8 (c) *COOPERATIVE AGREEMENTS; MEMORANDA OF UN-*
9 *DERSTANDING.—In carrying out this Act, the Secretary*
10 *may—*

11 (1) *enter into cooperative agreements with Fed-*
12 *eral, State, and local government agencies and other*
13 *entities; and*

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

16 (d) *FEDERAL AGENCY FACILITIES AND PERSONNEL.—*
17 *Federal agencies may cooperate in carrying out scientific*
18 *and other programs necessary to carry out this Act, and*
19 *may provide facilities and personnel, for the purpose of as-*
20 *sisting the Council in carrying out its duties under this*
21 *Act.*

22 (e) *APPLICATION OF FEDERAL ADVISORY COMMITTEE*
23 *ACT.—The Council and Regional Councils shall not be con-*
24 *sidered advisory committees under the Federal Advisory*
25 *Committee Act (5 U.S.C. App.).*

1 (f) *IDENTIFICATION AND MAPPING OF DREDGED MA-*
2 *TERIAL DISPOSAL SITES.*—*In consultation with appro-*
3 *priate Federal and non-Federal public entities, the Sec-*
4 *retary shall undertake, and update as warranted by*
5 *changed conditions, surveys to identify and map sites ap-*
6 *propriate for beneficial uses of dredged material for the pro-*
7 *tection, restoration, and creation of aquatic and ecologically*
8 *related habitats, including wetlands, in order to further the*
9 *purposes of this Act.*

10 (g) *STUDY OF BIOREMEDIATION TECHNOLOGY.*—

11 (1) *IN GENERAL.*—*Not later than 180 days after*
12 *the date of enactment of this Act, the Administrator*
13 *of the Environmental Protection Agency, with the full*
14 *participation of the estuarine scientific community,*
15 *shall begin a 2-year study on the efficacy of bio-*
16 *remediation products.*

17 (2) *REQUIREMENTS.*—*The study shall—*

18 (A) *evaluate and assess bioremediation*
19 *technology—*

20 (i) *on low-level petroleum hydrocarbon*
21 *contamination from recreational boat bilges;*

22 (ii) *on low-level petroleum hydrocarbon*
23 *contamination from stormwater discharges;*

24 (iii) *on nonpoint petroleum hydro-*
25 *carbon discharges; and*

1 *(iv) as a first response tool for petro-*
2 *leum hydrocarbon spills; and*
3 *(B) recommend management actions to op-*
4 *timize the return of a healthy and balanced eco-*
5 *system and make improvements in the quality*
6 *and character of estuarine waters.*

7 **SECTION 1. SHORT TITLE.**

8 **This Act may be cited as the “Estuary Res-**
9 **toration Act of 2000”.**

10 **SEC. 2. PURPOSES.**

11 **The purposes of this Act are—**

12 **(1) to establish an Estuary Restora-**
13 **tion Council to coordinate existing Fed-**
14 **eral estuary restoration programs and to**
15 **select estuary restoration projects for**
16 **Federal assistance;**

17 **(2) to develop a national estuary res-**
18 **toration strategy for creating and main-**
19 **taining effective estuary restoration part-**
20 **nerships among public agencies at all lev-**
21 **els of government and to establish new**
22 **partnerships between the public and pri-**
23 **ivate sectors, including agricultural inter-**
24 **ests and estuary users;**

1 **(3) to provide Federal assistance for**
2 **estuary restoration projects and to pro-**
3 **mote efficient financing of such projects;**
4 **and**

5 **(4) to develop and enhance moni-**
6 **toring and research capabilities for estu-**
7 **ary restoration projects to ensure that**
8 **such projects are based on sound science**
9 **and to create a national database of estu-**
10 **ary restoration information.**

11 **SEC. 3. DEFINITIONS.**

12 **For the purposes of this Act, the following**
13 **definitions apply:**

14 **(1) COUNCIL.—The term “Council”**
15 **means the Estuary Restoration Council**
16 **established by section 4.**

17 **(2) ESTUARY.—**

18 **(A) IN GENERAL.—The term “estu-**
19 **ary” has the meaning given the terms**
20 **“estuarine zones” and “estuary” in**
21 **section 104(n)(4) of the Federal Water**
22 **Pollution Control Act (33 U.S.C.**
23 **1254(n)(4)).**

24 **(B) NEAR COASTAL WATERS AND**
25 **WETLANDS OF THE GREAT LAKES.—In ad-**

1 **dition to areas covered under sub-**
2 **paragraph (A), near coastal waters**
3 **and wetlands of the Great Lakes that**
4 **are similar in form and function to**
5 **estuaries shall be eligible for assist-**
6 **ance under this Act.**

7 **(3) ESTUARY RESTORATION.—**

8 **(A) IN GENERAL.—The term “estu-**
9 **ary restoration” means an activity**
10 **that results in improving degraded**
11 **estuaries or creating habitat (includ-**
12 **ing both physical and functional res-**
13 **toration), with the goal of attaining a**
14 **self-sustaining system integrated into**
15 **the surrounding landscape.**

16 **(B) INCLUDED ACTIVITIES.—The**
17 **term “estuary restoration” includes—**

18 **(i) the reestablishment of the**
19 **physical features, hydrology,**
20 **chemistry, and biological compo-**
21 **nents associated with an estuary;**

22 **(ii) except as provided in sub-**
23 **paragraph (C), the cleanup of con-**
24 **tamination related to the restora-**
25 **tion an estuary;**

1 **(iii) the control of non-native**
2 **and invasive species in the estu-**
3 **ary;**

4 **(iv) the reintroduction of spe-**
5 **cies native to the estuary, includ-**
6 **ing through such means as plant-**
7 **ing or promoting natural succes-**
8 **sion;**

9 **(v) the construction of reefs to**
10 **promote fish and shellfish pro-**
11 **duction and to provide habitat for**
12 **living resources; and**

13 **(vi) other activities that im-**
14 **prove the quality of an estuary**
15 **for human users, fish, wildlife,**
16 **and other living resources.**

17 **(C) EXCLUDED ACTIVITIES.—The**
18 **term “estuary restoration” does not**
19 **include—**

20 **(i) an act that constitutes**
21 **mitigation for the adverse effects**
22 **of an activity regulated or other-**
23 **wise required by Federal or State**
24 **law; or**

1 (ii) an act that constitutes res-
2 titution for natural resource dam-
3 ages required under any Federal
4 or State law.

5 (4) **PROJECT.**—The term “project”
6 means an estuary restoration project
7 under consideration or selected by the
8 Council under section 5 to receive finan-
9 cial, technical, or another form of assist-
10 ance.

11 (5) **FEDERAL ESTUARY MANAGEMENT OR**
12 **HABITAT RESTORATION PLAN.**—

13 (A) **IN GENERAL.**—The term “Fed-
14 eral estuary management or habitat
15 restoration plan” means any Federal
16 plan for the restoration of an estuary
17 or degraded estuary habitat that was
18 developed with the substantial par-
19 ticipation of appropriate public and
20 private stakeholders.

21 (B) **INCLUDED PLANS AND PRO-**
22 **GRAMS.**—The term “Federal estuary
23 management or habitat restoration
24 plan” includes—

1 **(i) a comprehensive conserva-**
2 **tion and management plan ap-**
3 **proved under section 320 of the**
4 **Federal Water Pollution Control**
5 **Act (33 U.S.C. 1330);**

6 **(ii) a plan submitted under**
7 **section 118 of the Federal Water**
8 **Pollution Control Act (33 U.S.C.**
9 **1268);**

10 **(iii) a management program**
11 **containing estuary restoration**
12 **components approved under the**
13 **Coastal Zone Management Act of**
14 **1972 (16 U.S.C. 1451 et seq.); and**

15 **(iv) the interstate manage-**
16 **ment plan developed pursuant to**
17 **the Chesapeake Bay Program**
18 **under section 117 of the Federal**
19 **Water Pollution Control Act (33**
20 **U.S.C. 1267).**

21 **(6) INDIAN TRIBE.—The term “Indian**
22 **tribe” has the meaning given such term**
23 **by section 4 of the Indian Self-Determina-**
24 **tion and Education Assistance Act (25**
25 **U.S.C. 450b).**

1 **(7) NON-FEDERAL INTEREST.**—The term
2 **“non-Federal interest”** means a State, a
3 **political subdivision of a State, an Indian**
4 **tribe, or a regional or interstate agency.**

5 **(8) SECRETARY.**—The term **“Secretary”**
6 **means the Secretary of the Army.**

7 **(9) STATE.**—The term **“State”** has the
8 **meaning given the term “coastal State”**
9 **under section 304(4) of the Coastal Zone**
10 **Management Act of 1972 (16 U.S.C.**
11 **1453(4)), except that for the purposes of**
12 **this Act, such term shall include the Dis-**
13 **trict of Columbia.**

14 **(10) UNDER SECRETARY.**—The term
15 **“Under Secretary”** means the Under Sec-
16 **retary for Oceans and Atmosphere of the**
17 **Department of Commerce.**

18 **SEC. 4. ESTABLISHMENT OF ESTUARY RESTORATION**
19 **COUNCIL.**

20 **(a) IN GENERAL.**—There is established an
21 **interagency council to be known as the Estu-**
22 **ary Restoration Council.**

23 **(b) DUTIES.**—The Council shall—

24 **(1) develop and transmit to the Com-**
25 **mittee on Resources and the Committee**

1 on Transportation and Infrastructure of
2 the House of Representatives and the
3 Committee on Environment and Public
4 Works of the Senate a national strategy
5 for estuary restoration pursuant to sec-
6 tion 5 and periodically review and update
7 the strategy;

8 (2) determine the eligibility and pri-
9 ority of project applications submitted
10 under section 6;

11 (3) provide advice in the development
12 of the database and monitoring standards
13 under section 7; and

14 (4) prepare and submit the report re-
15 quired under section 8.

16 **(c) MEMBERSHIP.—**

17 (1) **IN GENERAL.—**The Council shall be
18 composed of the following members:

19 (A) The Secretary.

20 (B) The Under Secretary.

21 (C) The Administrator of the En-
22 vironmental Protection Agency.

23 (D) The Secretary of the Interior
24 (acting through the Director of the

1 **United States Fish and Wildlife Serv-**
2 **ice).**

3 **(E) The Secretary of Agriculture.**

4 **(2) EX OFFICIO MEMBERS.—The Presi-**
5 **dent may designate the head of any other**
6 **Federal agency to serve as an ex officio**
7 **member of the Council.**

8 **(3) CHAIRPERSON AND VICE-CHAIR-**
9 **PERSON.—The Secretary shall serve as the**
10 **chairperson of the Council. The Under**
11 **Secretary shall serve as the vice-chair-**
12 **person of the Council.**

13 **(d) MEETINGS.—The chair or vice-chair**
14 **shall—**

15 **(1) convene the first meeting of the**
16 **Council not later than 90 days after the**
17 **date of enactment of this Act; and**

18 **(2) convene additional meetings, as**
19 **often as appropriate (but not less often**
20 **than annually), to select projects, and de-**
21 **velop a priority order of such projects,**
22 **for funding under section 6.**

23 **(e) PROCEDURES.—**

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

1 **(2) VOTING AND MEETING PROCE-**
2 **DURES.—The Council shall establish pro-**
3 **cedures for voting and the conduct of**
4 **meetings.**

5 **(f) ADVISORY BOARD.—**

6 **(1) IN GENERAL.—The Council may es-**
7 **tablish an advisory board (in this sub-**
8 **section referred to as the “board”) to pro-**
9 **vide advice and recommendations to the**
10 **Council on the strategy developed pursu-**
11 **ant to section 5 and on the selection and**
12 **prioritization of projects submitted**
13 **under section 6.**

14 **(2) MEMBERS.—The Council shall ap-**
15 **point members of the board representing**
16 **diverse public and private interests.**
17 **Members of the board shall be selected**
18 **such that the board consists of—**

19 **(A) 2 members representing State**
20 **agencies with expertise in aquatic**
21 **habitat restoration;**

22 **(B) 2 members representing local**
23 **or regional government agencies with**
24 **expertise in aquatic habitat restora-**
25 **tion;**

1 (C) 2 members with recognized
2 academic scientific expertise in
3 aquatic habitat restoration;

4 (D) 2 members representing non-
5 governmental organizations with ex-
6 pertise in aquatic habitat restoration;

7 (E) 2 members representing estu-
8 ary users;

9 (F) 1 member representing agri-
10 cultural interests;

11 (G) 1 member representing Indian
12 tribes; and

13 (H) 1 at-large member.

14 (3) TERMS.—

15 (A) IN GENERAL.—Except as pro-
16 vided by subparagraph (B), members
17 of the board shall be appointed for a
18 term of 3 years.

19 (B) INITIAL MEMBERS.—As des-
20 ignated by the chairperson of the
21 Council at the time of appointment,
22 of the members first appointed—

23 (i) 4 shall be appointed for a
24 term of 1 year; and

1 (ii) 4 shall be appointed for a
2 term of 2 years.

3 (4) VACANCIES.—Whenever a vacancy
4 occurs among members of the board, the
5 Council shall appoint an appropriate in-
6 dividual to fill that vacancy for the re-
7 mainder of the applicable term.

8 (5) BOARD LEADERSHIP.—The board
9 shall elect among its members a chair-
10 person of the board and a vice-chair-
11 person of the board to represent the
12 board in matters related to its duties
13 under this Act.

14 (6) COMPENSATION.—Members of the
15 board shall not be construed to be em-
16 ployees of the United States, and may not
17 receive compensation for their service as
18 members of the board, except that while
19 engaged in the performance of their du-
20 ties away from their homes or regular
21 place of business, members of the board
22 may be allowed necessary travel ex-
23 penses as authorized by section 5703 of
24 title 5, United States Code.

1 SEC. 5. ESTUARY RESTORATION STRATEGY.

2 (a) IN GENERAL.—Not later than 1 year
3 after the date of enactment of this Act, the
4 Council shall develop and transmit to the
5 Committee on Resources and the Committee
6 on Transportation and Infrastructure of the
7 House of Representatives and the Committee
8 on Environment and Public Works of the Sen-
9 ate an estuary restoration strategy designed
10 to promote estuary restoration nationwide
11 and improve coordination among existing
12 Federal estuary restoration activities and be-
13 tween Federal and non-Federal estuary res-
14 toration activities. Such strategy shall include
15 proposals for—

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

21 (2) using Federal resources to encour-
22 age increased private sector involvement
23 in estuary restoration activities;

24 (3) ensuring that the strategy will be
25 implemented in a manner that is con-
26 sistent with the requirements of Federal

1 estuary management or habitat restora-
2 tion plans;

3 (4) ensuring the long term conserva-
4 tion of lands and waters restored, en-
5 hanced, or otherwise managed under this
6 Act; and

7 (5) ensuring an equitable geographic
8 distribution of projects funded under this
9 Act.

10 (b) **CONSIDERATION OF EXISTING FEDERAL**
11 **PLANS, PROGRAMS, AND PARTNERSHIPS.**—In de-
12 veloping the estuary restoration strategy, the
13 Council shall conduct a review of—

14 (1) Federal estuary management or
15 habitat restoration plans; and

16 (2) Federal programs established
17 under other laws that provide funding
18 for estuary or coastal wetland restoration
19 activities.

20 (c) **PUBLIC PARTICIPATION.**—The Council
21 shall publish in the Federal Register a draft
22 of the estuary restoration strategy and pro-
23 vide an opportunity for public review and
24 comment. In developing the estuary restora-
25 tion strategy, the Council shall seek advice

1 from the advisory board established under
2 section 4(f).

3 (d) **PERIODIC REVISION.**—Using data and
4 information developed through project moni-
5 toring and management, and other relevant
6 information, the Council may, as necessary,
7 seek advice from the advisory board to peri-
8 odically review and update the estuary res-
9 toration strategy. The Council shall transmit
10 any updates of the estuary restoration strat-
11 egy to Congress, after providing for appro-
12 priate public review and comment.

13 **SEC. 6. ESTUARY RESTORATION PROJECTS.**

14 (a) **IN GENERAL.**—The Council may provide
15 assistance to non-Federal interests for car-
16 rying out estuary restoration projects that are
17 consistent with this Act. In carrying out this
18 section, the Council shall develop guidelines
19 for reviewing and prioritizing estuary res-
20 toration projects. Such guidelines shall en-
21 sure a comprehensive approach to the selec-
22 tion and prioritization of estuary restoration
23 projects.

24 (b) **APPLICATIONS FOR ASSISTANCE.**—A non-
25 Federal interest may submit to the Council

1 for consideration under subsection (c) an ap-
2 plication for assistance in carrying out an es-
3 tuary restoration project.

4 (c) **SELECTION OF PROJECTS.—**

5 (1) **IN GENERAL.—**The Council shall re-
6 view applications for estuary restoration
7 projects submitted under subsection (b).
8 Based on the criteria specified in para-
9 graphs (2) and (3), the Council shall de-
10 termine the eligibility of each project and
11 establish a priority order for carrying out
12 such projects.

13 (2) **SELECTION CRITERIA.—**The Council
14 may not select a project for funding
15 under this section unless—

16 (A) the project addresses restora-
17 tion needs identified in an approved
18 Federal estuary management or habi-
19 tat restoration plan;

20 (B) the project promotes—

21 (i) the restoration of habitat
22 for fish and wildlife, including
23 shellfish, endangered and threat-
24 ened species, migratory and resi-

1 **dent birds, and commercial and**
2 **sport fish species;**

3 **(ii) the improvement of sur-**
4 **face and ground water quality**
5 **and quantity; or**

6 **(iii) the restoration of phys-**
7 **ical features and hydrologic func-**
8 **tions, including flood control;**

9 **(C) after the Council publishes**
10 **the estuary restoration strategy**
11 **under section 5, the project is con-**
12 **sistent with the strategy;**

13 **(D) the project is cost effective,**
14 **based on sound science, and tech-**
15 **nically feasible;**

16 **(E) the non-Federal interest pro-**
17 **posing the project demonstrates that**
18 **adequate personnel, funding, and au-**
19 **thority exists to carry out and prop-**
20 **erly maintain the project;**

21 **(F) the State in which the non-**
22 **Federal interest is proposing the**
23 **project has a dedicated source of**
24 **funding to acquire or restore habitat,**
25 **natural areas, and open spaces;**

1 **(G) the project will encourage the**
2 **increased coordination and coopera-**
3 **tion of Federal, State, and local gov-**
4 **ernment agencies;**

5 **(H) the project includes a moni-**
6 **toring plan to ensure that short-term**
7 **and long-term restoration goals are**
8 **achieved; and**

9 **(I) there is an effective program**
10 **or plan within the watershed of the**
11 **project to ensure the long-term con-**
12 **servation of lands and waters re-**
13 **stored, enhanced, or otherwise man-**
14 **aged by the project.**

15 **(3) PRIORITY ESTUARY RESTORATION**
16 **PROJECTS.—An estuary restoration project**
17 **shall be given a higher priority in receipt**
18 **of funding under this section if, in addi-**
19 **tion to meeting the selection criteria**
20 **specified in paragraph (2)—**

21 **(A) the non-Federal share of the**
22 **total costs of the project exceeds 50**
23 **percent; or**

24 **(B) the project includes pilot test-**
25 **ing or a demonstration of an innova-**

1 **tive technology having the potential**
2 **for improved cost-effectiveness in es-**
3 **tuary restoration.**

4 **(d) NON-FEDERAL INTEREST.—The Council**
5 **may, upon recommendation of the Governor**
6 **of the State and in consultation with respon-**
7 **sible officials from local political jurisdictions**
8 **in which a project would occur, allow a non-**
9 **governmental organization to serve as the**
10 **non-Federal interest.**

11 **(e) LEAD FEDERAL AGENCY.—The Council**
12 **shall designate a lead Council member for**
13 **each estuary restoration project funded**
14 **under this section. The lead Council member**
15 **shall have primary responsibility for over-**
16 **seeing and assisting in project implementa-**
17 **tion.**

18 **(f) COST SHARING OF ESTUARY HABITAT RES-**
19 **TORATION PROJECTS.—**

20 **(1) WRITTEN AGREEMENT.—**

21 **(A) CONSTRUCTION COSTS.—The**
22 **Council shall not provide any assist-**
23 **ance for an estuary restoration**
24 **project until all appropriate non-Fed-**
25 **eral interests have entered into a**

1 written agreement with the lead Fed-
2 eral agency designated under sub-
3 section (e) in which the non-Federal
4 interests agree to provide the re-
5 quired non-Federal share of the cost
6 of the project.

7 (B) OPERATION, MAINTENANCE, RE-
8 PLACEMENT, AND REHABILITATION
9 COSTS.—An agreement entered into
10 under this paragraph shall require
11 that the non-Federal interest pay 100
12 percent of any operation, mainte-
13 nance, replacement, and rehabilita-
14 tion costs of the estuary restoration
15 project to the extent prescribed by
16 the Council.

17 (2) FEDERAL SHARE.—

18 (A) IN GENERAL.—Except as pro-
19 vided in subparagraph (B), the Fed-
20 eral share of the cost of an estuary
21 restoration project under this section
22 shall not exceed 50 percent of the
23 total cost of the project.

24 (B) INTERIM ACTIONS.—Pending
25 completion of the estuary restoration

1 **strategy under section 5, the Federal**
2 **share of the cost of an interim action**
3 **to carry out an estuary restoration**
4 **project shall not exceed 25 percent of**
5 **the cost of the interim action.**

6 **(3) NON-FEDERAL SHARE.—A non-Fed-**
7 **eral interest shall provide at least 50 per-**
8 **cent of the cost of any project carried out**
9 **under this section including provision of**
10 **all lands, easements, rights-of-way, serv-**
11 **ices, and relocations.**

12 **SEC. 7. MONITORING, RESEARCH, AND PEER REVIEW OF**
13 **ESTUARY RESTORATION PROJECTS.**

14 **(a) NATIONAL CLEARINGHOUSE OF ESTUARY**
15 **RESTORATION PROJECT INFORMATION.—**

16 **(1) IN GENERAL.—The Under Secretary**
17 **shall maintain a database of information**
18 **related to estuary restoration projects,**
19 **including projects funded under section**
20 **6. Such database shall include informa-**
21 **tion on project goals and accomplish-**
22 **ments, techniques used to restore habi-**
23 **tat, costs of project completion, moni-**
24 **toring data, and other information that**
25 **the Council determines to be relevant.**

1 **(2) MONITORING DATA STANDARDS.—The**
2 **Under Secretary, in consultation with the**
3 **Council, shall develop quality control re-**
4 **quirements and standard data formats**
5 **for estuary restoration monitoring data,**
6 **along with requirements for types of data**
7 **collected and frequency of monitoring.**

8 **(3) COORDINATION OF DATA.—The**
9 **Under Secretary shall compile informa-**
10 **tion pertaining to estuary restoration**
11 **projects from other Federal, State, and**
12 **local sources provided that the informa-**
13 **tion meets the quality control require-**
14 **ments and data standards established**
15 **under this subsection.**

16 **(4) USE OF EXISTING PROGRAMS.—The**
17 **Under Secretary shall use existing pro-**
18 **grams within the National Oceanic and**
19 **Atmospheric Administration to create**
20 **and maintain the database required**
21 **under this subsection.**

22 **(5) PUBLIC AVAILABILITY.—The Under**
23 **Secretary shall make the information col-**
24 **lected and maintained under this sub-**
25 **section available to the public.**

1 **(b) ESTUARY RESTORATION RESEARCH AND**
2 **INNOVATION.—The Under Secretary shall de-**
3 **velop and enhance monitoring and research**
4 **capabilities, through use of existing pro-**
5 **grams, including the environmental tech-**
6 **nology innovation program associated with**
7 **the National Estuarine Research Reserve Sys-**
8 **tem established by section 315 of the Coastal**
9 **Zone Management Act of 1972 (16 U.S.C. 1461),**
10 **to ensure that restoration efforts are based on**
11 **sound science and innovative technologies.**

12 **(c) PEER REVIEW.—The Council shall estab-**
13 **lish a procedure for providing scientific peer**
14 **review, coordinated through the National Es-**
15 **tuary Research Reserve System established**
16 **by section 315 of the Coastal Zone Manage-**
17 **ment Act of 1972 (16 U.S.C. 1461), of estuary**
18 **restoration projects submitted under section**
19 **6.**

20 **SEC. 8. REPORT.**

21 **(a) IN GENERAL.—The Council shall bienni-**
22 **ally transmit to the States, the Committee on**
23 **Resources and the Committee on Transpor-**
24 **tation and Infrastructure of the House of Rep-**
25 **resentatives, and the Committee on Environ-**

1 **ment and Public Works of the Senate a report**
2 **on the results of activities carried out under**
3 **this Act.**

4 **(b) CONTENTS OF REPORT.—A report trans-**
5 **mitted under subsection (a) shall include—**

6 **(1) the number of acres of estuary**
7 **habitat restored under this Act and the**
8 **status of other acres in need of restora-**
9 **tion;**

10 **(2) descriptions of, and partners in-**
11 **involved with, projects selected, in**
12 **progress, and completed under this Act;**

13 **(3) information related to ongoing**
14 **monitoring of projects to ensure that**
15 **short-term and long-term restoration**
16 **goals are achieved;**

17 **(4) an estimate of the long-term suc-**
18 **cess of varying restoration techniques**
19 **used in carrying out estuary restoration**
20 **projects;**

21 **(5) a review of how the information**
22 **described in paragraphs (1) through (4)**
23 **has been incorporated in the selection**
24 **and implementation of estuary habitat**
25 **restoration projects;**

1 **(6) a review of efforts made to main-**
2 **tain a database of restoration projects;**
3 **and**

4 **(7) a review of the measures taken to**
5 **provide the information described in sub-**
6 **paragraphs (1) through (4) to persons**
7 **with responsibility for restoring estu-**
8 **aries;**

9 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

10 **(a) AUTHORIZATION FOR RESTORATION**
11 **PROJECTS.—**

12 **(1) IN GENERAL.—There is authorized**
13 **to be appropriated to the Secretary to**
14 **carry out estuary restoration projects**
15 **under this Act \$50,000,000 for each of fis-**
16 **cal years 2002, 2003, and 2004. Such**
17 **amounts shall remain available until ex-**
18 **pended.**

19 **(2) SET-ASIDE FOR ADMINISTRATIVE EX-**
20 **PENSES OF THE COUNCIL.—Of the amounts**
21 **appropriated for a fiscal year under this**
22 **subsection, not more than \$1,000,000 may**
23 **be used by the Secretary for administra-**
24 **tion and operation of the Council and ad-**
25 **visory board.**

1 **(3) DISTRIBUTION OF APPROPRIATIONS**
2 **FOR ESTUARY RESTORATION ACTIVITIES.—**
3 **The Secretary shall allocate funds made**
4 **available to carry out this Act to the**
5 **members of the Council, based on the**
6 **need for the funds and such other factors**
7 **as the Council determines to be appro-**
8 **priate to carry out this Act.**

9 **(b) AUTHORIZATION FOR MONITORING DATA-**
10 **BASE.—There is authorized to be appropriated**
11 **to the Under Secretary for the acquisition,**
12 **maintenance, and management of monitoring**
13 **data on restoration projects carried out under**
14 **this Act \$1,000,000 for each of fiscal years**
15 **2002, 2003, and 2004. Such amounts shall re-**
16 **main available until expended.**

17 **SEC. 10. AGENCY CONSULTATION AND COORDINATION.**

18 **(a) IN GENERAL.—In carrying out this Act,**
19 **the Council shall, as necessary, consult with,**
20 **cooperate with, and coordinate its activities**
21 **with the activities of other appropriate Fed-**
22 **eral agencies.**

23 **(b) COOPERATIVE AGREEMENTS; MEMORANDA**
24 **OF UNDERSTANDING.—In carrying out this Act,**
25 **the Council may enter into cooperative agree-**

1 ments and memoranda of understanding with
2 Federal agencies and non-Federal interests.

3 (c) FEDERAL AGENCY FACILITIES AND PER-
4 SONNEL.—Federal agencies may cooperate in
5 carrying out scientific and other programs
6 necessary to carry out this Act, and may pro-
7 vide facilities and personnel for the purpose
8 of assisting the Council in carrying out its du-
9 ties under this Act.

10 (d) REIMBURSEMENT.—Federal agencies
11 may accept reimbursement from the Council
12 for providing services, facilities, and per-
13 sonnel under subsection (c).

Union Calendar No. 366

106TH CONGRESS
2D SESSION

H. R. 1775

[Report No. 106-561, Parts I and II]

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.

JUNE 9, 2000

Reported from the Committee on Resources with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed