

(Ms. MIKULSKI) was added as a cosponsor of S. 700, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 729

At the request of Mr. DURBIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 729, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

S. 908

At the request of Mr. BAYH, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1065

At the request of Mr. BROWNBACK, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1065, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000, 000 or more in Iran's energy sector, and for other purposes.

S. 1076

At the request of Mr. MENENDEZ, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 1076, a bill to improve the accuracy of fur product labeling, and for other purposes.

S. 1153

At the request of Mr. SCHUMER, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1153, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

S. 1155

At the request of Ms. COLLINS, the name of the Senator from Wisconsin

(Mr. FEINGOLD) was added as a cosponsor of S. 1155, a bill to amend title 38, United States Code, to establish the position of Director of Physician Assistant Services within the office of the Under Secretary of Veterans Affairs for health.

S. 1158

At the request of Ms. STABENOW, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1158, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 1340

At the request of Mr. LEAHY, the names of the Senator from Minnesota (Mr. FRANKEN) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. 1340, a bill to establish a minimum funding level for programs under the Victims of Crime Act of 1984 for fiscal years 2010 to 2014 that ensures a reasonable growth in victim programs without jeopardizing the long-term sustainability of the Crime Victims Fund.

S. 1343

At the request of Mr. BROWN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1343, a bill to amend the Richard B. Russell National School Lunch Act to improve and expand direct certification procedures for the national school lunch and school breakfast programs, and for other purposes.

S. 1360

At the request of Mr. BINGAMAN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1360, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 1624

At the request of Mr. WHITEHOUSE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1624, a bill to amend title 11 of the United States Code, to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill, injured, or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems, and for other purposes.

S. RES. 312

At the request of Mr. DODD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 312, a resolution expressing the sense of the Senate on empowering and strengthening the United States Agency for International Development (USAID).

AMENDMENT NO. 2669

At the request of Mr. GRAHAM, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of amendment No. 2669 proposed to H.R. 2847, a bill making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2693

At the request of Mrs. LINCOLN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of amendment No. 2693 intended to be proposed to S. 1776, a bill to amend title XVIII of the Social Security Act to provide for the update under the Medicare physician fee schedule for years beginning with 2010 and to sunset the application of the sustainable growth rate formula, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CARPER (for himself and Mr. KAUFMAN):

S. 1801. A bill to establish the First State National Historical Park in the State of Delaware, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CARPER. Mr. President, I am delighted to be joined this afternoon by my colleague, Senator KAUFMAN, from Delaware. Today, he and I are going to do something I don't think has ever been done in the Senate in the 200 years since this institution has been together. We will be introducing legislation which will establish the First State National Historic Park within the State of Delaware.

There are, as we all know, 50 States, and 49 States have national parks. In all, there are 58 national parks. There are something like more than 300 units of national parks. The first State to ratify the Constitution—that would be Delaware—was the entire United States of America for 1 week beginning December 7, 1787, and it still has no national park—not that we don't have historical and cultural heritage that is noteworthy in Delaware.

Think back roughly 400 years ago when the first settlements in this country from Europe were that of the Dutch in what is now Lewes, DE. And 372 years ago, the Swedes and Finns sailed across the Atlantic Ocean up the Delaware Bay and the Delaware River, took a left turn on the river they decided to name after the child queen of Sweden, Christina, and established the colony of New Sweden and what is now known as Wilmington, DE.

To the south in Dover, DE, at the Golden Fleece Tavern for roughly 3 days in December 1787, 25 or so men holed up in the Golden Fleece Tavern drinking what I describe as hot chocolate in order to decide whether the State of Delaware was going to be the first State to ratify the Constitution.

A few miles south of there is the childhood home of John Dickinson,

who worked with folks in Connecticut at the Constitutional Convention to come up with a grand compromise which says every State will have two U.S. Senators and we will apportion the seats in the House of Representatives in accordance with the population of the States.

From one end of the State of Delaware to the other, there are any number of things that are important to our Nation's heritage and I think certainly to the people of Delaware. Yet we have no national park commemorating any of that at all. Roughly 8 years ago, shortly after I came to the Senate, we went to work to see whether we could change that situation. A lot of good people in my State submitted ideas, from one end of the State to the other, what they thought might be reasonable, acceptable, appropriate items or places to designate as our national park. We created a wonderful citizens group about 3 or 4 years ago. They went the length and breadth of the State, led by professor emeritus Jim Solis of the University of Delaware. They came back with a wonderful group of ideas they collected from people from all over the State.

They said: This is what we think the national park should be—a unique concept. If you can imagine four bicycle wheels, each has a hub, and from the hubs emanate the spokes. The vision of our working group was to have four hubs—one in northern Delaware, Wilmington; one maybe in Delaware City; another in Kent County, the central part of our State; and another in Lewes, DE, the southern part of our State. From each of those hubs—think of the spokes emanating—is a variety of attractions to which people could come. Each hub would be a hub established with some presence by the National Park Service.

These were the ideas we submitted to the National Park Service roughly 3 years ago. The National Park Service went to work on it. To their credit, they came to our State. They covered our State and met with all kinds of people from one end of Delaware to the other and came up with another idea. They said: We like what you came up with, but here is what the National Park Service would like you to do. It is this: Create a national park that focuses on Delaware from the early settlement of the Dutch, the Swedes and the Finns and the English—a national park theme to run from that period of time until first statehood, December 7, 1787, roughly 130, 140 years.

The idea is to place in old New Castle, colonial New Castle, about 10 miles south of Wilmington, DE, on the Delaware River, a national park site that would be colocated and located in an existing structure that is suitable for that purpose. That spot will be populated by park rangers, who will be there to serve as interpreters and help welcome people to the site and help inform them, share with them other ideas and places to visit.

We are excited about what the National Park Service has decided. Is it everything we had hoped for? No, it is not. Is it a whole lot better than being the only State in the country without a national park? It sure is a lot better than that.

I express great thanks to all the men and women in my State who for almost 8 years worked on this concept, created and gathered good ideas and suggested those to the Park Service. I thank the Delaware Division of Parks and Recreation, the Delaware Division of Historical and Cultural Affairs, the National Park Service, former Secretary of the Interior Dirk Kempthorne; and certainly our current Secretary of the Interior, Ken Salazar, for their steadfast support for this initiative.

About half a dozen or so years ago, my family and I—my boys are now 19 and 21, but when they were younger, we liked to travel in the summers and visit national parks. We visited national parks from Pennsylvania, the second State in the Union, to Illinois, the Lincoln sites. We went to Alaska, to Denali, the great one, a huge national park that is two to three times the size of Delaware. We loved to visit national parks. This summer, our boys took a cross-country tour to the west coast for a summer job for one of our boys. They drove all the way across the northern part of our country and got to spend time in the Badlands, Mount Rushmore and Yellowstone and other sites along the way.

National parks were described as—I think it was Wallace Stegner who said our national parks are America's best ideas. Ken Burns, the documentary filmmaker whose series on national parks was on National Public Television—beautifully done, beautifully videographed, and the story told of our national parks and how the first national park began about 140 years ago. Here we are 140 years later. They are a national treasure. People come from all over the world.

When we went on the national park Web site 6 years ago to look for a place to go as a family, do you know what we ended up with? Nothing. There was a lot of stuff to visit from Alabama to Wyoming, A to W, but when we got to Delaware, nothing.

We have a lot in our State of which we are proud. We have a lot in our State of which our country can be proud. We want not only people in Delaware to know but people throughout the country and the world. When they are looking for a good place to visit for some culture and history and, frankly, for a good time, we want them to know that Delaware—little Delaware—is on the map. We are ready. The doors are open. The “welcome” mat is out. We are ready to receive them.

I want to say a big thanks to everyone who got us to this point. We are delighted to introduce the legislation that will designate and establish the first national park in the State of Delaware. Fortunately, I am not intro-

ducing the bill by myself. I am joined by my colleague, Senator KAUFMAN, and in the House by Congressman MIKE CASTLE. This will be a bipartisan, bicameral initiative.

I yield to Senator KAUFMAN.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Mr. President, this has been a great journey for me, before I came to the Senate, watching my present senior Senator, TOM CARPER, then junior Senator—I am proud to say one of my greatest accomplishments as a Senator was to promote TOM CARPER from junior Senator to senior Senator—to watch him work on this bill for a national park for Delaware for 8 years.

I think if you were trying to do a case study on what it takes to make an accomplishment in the Senate, his efforts would be an excellent case study. He has been working for 8 years to bring a national park to Delaware. It is the only State in the Nation that does not have a national park, and yet it has so many wonderful things to see. I think people who visit Delaware will know that.

I am proud to be a cosponsor of a bill that really my senior Senator has worked so hard on. He already explained much of the history of how we came to this point, so I want to simply say again that I appreciate how he has worked with the National Park Service to design a national historical park for Delaware.

Earlier this year, when we were discussing the Travel Promotion Act, I discussed many of Delaware's attractions, from the colonial history dating back to before it became the first State to ratify the Constitution, to the beautiful beaches. We have a wealth of opportunities for tourism. However, until this bill is signed into law, we will not have a national park.

No one needs to be told about the value of national parks, the way they offer recreational opportunities, support local businesses, and protect natural and cultural heritage. What is perhaps most important about them, however, is the way they define and preserve our relationship with possibility. They speak of a quintessential American world view that everyone has a right to share in what is greatest and magnificent in our world, in this case our national parks.

Since the creation of Yellowstone and Yosemite over a century ago, millions of Americans have had their eyes opened by breathtaking vistas and the rich history of our wonderful country. The park in Delaware will play an important role in preserving our colonial history. Remember, Delaware was a crossroads for early Dutch, English, and Swedish settlers. Our State has a rich endowment of colonial landmarks.

Bringing these together the way Senator CARPER has proposed in a national historical park, this bill will allow all Americans to appreciate our history leading up to the signing of the Constitution. That is why I am glad to join

with my senior Senator, TOM CARPER, in cosponsoring this bill. It is high time Delaware has a national park, and I believe this bill will create one that preserves Delaware's rich pre-Constitution history for generations to come.

I thank my senior Senator for what he is doing, not just for me, not just for the people of Delaware, but for the country. This will be a great place for people to come from all over the country and all over the world to see the glorious history that is in Delaware.

Mr. CARPER. Mr. President, in conclusion, I say a special thanks to Senator KAUFMAN. I thank members of our staff who worked on this bill—not just us—literally for years in Delaware and here as well.

I want to thank my colleagues who earlier voted with us to authorize a study, and to the National Park Service to fund that study, which came back to us with the recommendations of the National Park Service literally earlier this year.

I also want to say that in this proposal we give a nod to the fact that these are trying fiscal times in which we live, and we don't have the ability to spend boatloads of money for a national park anywhere, including the First State. The proposal that we have before us is one that recognizes that and is, I think, responsible, and fiscally responsible, too.

So with all that having been said, we are delighted to say that while this is not the end, this may be the beginning of the end, we hope, of the journey that will lead us to a national park, and we are delighted to stand here together to get us on the last part of that journey.

By Mr. MERKLEY (for himself and Mr. CORKER):

S. 1803. A bill to amend title 31, United States Code, to authorize reviews by the Comptroller General of the United States of emergency credit facilities established by the Board of Governors of the Federal Reserve System or any Federal Reserve bank, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. MERKLEY. Mr. President, today Senator BOB CORKER of Tennessee and I come together to introduce the Federal Reserve Accountability Act. Over the course of the financial crisis, the Federal Reserve has taken extraordinary actions to stabilize our financial system. In doing so, it has departed significantly from its traditional relationship with markets. It is essential, therefore, that we bring greater openness and transparency to the Federal Reserve.

We are introducing the Federal Reserve Accountability Act because we believe that it strikes the right balance in making the Federal Reserve's new emergency lending activities subject to a robust financial audit by the Government Accountability Office, GAO, without disturbing the Federal Reserve's monetary policy independence

or its role as emergency lender of last resort. The Federal Reserve Accountability Act would require the GAO to audit the accounting, financial reporting, and internal controls of all Federal Reserve emergency credit programs that are not already subject to audit. To protect against the risk that disclosure of the participation of particular institutions could disrupt markets, the GAO would be required to redact the names of specific institutions. Names would, however, be made available 1 year after each emergency program is no longer used. For additional transparency and public accessibility, the legislation would also require that the Federal Reserve place these GAO audits along with additional audit materials under a new "Audit" section on its website.

The many emergency lending programs created over the past year have certainly helped bring the financial markets back from the brink of collapse. But it is now time to set up a process for each lending facility to be fully audited by the GAO and reaffirm our commitment to openness and transparency whenever taxpayer dollars are used.

I am hopeful that we can move quickly to enact this important legislation, and I urge my colleagues to join us in this effort.

By Mr. FEINGOLD:

S. 1808. A bill to control Federal spending now; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, fiscal responsibility is a Wisconsin tradition and it has been a major priority of mine throughout my years in the Senate. In 1992 when I first ran for the job I hold now, I put together an 82-point plan to save hundreds of billions of dollars in wasteful, inefficient or unneeded government spending. Back then, the country was facing huge budget deficits and Americans were understandably concerned about the debt we were piling up. Fortunately, we took some strong steps in the 1990s to clean up that fiscal mess—including passing some of the reforms I championed in my 82-point plan—and we were able to get the country back on the right track.

Unfortunately, we face a similar crisis today. In fact, in many ways it is worse because the deficits are even bigger while the economy is in such bad shape. The reckless fiscal policies of the past eight years, combined with the current recession those policies helped create, have dug a deep hole, and we need to start filling it in. Some may argue that we can't cut government spending now because that would make the recession we are in even worse. I don't agree—while we shouldn't be slashing, say, unemployment insurance or education funding, we should absolutely be targeting the waste and fat in the federal budget. That's the message I am consistently hearing as I travel around Wisconsin.

My constituents are rightly concerned about the burden that their children and grandchildren will be forced to shoulder.

That is why I am introducing the Control Spending Now Act. This bill consists of dozens of different initiatives that would collectively reduce the deficit by over \$½ trillion over 10 years. It includes procedural reforms that would make it easier to eliminate funding for pet projects slipped into larger spending bills, as well as cuts to spending that isn't working or needed, from \$4 billion for C-17 aircraft the Department of Defense didn't ask for and doesn't want to \$30 million for a program that sends a radio and TV signal to Cuba that nobody gets. The bill also would save \$244 billion by rescinding unobligated TARP payments and returning them to the Treasury—I opposed the Wall Street bail-out from the start, and it's high time we brought it to an end.

The ideas I am proposing are not all new—for example, I have been fighting to end earmark abuses and give the president a line-item veto for some time. And not all the ideas were thought up by me—there are a lot of good proposals out there, and I have tried to bring them together in one comprehensive bill. I have included legislation drafted by Senators BYRON DORGAN and JEFF BINGAMAN that would save the Federal Government and consumers money by bringing down prescription drug prices, as well as biennial budgeting reforms that former Senator Pete Domenici championed, and that Senator JOHNNY ISAKSON is now seeking to advance. I also included provisions crafted by Senators KIT BOND, JAY ROCKEFELLER and DIANNE FEINSTEIN and included in the Senate-passed intelligence authorization bill for fiscal year 2010 that would help eliminate wasteful spending in the intelligence budget. I am grateful to my colleagues for the work they are doing to return the country to the path of fiscal responsibility.

Not everyone will agree with every one of my proposals—in fact, for every proposal, there is probably one or more entrenched group committed to preserving the status quo. But the status quo isn't good enough—we need to make tough spending choices, which is why I am proposing this legislation, and why I will continue working to control spending now.

By Mr. CARDIN (for himself, Ms. MIKULSKI, Mr. CARPER, and Mr. KAUFMAN):

S. 1816. A bill to amend the Federal Water Pollution Control Act to improve and reauthorize the Chesapeake Bay Program; to the Committee on Environment and Public Works.

Mr. CARDIN. Mr. President, today I am introducing the Chesapeake Clean Water and Ecosystem Restoration Act. I am joined in this effort by original cosponsors, Ms. MIKULSKI, Mr. CARPER, and Mr. KAUFMAN. Together we are committed to giving our states and

municipalities the tools they need to finally restore water quality in the Chesapeake Watershed and return this national treasure to its rightful position as one of the world's most important ecological regions.

Yesterday morning I stood on the shores of the Chesapeake Bay, near Annapolis, Maryland, to outline the provisions of this legislation. I was joined by Martin O'Malley, Governor of Maryland and a tireless champion of the bay. Standing with him was Preston Bryant, Virginia's Secretary of Natural Resources, representing Governor Tim Kaine. Both states, which embrace the entirety of the Chesapeake Bay, were there to lend their support to this legislative effort. Two of my colleagues from the other body, Congressman ELIJAH CUMMINGS and Congressman CHRIS VAN HOLLEN, also joined us, noting that they intend to introduce a companion bill in the House of Representatives today. A powerful coalition of more than 100 local watershed organizations was there, too, to lend its support. And finally, we were joined by Mr. Luke Brubaker, a dairy and poultry farmer from Pennsylvania who is already demonstrating how local actions can result in real water quality benefits.

Today we take a major step forward in writing the next chapter in the history of one of America's most cherished and celebrated bodies of water—the Chesapeake Bay. The original English colony in Jamestown was settled on its shores. George Washington built his home overlooking one of its great rivers. The War of 1812 was fought on its waters, and generations of Americans came to live off its bounty of oysters and blue crabs and rockfish. Harriet Tubman led a life of slavery and heroic freedom among its vast marshes, and James Michener wrote a saga celebrating its majesty.

Today, 17 million people live in its watershed. Its tributaries are home to three state capitals as well as America's center of government. The bay has been called a "National Treasure" by American Presidents ranging from Ronald Reagan to Barack Obama. The United Nation's Ramsar Convention recognizes the bay as an ecological region of global significance. In Maryland it is the economic, environmental, cultural and historic heart of the state.

But, the bay and its watershed are in trouble.

By every scientific measure, the ecological health of the Chesapeake Bay is poor. The Chesapeake Bay and its tributaries are unhealthy primarily because of excess nitrogen, phosphorus and sediment entering the water.

These pollutants threaten not just the legacy we have inherited but also our future. The multi-million seafood industry is suffering from chronically small harvests. That is not all. Recreational fishermen, duck hunters, sail boat and power boat operators, bird watchers and others bring tens of millions of dollars into our economies an-

nually. Business leaders and realtors tell us that healthy rivers and a healthy bay add immeasurably to their ability to attract a quality workforce and add value to homes.

At least one estimate suggests that the Bay's economic value to the region tops \$1 trillion. The challenge before us is great, but so is the opportunity.

The Chesapeake Clean Water and Ecosystem Restoration Act gives the states strong new tools to restore the Bay and for the first time sets a firm deadline of 2025 for all restoration efforts to be in place.

The internal and final deadlines for action coincide with the Chesapeake Executive Council's timeline for Chesapeake restoration. Unlike earlier, missed deadlines, this one will become a legally binding part of the Clean Water Act.

The bill also significantly expands federal grants. The Chesapeake Restoration bill authorizes a new \$1.5 billion grants program to control urban/suburban polluted stormwater, the only pollution sector that is still growing. Grants to the states, small watershed organizations, and for comprehensive monitoring programs are all newly created or expanded in the legislation. At least 10 percent of State implementation grants are set aside for Delaware, New York, and West Virginia. These headwater States have never been guaranteed any access to these funds in the past.

At least 20 percent of the implementation grants will go for technical assistance to farmers and foresters to help them access Farm Bill funds and implement conservation practices. The bill also requires the Environmental Protection Agency to build on the positive experiences of Virginia and Pennsylvania by establishing the framework for an innovative interstate trading program. As Mr. Brubaker recounted for us yesterday, farmers can partner with those who need to reduce the amount of nitrogen and phosphorus that they are releasing into the Bay. These groups can meet their legal obligation to reduce pollution by giving farmers the extra financial support they need to implement additional conservation practices on their agricultural lands. It is a classic win-win situation, and by 2012 it will be available throughout the six state watershed.

The bill codifies President Obama's Chesapeake Bay Executive Order, which requires annual Federal Action Plans across all federal departments to restore the Bay.

The basics of this bill are very simple, as most good ideas are. Scientists are telling us what the maximum amounts of pollution that the Bay can withstand and still be healthy. The Chesapeake Clean Water and Ecosystem Restoration Act sets a hard cap on pollution, and then we give the states until 2025 to reduce their proportional share of the pollution load. The states have maximum flexibility to reach these goals, but it still won't be

easy. In the 25 years since the Chesapeake Bay program started, the number of people living in the watershed has exploded.

The population of the Chesapeake Bay Watershed has grown from 12 million when the Program started to over 17 million residents today. That is a 40 percent increase. And it is not just more people producing more pollution. The amounts of impervious surfaces, the hardened landscapes that funnel polluted water into our streams and rivers and eventually the Bay, have increased by about 100 percent over the same time frame. We are losing an astounding 100 acres of forest lands every day in the Bay watershed. Simply put, there are millions more of us, and the size of our impact on the Bay watershed has grown twice as fast as our population rate. Without the Bay Program, the health of the Chesapeake would undoubtedly be worse than it is.

As I have said before, barely holding our own is not good enough. So merely fine tuning the Bay Program will not be good enough either. Fortunately, Federal, State and local governments, in cooperation with community organizations are standing up around our region to help renew the region's precious water resources.

We are focused on three major sources of water pollution: runoff from agricultural lands, effluent from wastewater treatment plants, and polluted stormwater runoff from the developed lands in our cities, towns and suburbs.

Last year we passed a Farm Bill that today is providing Chesapeake farmers with unprecedented financial support in putting conservation programs into practice. Two years ago we provided our farmers with about \$8 million in conservation funding. In the past year, that figure went up to \$23 million. This year it is growing to \$43 million and next year it reaches \$72 million—nearly a ten-fold increase in just 3 years.

Eight years of chronic under-funding for wastewater treatment plants changed dramatically in January. President Obama and the new Congress have teamed up to provide a 350 percent increase in Federal funding this year to up-grade and repair sewage treatment plants. The EPA funding bill that is now nearing final action will sustain that record investment into 2010. We need to make a major investment in our cities and towns, too, to combat the growing problem we have with polluted stormwater. That is why this bill authorizes \$1.5 billion to provide the federal funds needed to really attack this problem.

All of us, States and cities, farmers and foresters, sewage treatment plant operators and new home builders, ardent environmentalists and average residents, want to do our part to have clean water flowing through our streams and rivers. All of us want a healthy Bay.

The Chesapeake Clean Water and Ecosystem Restoration Act gives all of the Bay States a clear and fully enforceable goal to clean up our waters

and restore our Bay by 2025. The bill also gives us the resources to get the job done and the tools to do so in a way that is flexible and cost effective.

The Chesapeake Bay is the heart of our region. It is where we work, play, farm, and enjoy the beauty and abundance of the natural resources that surround us. But as anyone who has experienced the shortage of blue crabs and oysters or read about “dead zones” in the water knows, the Bay continues to be in trouble. We’ve made great strides in the last few decades through the EPA’s Chesapeake Bay Program. But we remain far from attaining the goals necessary to restore the Bay to a healthy state, one that can sustain native fish and wildlife and maintain the viability of our farmland and regional economy for the near- and long-term future.

Accomplishing these goals starts with the local implementation of the most innovative, sustainable, and cost-effective strategies for restoring and protecting water quality and vital habitats within the Chesapeake Bay watershed. Everywhere I go there is a strong desire to see local streams returned to good health and the Chesapeake Bay restored to its former glory. People are ready to take action to control pollution, restore water quality and see the living resources of the Bay return in abundance.

The Chesapeake is a region steeped in history. Today, we add our own contribution to that storied past. With the Chesapeake Clean Water and Ecosystem Restoration Act, we are proposing the most sweeping legislative effort in the history of the Clean Water Act. With the firm commitments and cooperation from the communities across the 64,000 square mile watershed, we will restore the health, productivity and beauty of the Chesapeake Bay for generations to come.

Today marks the beginning of that legislative effort. It will not be easy, and we will need all of our best efforts if we are to be successful. But we cannot and will not come up short.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Chesapeake Clean Water and Ecosystem Restoration Act of 2009”.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Chesapeake Bay and the tributary waters of the Chesapeake Bay are natural resources of outstanding ecological, economic, and cultural importance to the United States;

(2) for more than 20 years, the Federal Government and the States of the Chesapeake Bay Watershed, the Chesapeake Bay Commission, and various local government, sci-

entific, and citizen advisory boards have worked through the Chesapeake Bay Program of the Environmental Protection Agency to develop an unparalleled body of scientific information and cooperative partnerships to advance the Chesapeake Bay restoration effort;

(3) despite significant efforts by Federal, State, and local governments and other interested parties, water pollution in the Chesapeake Bay prevents the attainment of existing State water quality standards and the ecological goals of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(4) the Chesapeake Bay Program partnership has developed a rich body of environmental data based on an extensive network of monitors, which provide a critical measure of success in attainment of the goals of the restoration effort;

(5) the Chesapeake Bay Program partnership has also developed some of the world’s foremost water quality and ecosystem computer models, which are invaluable planning tools for resource managers;

(6) the major pollutants affecting the water quality of the Chesapeake Bay and related tidal waters are nitrogen, phosphorus, and sediment;

(7) the largest developed land use in the Chesapeake Bay watershed, and the largest single-sector source of nitrogen, phosphorus, and sediment pollution, is agriculture;

(8) conservation practices have resulted in significant reductions in pollution loads from the agricultural sector;

(9) to speed continued progress in the agricultural sector, the Federal Government and State governments have initiated a number of agricultural conservation programs, including the Chesapeake Bay watershed initiative under section 1240Q of the Food Security Act of 1985 (16 U.S.C. 3839bb-4);

(10) atmospheric deposition of nitrogen oxides and ammonia on the Chesapeake Bay watershed contributes as much as 1/3 of the nitrogen pollution in the Chesapeake Bay;

(11) for years, a steady stream of technology development and increasingly stringent permit requirements have resulted in a steady decline in the nitrogen and phosphorus pollution derived from wastewater treatment plants in the Chesapeake Bay watershed;

(12) suburban and urban development is the fastest growing land use sector in the Chesapeake Bay watershed, and stormwater runoff from that sector is the only major source of pollution in the watershed that is increasing;

(13) during the period beginning in 1990 and ending in 2000, impervious cover, the hardened surfaces through which water cannot penetrate, increased by nearly 250,000 acres, about 41 percent, or the size of 5 Districts of Columbia;

(14) during that period, the watershed population of the Chesapeake Bay grew by just 8 percent;

(15) the population of the watershed is estimated to be growing by about 157,000 people per year;

(16) continuing at that rate, the population will increase to nearly 20,000,000 by 2030;

(17) about 58 percent of the watershed of the Chesapeake Bay is undeveloped and mostly forested, but as many as 100 hundred acres of forest are lost to development each day;

(18) States, local governments, developers, and nonprofit organizations have developed numerous low-impact development techniques since the late 1990s, which use natural area protection, infiltration, and pervious surfaces to reduce stormwater runoff and associated sediment and nutrient pollution;

(19) many of those techniques are less expensive than traditional pollution stormwater control management techniques;

(20) the decline of key aquatic habitats and species has resulted in a loss of the important water quality benefits that the habitats and species traditionally provided;

(21) native oysters, the numbers of which have declined precipitously in the Chesapeake Bay in significant part because of diseases brought into the watershed by non-native oysters, are natural filters that once effectively filtered a volume of water equivalent to that of the entire Chesapeake Bay in a matter of days;

(22) although less well-understood, menhaden, a species of fish found in the Chesapeake Bay, also provide important filtering capacity as well as a number of other key ecosystem functions;

(23) wetlands are a vital part of any major ecosystem;

(24) studies have demonstrated that nontidal wetland near the Chesapeake Bay removed as much as 89 percent of the nitrogen and 80 percent of the phosphorus that entered the wetland through upland runoff, groundwater, and precipitation;

(25) riparian forests remove as much as 90 percent of nitrogen and phosphorus that would otherwise enter the water;

(26) the loss of forests and wetlands in the Chesapeake Bay has resulted in diminished water quality, among other effects;

(27) in certain locations in the Chesapeake Bay, nutria, a nonnative species, has caused extensive destruction of key wetlands; and

(28) in spite of the achievements of the Chesapeake Bay Program partnership and increasing knowledge about ecosystem functions, the restoration of the Chesapeake Bay will require significantly stronger tools to manage pollution levels and other impediments to water quality.

SEC. 3. CHESAPEAKE BAY PROGRAM.

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

“SEC. 117. CHESAPEAKE BAY PROGRAM.

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATIVE COST.—The term ‘administrative cost’ means the cost of salaries and fringe benefits incurred in administering a grant under this section.

“(2) ASIAN OYSTER.—The term ‘Asian oyster’ means the species *Crassostrea ariakensis*.

“(3) BASELINE.—The term ‘baseline’ means the basic standard or level used for measuring (as applicable)—

“(A) the nutrient control requirements credit sellers must achieve before becoming eligible to generate saleable nutrient credits; or

“(B) the nutrient load reductions required of individual sources to meet water quality standards or goals under a TMDL or watershed implementation plan.

“(4) BASIN COMMISSIONS.—The term ‘basin commissions’ means—

“(A) the Interstate Commission on the Potomac River Basin established under the interstate compact consented to and approved by Congress under the Joint Resolution of July 11, 1940 (54 Stat. 748, chapter 579) and Public Law 91–407 (84 Stat. 856); and

“(B) the Susquehanna River Basin Commission established under the interstate compact consented to and approved by Congress under Public Law 91–575 (84 Stat. 1509) and Public Law 99–468 (100 Stat. 1193).

“(5) CHESAPEAKE BAY AGREEMENT.—The term ‘Chesapeake Bay Agreement’ means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the Chesapeake Bay ecosystem and signed by the Chesapeake Executive Council.

“(6) CHESAPEAKE BAY ECOSYSTEM.—The term ‘Chesapeake Bay ecosystem’ means the ecosystem of the Chesapeake Bay watershed.

“(7) CHESAPEAKE BAY PROGRAM.—The term ‘Chesapeake Bay Program’ means the program directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement.

“(8) CHESAPEAKE BAY STATE.—The term ‘Chesapeake Bay State’ means any of—

“(A) the States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia; or

“(B) the District of Columbia.

“(9) CHESAPEAKE BAY WATERSHED.—The term ‘Chesapeake Bay watershed’ means the Chesapeake Bay and the area consisting of 19 tributary basins within the Chesapeake Bay States through which precipitation drains into the Chesapeake Bay.

“(10) CHESAPEAKE EXECUTIVE COUNCIL.—The term ‘Chesapeake Executive Council’ means the signatories to the Chesapeake Bay Agreement.

“(11) CLEANING AGENT.—The term ‘cleaning agent’ means a laundry detergent, dishwashing compound, household cleaner, metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, phosphate compound, or other substance that is intended to be used for cleaning purposes.

“(12) DIRECTOR.—The term ‘director’ means the Director of the Chesapeake Bay Program Office of the Environmental Protection Agency.

“(13) LOCAL GOVERNMENT.—The term ‘local government’ means any county, city, or other general purpose political subdivision of a State with jurisdiction over land use.

“(14) MENHADEN.—The term ‘menhaden’ means members of stocks or populations of the species *Brevoortia tyrannus*.

“(15) NUTRIA.—The term ‘nutria’ means the species *Myocaster coypus*.

“(16) POINT-OF-REGULATION.—The term ‘point-of-regulation’ means any entity that—

“(A) is subject to a limitation on pollution or other regulation under this Act; and

“(B) has sufficient technical capacity and legal authority to meet the obligations of the entity under this Act.

“(17) SIGNATORY JURISDICTION.—The term ‘signatory jurisdiction’ means a jurisdiction of a signatory to the Chesapeake Bay Agreement.

“(18) TMDL.—

“(A) IN GENERAL.—The term ‘TMDL’ means the total maximum daily load that the Administrator establishes or approves for nitrogen, phosphorus, and sediment loading to the waters in the Chesapeake Bay mainstem and tidal tributaries identified on the list of a Chesapeake Bay State under section 303(d).

“(B) INCLUSIONS.—The term ‘TMDL’ may include nitrogen, phosphorus, and sediment allocations in temporal units of greater than daily duration if applicable allocations—

“(i) are demonstrated to achieve water quality standards; and

“(ii) do not lead to exceedances of other applicable water quality standards for local receiving waters.

“(19) TRIBUTARY BASIN.—The term ‘tributary basin’ means an area of land or body of water that—

“(A) drains into any of the 19 Chesapeake Bay tributaries or tributary segments; and

“(B) is managed through watershed implementation plans under this Act.

“(b) CONTINUATION OF CHESAPEAKE BAY PROGRAM.—

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

“(2) PROGRAM OFFICE.—

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

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

“(i) implementing and coordinating science, research, modeling, support services, monitoring, data collection, and other activities that support the Chesapeake Bay Program;

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

“(iii) in cooperation with appropriate Federal, State, and local authorities, assisting the signatories to the Chesapeake Bay Agreement in developing and implementing specific action plans to carry out the responsibilities of the signatories to the Chesapeake Bay Agreement;

“(iv) coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

“(I) improve the water quality and living resources in the Chesapeake Bay ecosystem; and

“(II) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

“(v) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay.

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

“(d) TECHNICAL ASSISTANCE AND ASSISTANCE GRANTS.—

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

“(2) FEDERAL SHARE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of an assistance grant provided under paragraph (1) shall be determined by the Administrator in accordance with guidance issued by the Administrator.

“(B) CHESAPEAKE BAY STEWARDSHIP GRANTS PROGRAM.—The Federal share of an assistance grant provided under paragraph (1) to carry out an implementing activity under subsection (h)(2) shall not exceed 75 percent of eligible project costs, as determined by the Administrator.

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

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

“(e) IMPLEMENTATION AND MONITORING GRANTS.—

“(1) IN GENERAL.—On the request of the chief executive of the Chesapeake Bay State, the Administrator—

“(A) shall make an implementation grant to the Chesapeake Bay State, or a designee of a Chesapeake Bay State (such as a soil conservation district, nonprofit organization, local government, college, university, interstate basin commission, or interstate agency), for the purpose of implementing the TMDL plans of the Chesapeake Bay State and achieving the goals established under

the Chesapeake Bay Agreement, subject to such terms and conditions as the Administrator considers to be appropriate; and

“(B) may make a monitoring grant to—

“(i) a Chesapeake Bay State, or a designee of a Chesapeake Bay State (such as a soil conservation district, nonprofit organization, local government, college, university, interstate basin commission, or interstate agency), for the purpose of monitoring the ecosystem of freshwater tributaries to the Chesapeake Bay; or

“(ii) the States of Delaware, Maryland, or Virginia, the District of Columbia, or a designee (such as a nonprofit organization, local government, college, university, or interstate agency) for the purpose of monitoring the Chesapeake Bay, including the tidal waters of the Chesapeake Bay.

“(2) ADMINISTRATION.—In making implementation grants to each of the Chesapeake Bay States for a fiscal year under this subsection, the Administrator shall ensure that not less than—

“(A) 10 percent of the funds available to make such grants are made to the States of Delaware, New York, and West Virginia; and

“(B) 20 percent of the funds available to make such grants are made to States for the sole purpose of providing technical assistance to agricultural producers and foresters to access conservation programs and other resources devoted to improvements in water quality in the Chesapeake Bay and the tributaries of the Chesapeake Bay.

“(3) PROPOSALS.—

“(A) IMPLEMENTATION GRANTS.—

“(i) IN GENERAL.—A Chesapeake Bay State described in paragraph (1) may apply for a grant under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to implement programs and achieve the goals established under the Chesapeake Bay Agreement.

“(ii) IMPLEMENTATION GRANT CONTENTS.—A proposal under clause (i) shall include—

“(I) a description of proposed actions that the Chesapeake Bay State commits to take within a specified time period that are designed—

“(aa) to achieve and maintain all applicable water quality standards, including standards necessary to support the aquatic living resources of the Chesapeake Bay and related tributaries and to protect human health;

“(bb) to restore, enhance, and protect the finfish, shellfish, waterfowl, and other living resources, habitats of those species and resources, and ecological relationships to sustain all fisheries and provide for a balanced ecosystem;

“(cc) to preserve, protect, and restore those habitats and natural areas that are vital to the survival and diversity of the living resources of the Chesapeake Bay and associated rivers;

“(dd) to develop, promote, and achieve sound land use practices that protect and restore watershed resources and water quality, reduce or maintain reduced pollutant loadings for the Chesapeake Bay and related tributaries, and restore and preserve aquatic living resources;

“(ee) to promote individual stewardship and assist individuals, community-based organizations, businesses, local governments, and schools to undertake initiatives to achieve the goals and commitments of the Chesapeake Bay Agreement; or

“(ff) to provide technical assistance to agricultural producers, foresters, and other eligible entities, through technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses;

“(II) a commitment to dedicate not less than 20 percent of the grant of the Chesapeake Bay under this subsection to support technical assistance for agricultural and forestry land or nutrient management practices that protect and restore watershed resources and water quality, reduce or maintain reduced pollutant loadings for the Chesapeake Bay and related tributaries, and restore and preserve aquatic living resources; and

“(III) the estimated cost of the actions proposed to be taken during the fiscal year.

“(B) MONITORING GRANTS.—

“(i) IN GENERAL.—A Chesapeake Bay State described in paragraph (1) may apply for a grant under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to monitor freshwater or estuarine ecosystems, including water quality.

“(ii) MONITORING GRANT CONTENTS.—A proposal under this subparagraph shall include—

“(I) a description of the proposed monitoring system;

“(II) certification by the Chesapeake Bay Program Director that such a monitoring system includes such parameters as the Chesapeake Bay Program Director determines to be necessary to assess progress toward achieving the goals of the Chesapeake Clean Water and Ecosystem Restoration Act of 2009; and

“(III) the estimated cost of the monitoring proposed to be conducted during the fiscal year.

“(iii) CONCURRENCES.—The Administrator shall—

“(I) obtain the concurrence of the Director of the United States Geological Survey regarding the design and implementation of the freshwater monitoring systems established under this subsection; and

“(II) obtain the concurrence of the Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration regarding the design and implementation of the estuarine monitoring systems established under this subsection.

“(iv) CONSULTATION.—The Administrator shall—

“(I) consult with the Interstate Commission on the Potomac River Basin, the Susquehanna River Basin Commission, and the Chesapeake Bay States regarding the design and implementation of the freshwater monitoring systems established under this subsection, giving particular attention to the measurement of the water quality effectiveness of agricultural conservation program implementation (including geospatial agricultural conservation program data), including the Chesapeake Bay Watershed Initiative under section 1240Q of the Food Security Act of 1985 (16 U.S.C. 3839bb-4);

“(II) consult with Old Dominion University, the Virginia Institute of Marine Science, the University of Maryland Center for Environmental Science, and the Chesapeake Bay States regarding the estuarine monitoring systems established under this subsection;

“(III) consult with the Chesapeake Bay Program Scientific and Technical Advisory Committee regarding independent review of monitoring designs giving particular attention to integrated freshwater and estuarine monitoring strategies; and

“(IV) consult with Federal departments and agencies regarding cooperation in implementing monitoring programs.

“(f) FEDERAL FACILITIES COORDINATION.—

“(1) SUBWATERSHED PLANNING AND RESTORATION.—A Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Bay watershed shall participate in regional and sub-

watershed planning and restoration programs.

“(2) COMPLIANCE WITH AGREEMENTS AND PLANS.—The head of each Federal agency that owns or occupies real property in the Chesapeake Bay watershed shall ensure that the property, and actions taken by the agency with respect to the property, comply with—

“(A) the Chesapeake Bay Agreement;

“(B) the Federal Agencies Chesapeake Ecosystem Unified Plan;

“(C) the Chesapeake Bay action plan developed in accordance with subparagraph (g)(1)(A); and

“(D) any subsequent agreements and plans.

“(g) FEDERAL ANNUAL ACTION PLAN AND PROGRESS REPORT.—The Administrator, in accordance with Executive Order 13508 entitled ‘Chesapeake Bay Protection and Restoration’ and signed on May 12, 2009 (74 Fed. Reg. 23099), shall—

“(1) make available to the public, not later than March 31 of each year—

“(A) a Chesapeake Bay action plan describing, in the greatest practicable degree of detail, how Federal funding proposed in the annual budget of the United States submitted by the President to Congress will be used to protect and restore the Chesapeake Bay during the upcoming fiscal year; and

“(B) an annual progress report that—

“(i) assesses the key ecological attributes that reflect the health of the Chesapeake Bay ecosystem;

“(ii) reviews indicators of environmental conditions in the Chesapeake Bay;

“(iii) distinguishes between the health of the Chesapeake Bay ecosystem and the results of management measures;

“(iv) assesses implementation of the action plan during the preceding fiscal year;

“(v) recommends steps to improve progress in restoring and protecting the Chesapeake Bay; and

“(vi) describes how Federal funding and actions will be coordinated with the actions of States, basin commissions, and others;

“(2) create and maintain, with the concurrence of the Secretary of Agriculture, a Chesapeake Bay-wide database containing comprehensive data on implementation of conservation management practices in the Chesapeake Bay watershed that—

“(A) includes baseline conservation management practice implementation data as of the effective date of the Chesapeake Clean Water and Ecosystem Restoration Act of 2009;

“(B) includes data on subsequent conservation management practice implementation projects funded by or reported to the Agency or the Department;

“(C) presents the required data in statistical or aggregate form without identifying any—

“(i) individual owner, operator, or producer; or

“(ii) specific data gathering site; and

“(D) is made available to the public not later than December 31, 2010.

“(h) CHESAPEAKE BAY PROGRAM.—

“(1) MANAGEMENT STRATEGIES.—The Administrator, in coordination with other members of the Chesapeake Executive Council, shall ensure that management plans are developed and implemented by Chesapeake Bay States to achieve and maintain—

“(A) the nutrient goals of the Chesapeake Bay Agreement for the quantity of nitrogen and phosphorus entering the Chesapeake Bay and the watershed of the Chesapeake Bay;

“(B) the water quality requirements necessary to restore living resources in the Chesapeake Bay ecosystem;

“(C) the Chesapeake Bay Basinwide Toxins Reduction and Prevention Strategy goal of reducing or eliminating the input of chem-

ical contaminants from all controllable sources to levels that result in no toxic or bioaccumulative impact on the living resources of the Chesapeake Bay ecosystem or on human health;

“(D) habitat restoration, protection, creation, and enhancement goals established by Chesapeake Bay Agreement signatories for wetland, riparian forests, and other types of habitat associated with the Chesapeake Bay ecosystem; and

“(E) the restoration, protection, creation, and enhancement goals established by the Chesapeake Bay Agreement signatories for living resources associated with the Chesapeake Bay ecosystem.

“(2) CHESAPEAKE BAY STEWARDSHIP GRANTS PROGRAM.—The Administrator, in cooperation with the Chesapeake Executive Council, shall—

“(A) establish a Chesapeake Bay Stewardship Grants Program; and

“(B) in carrying out that program—

“(i) offer technical assistance and assistance grants under subsection (d) to local governments, soil conservation districts, academic institutions, and nonprofit organizations in the Chesapeake Bay region to implement—

“(I) cooperative watershed strategies that address the water quality, habitat, and living resource needs in the Chesapeake Bay ecosystem;

“(II) locally based protection and restoration programs or projects within a watershed that complement the State watershed implementation plans, including the creation, restoration, or enhancement of habitat associated with the Chesapeake Bay ecosystem; and

“(III) innovative nitrogen, phosphorus, or sediment reduction efforts; and

“(ii) give preference to cooperative projects that involve local governments.

“(i) TOTAL MAXIMUM DAILY LOAD.—

“(1) TMDL.—

“(A) ESTABLISHMENT.—Not later than December 31, 2010, the Administrator shall establish a Chesapeake Bay-wide TMDL.

“(B) REQUIREMENTS.—The Administrator shall not establish or approve a TMDL described in subparagraph (A) unless the TMDL includes—

“(i) wasteload allocations for nitrogen, phosphorus, and sediment necessary to implement the applicable water quality standards in the Chesapeake Bay watershed and achieve those standards in the Chesapeake Bay and the tidal tributaries of the Chesapeake Bay;

“(ii) enforceable or otherwise binding load allocations for all nonpoint sources, including atmospheric deposition, agricultural runoff, and stormwater sources for which a permit under section 402 is not required;

“(iii) a margin of safety so as to ensure that the TMDL does not exceed any applicable water quality standard; and

“(iv) a requirement for no net increase of nitrogen, phosphorus, and sediment loads above the pollution limitations necessary to meet water quality standards for the Chesapeake Bay, including no net projected increased pollutant loads from—

“(I) new or increased impervious surfaces;

“(II) concentrated animal feeding operations;

“(III) transportation systems; and

“(IV) septic systems.

“(2) PERMITS.—

“(A) IN GENERAL.—Effective beginning on January 1, 2011, a new or reissued permit issued by the Administrator under section 402(a) or a State authorized to administer a permit program under section 402(b) shall include limits consistent with all applicable wasteload allocations in the Chesapeake Bay TMDL.

“(B) PERMITS.—

“(i) IN GENERAL.—Effective beginning on January 1, 2011, each Chesapeake Bay State shall submit to the Administrator copies of any permit for discharges of nitrogen, phosphorus, or sediment into the Chesapeake Bay watershed that is allowed to continue beyond 5 years pursuant to a State law analogous to section 558(c) of title 5, United States Code, not later than 60 days after the expiration date of the permit.

“(ii) REVIEW.—The Administrator shall have the opportunity to review and object to the continuance of the permit in accordance with the process described in section 402(d) for permits proposed to be issued by a State.

“(j) ACTIONS BY STATES.—

“(i) WATERSHED IMPLEMENTATION PLANS.—

“(A) PLANS.—

“(i) IN GENERAL.—Not later than May 12, 2011, each Chesapeake Bay State shall, after providing for reasonable notice and 1 or more public hearings, adopt and submit to the Administrator for approval a watershed implementation plan for the portion of each of the 92 tidal water segments that is subject to the jurisdiction of the Chesapeake Bay State that together comprise the Chesapeake Bay.

“(ii) TARGETS.—The watershed implementation plan shall establish reduction targets, key actions, and schedules for reducing, to levels that will attain water quality standards, the loads, of nitrogen, phosphorus, and sediment, including pollution from—

“(I) agricultural runoff;

“(II) point sources, including point source stormwater discharges;

“(III) nonpoint source stormwater runoff; and

“(IV) septic systems and other onsite sewage disposal systems.

“(iii) POLLUTION LIMITATIONS.—

“(I) IN GENERAL.—The tributary pollution limitations shall be the nitrogen, phosphorus, and sediment cap loads identified in the tributary cap load agreement numbered EPA 903-R-03-007, date December 2003, and entitled ‘Setting and Allocating the Chesapeake Bay Basin Nutrient and Sediment Loads: The Collaborative Process, Technical Tools and Innovative Approaches,’ or a Chesapeake Bay TMDL established by the Administrator.

“(II) STRINGENCY.—A watershed implementation plan shall be designed to attain, at a minimum, the pollution limitations described in subclause (I).

“(iv) PLAN REQUIREMENTS.—Each watershed implementation plan shall—

“(I) include State-adopted management measures, including rules or regulations, permits, consent decrees, and other enforceable or otherwise binding measures, to require and achieve reductions from pollution sources;

“(II) include programs to achieve voluntary reductions from pollution sources, including funding commitments necessary to implement those programs;

“(III) include any additional requirements or actions that the Chesapeake Bay State determines to be necessary to attain the pollution limitations by the deadline established in this paragraph;

“(IV) provide for enforcement mechanisms, including a penalty structure for failures, such as fees or forfeiture of State funds, including Federal funds distributed or otherwise awarded by the State to the extent the State is authorized to exercise independent discretion in amounts of such distributions or awards, for use in case a permittee, local jurisdictions, or any other party fails to adhere to assigned pollutant limitations, implementation schedules, or permit terms;

“(V) include a schedule for implementation divided into 2-year periods, along with computer modeling to demonstrate the projected

reductions in nitrogen, phosphorus, and sediment loads associated with each 2-year period;

“(VI) include the stipulation of alternate actions as contingencies;

“(VII) account for how the Chesapeake Bay State will address additional loadings from growth through offsets or other actions; and

“(VIII) provide assurances that—

“(aa) if compared to an estimated 2008 baseline based on modeled loads, the initial plan shall be designed to achieve, not later than May 31, 2017, at least 60 percent of the nutrient and sediment limitations described in clause (iii)(I);

“(bb) the management measures required to achieve a 50-percent reduction of nutrient and sediment limitations shall be in effect upon submission of the plan;

“(cc) the Chesapeake Bay State will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out the implementation plan, and is not prohibited by any provision of Federal or State law from carrying out the implementation plan; and

“(dd) in a case in which a Chesapeake Bay State has relied on a local government for the implementation of any plan provision, the Chesapeake Bay State has the responsibility for ensuring adequate implementation of the provision.

“(B) IMPLEMENTATION.—

“(i) IN GENERAL.—In implementing a watershed implementation plan, each Chesapeake Bay State shall follow a strategy developed by the Administrator for the implementation of adaptive management principles to ensure full implementation of all plan elements by not later than May 12, 2025, including—

“(I) biennial evaluations of State actions;

“(II) progress made toward implementation;

“(III) determinations of necessary modifications to future actions in order to achieve objectives; and

“(IV) appropriate provisions to adapt to climate changes.

“(ii) DEADLINE.—Not later than May 12, 2025, each Chesapeake Bay State shall—

“(I) fully implement the watershed implementation plan of the State; and

“(II) have in place all the mechanisms outlined in the plan that are necessary to attain the applicable pollutant limitations for nitrogen, phosphorus, and sediments.

“(C) PROGRESS REPORTS.—Not later than May 12, 2014, and biennially thereafter, each Chesapeake Bay State shall submit to the Administrator a progress report that, with respect to the 2-year period covered by the report—

“(i) includes a listing of all management measures that were to be implemented in accordance with the approved watershed implementation plan of the Chesapeake Bay State, including a description of the extent to which those measures have been fully implemented;

“(ii) includes a listing of all the management measures described in clause (i) that the Chesapeake Bay State has failed to fully implement in accordance with the approved watershed implementation plan of the Chesapeake Bay State;

“(iii) includes monitored and collected water quality data;

“(iv) includes Chesapeake Bay Program computer modeling data that detail the nitrogen, phosphorus, and sediment load reductions projected to be achieved as a result of the implementation of the management measures and mechanisms carried out by the Chesapeake Bay State;

“(v) includes, for the subsequent 2-year period, implementation goals and Chesapeake Bay Program computer modeling data de-

tailing the projected pollution reductions to be achieved if the Chesapeake Bay State fully implements the subsequent round of management measures;

“(vi) identifies compliance information, including violations, actions taken by the Chesapeake Bay State to address the violations, and dates, if any, on which compliance was achieved; and

“(vii) specifies any revisions to the watershed implementation plan submitted under this paragraph that the Chesapeake Bay State determines are necessary to attain the applicable pollutant limitations for nitrogen, phosphorus, and sediments.

“(2) ISSUANCE OF PERMITS.—

“(A) IN GENERAL.—Notwithstanding any other provision of this Act (including any exclusion or exception contained in a definition under section 502), for the purpose of achieving the nitrogen, phosphorus, and sediment reductions required under a watershed implementation plan, a Chesapeake Bay State may issue a permit in accordance with section 402 for any pollution source the Chesapeake Bay State determines to be necessary.

“(B) ENFORCEMENT.—The Administrator shall enforce any permits issued in accordance with the watershed implementation plan in the same manner as other permits issued under section 402 are enforced.

“(3) STORMWATER PERMITS.—

“(A) IN GENERAL.—Effective beginning January 1, 2013, the Chesapeake Bay State shall provide assurances to the Administrator that—

“(i) the owner or operator of any development or redevelopment project possessing an impervious footprint that exceeds a threshold to be determined by the Administrator through rulemaking, will use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the property with regard to the temperature, rate, volume, and duration of flow; and

“(ii) as a further condition of permitting such a development or redevelopment, the owner or operator of any development or redevelopment project possessing an impervious footprint that exceeds a threshold to be determined by the Administrator through rulemaking will compensate for any unavoidable impacts to the predevelopment hydrology of the property with regard to the temperature, rate, volume, and duration of flow, such that—

“(I) the compensation within the jurisdictional boundaries of the local government shall provide in-kind mitigation of function at a ratio to be determined by the Administrator through rulemaking; and

“(II) the compensation outside the jurisdictional boundaries of the local government shall provide in-kind mitigation, at a ratio to be determined by the Administrator through rulemaking, within the tributary watershed in which the project is located.

“(B) ADMINISTRATION.—Not later than December 31, 2012, the Administrator shall promulgate regulations that—

“(i) define the term ‘predevelopment hydrology’ in subparagraph (A);

“(ii) establish the thresholds under subparagraph (A); and

“(iii) establish the compensation ratios under subparagraph (A)(ii).

“(4) PHOSPHATE BAN.—

“(A) PHOSPHORUS IN CLEANING AGENTS.—Each Chesapeake Bay State shall provide to the Administrator, not later than 3 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act of 2009, assurances that within the

jurisdiction, except as provided in subparagraph (B), a person may not use, sell, manufacture, or distribute for use or sale any cleaning agent that contains more than 0.0 percent phosphorus by weight, expressed as elemental phosphorus, except for a quantity not exceeding 0.5 percent phosphorus that is incidental to the manufacture of the cleaning agent.

“(B) PROHIBITED QUANTITIES OF PHOSPHORUS.—Each Chesapeake Bay State shall provide to the Administrator, not later than 3 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act of 2009, assurances that, within the jurisdiction, a person may use, sell, manufacture, or distribute for use or sale a cleaning agent that contains greater than 0.0 percent phosphorus by weight, but does not exceed 8.7 percent phosphorus by weight, if the cleaning agent is a substance that the Administrator, by regulation, excludes from the limitation under subparagraph (A), based on a finding that compliance with that subparagraph would—

“(i) create a significant hardship on the users of the cleaning agent; or

“(ii) be unreasonable because of the lack of an adequate substitute cleaning agent.

“(k) ACTION BY ADMINISTRATOR.—

“(1) IN GENERAL.—Not later than 60 days after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act of 2009, the Administrator shall establish minimum criteria that any proposed watershed implementation plan must meet before the Administrator may approve such a plan.

“(2) COMPLETENESS FINDING.—

“(A) IN GENERAL.—Not later than 60 days after the date on which the Administrator receives a new or revised proposed watershed implementation plan from a Chesapeake Bay State, the Administrator shall determine whether the minimum criteria for the plan established under paragraph (1) have been met.

“(B) EFFECT OF FINDING OF INCOMPLETENESS.—If the Administrator determines under subparagraph (A) that all or any portion of a submitted watershed implementation plan does not meet the minimum criteria established under paragraph (1), the Chesapeake Bay State submitting the plan shall be treated as not having made the submission.

“(3) APPROVAL AND DISAPPROVAL.—

“(A) DEADLINE.—Not later than 90 days after determining that a watershed implementation plan meets minimum criteria in accordance with paragraph (2)(A), the Administrator shall approve or disapprove the plan.

“(B) FULL AND PARTIAL APPROVAL AND DISAPPROVAL.—In carrying out this paragraph, the Administrator—

“(i) shall approve a watershed implementation plan if the plan meets all applicable requirements under this section; and

“(ii) may approve the plan in part and disapprove the plan in part if only a portion of the plan meets those requirements.

“(C) CONDITIONAL APPROVAL.—The Administrator—

“(i) may conditionally approve a revised watershed implementation plan based on a commitment of the Chesapeake Bay State submitting the plan to adopt specific enforceable management measures by not later than 1 year after the date of approval of the plan revision; but

“(ii) shall treat a conditional approval as a disapproval under this paragraph if the Chesapeake Bay State fails to comply with the commitment of the Chesapeake Bay State.

“(D) FULL APPROVAL REQUIRED.—A new or revised watershed implementation plan shall

not be treated as meeting the requirements of this section until the Administrator approves the entire new or revised plan.

“(E) CORRECTIONS.—In any case in which the Administrator determines that the action of the Administrator approving, disapproving, conditionally approving, or promulgating any new or revised watershed implementation plan was in error, the Administrator—

“(i) may, in the same manner as the approval, disapproval, conditional approval, or promulgation, revise the action of the Administrator, as appropriate, without requiring any further submission from the Chesapeake Bay State; and

“(ii) shall make the determination of the Administrator, and the basis for that determination, available to the public.

“(F) EFFECTIVE DATE.—The provisions of a State watershed implementation plan shall take effect upon the date of approval of the plan.

“(4) CALLS FOR PLAN REVISION.—In any case in which the Administrator determines that watershed implementation plan for any area is inadequate to attain or maintain applicable pollution limitations, the Administrator—

“(A) shall notify the Chesapeake Bay State of, and require the Chesapeake Bay State to revise the plan to correct, the inadequacies;

“(B) may establish reasonable deadlines (not to exceed 180 days after the date on which the Administrator provides the notification) for the submission of a revised watershed implementation plan;

“(C) make the findings of the Administrator under paragraph (3) and notice provided under subparagraph (A) public; and

“(D) require the Chesapeake Bay State to comply with the requirements applicable under the initial watershed implementation plan, except that the Administrator may adjust any dates (other than attainment dates) applicable under those requirements, as appropriate.

“(5) FEDERAL IMPLEMENTATION.—If a Chesapeake Bay State fails to submit a watershed implementation plan, to submit a biennial report, or to correct a previously missed 2-year commitment made in a watershed implementation plan, the Administrator shall, after issuing a notice to the State and providing a 90-day period in which the failure may be corrected—

“(A) withhold all funds otherwise available to the Chesapeake Bay State under this Act;

“(B) develop and administer a watershed implementation plan for that Chesapeake Bay State until such time as the Chesapeake Bay State has remedied the plan, reports, or achievements to the satisfaction of the Administrator;

“(C) require that all permits issued under section 402 for new or expanding discharges of nitrogen, phosphorus, or sediments acquire offsets that exceed by 100 percent an amount that would otherwise be required, taking into account attenuation, equivalency, and uncertainty; and

“(D) for the purposes of developing and implementing a watershed implementation plan under subparagraph (B)—

“(i) notwithstanding any other provision of this Act (including any exclusion or exception contained in a definition under section 502), promulgate such regulations or issue such permits as the Administrator determines to be necessary to control pollution sufficient to meet the water quality goals defined in the watershed implementation plan; and

“(ii) enforce any permits issued in accordance with the watershed implementation plan in the same manner as other permits issued under section 402 are enforced.

“(6) NITROGEN AND PHOSPHORUS TRADING PROGRAM.—

“(A) ESTABLISHMENT.—Not later than May 12, 2012, the Administrator, in cooperation with each Chesapeake Bay State, shall establish an interstate nitrogen and phosphorus trading program for the Chesapeake Bay for the generation, trading, and use of nitrogen and phosphorus credits to facilitate the attainment and maintenance of the Chesapeake Bay-wide TMDL for nitrogen and phosphorus.

“(B) TRADING SYSTEM.—The trading program established under this subsection shall, at a minimum—

“(i) define and standardize nitrogen and phosphorus credits and establish procedures or standards for ensuring equivalent water quality benefits for all credits;

“(ii) establish procedures or standards for certifying and verifying nitrogen and phosphorus credits to ensure that credit-generating practices from both point sources and nonpoint sources are achieving actual reductions in nitrogen and phosphorus;

“(iii) establish procedures or standards for generating, quantifying, trading, and applying credits to meet regulatory requirements and allow for trading to occur between and across point source or nonpoint sources;

“(iv) establish baseline requirements that a credit seller must meet before becoming eligible to generate saleable credits;

“(v) establish points-of-regulation at the sub-State level to facilitate trading and promote water quality goals under which—

“(I) States may designate point sources as points-of-regulation;

“(II) States may aggregate multiple sources to serve as points-of-regulation; and

“(III) the Administrator shall establish guidelines or standards to ensure that points-of-regulation shall be generally consistent across States;

“(vi) ensure that credits are used in accordance with permit requirements under the national pollutant discharge elimination system established under section 402 and trade requirements have been adequately incorporated into the permits;

“(vii) ensure that private contracts between credit buyers and credit sellers contain adequate provisions to ensure enforceability under applicable law;

“(viii) establish procedures or standards for providing public transparency on nutrient trading activity;

“(ix) ensure that, if the local receiving water is impaired for the nutrient being traded but a TMDL has not yet been implemented for the impairment—

“(I) trades are required to result in progress toward or the attainment of water quality standards in the local receiving water; and

“(II) sources in the watershed may not rely on credits produced outside of the watershed;

“(x) require that the application of credits to meet regulatory requirements under this section not cause or contribute to exceedances of water quality standards, total maximum daily loads, or wasteload or load allocations for affected receiving waters, including avoidance of localized impacts;

“(xi) except as part of a consent agreement, prohibit the purchase of credits from any entity that is in significant noncompliance with an enforceable permit issued under section 402;

“(xii) consider and incorporate, to the maximum extent practicable, elements of State trading programs in existence as of the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act of 2009; and

“(xiii) allow for, as appropriate, the aggregation and banking of credits by third parties.

“(C) FACILITATION OF TRADING.—In order to attract market participants and facilitate the cost-effective achievement of water-quality goals, the Administrator shall ensure that the trading program established under this paragraph—

“(i) includes measures to mitigate credit buyer risk;

“(ii) makes use of the best available science in order to minimize uncertainty and related transaction costs to traders, including the Administrator, in consultation with the Secretary of Agriculture, supporting research and other activities that increase the scientific understanding of nonpoint nutrient pollutant loading and the ability of various structural and nonstructural alternatives to reduce the loads;

“(iii) eliminates unnecessary or duplicative administrative processes; and

“(iv) incorporates a permitting approach under the national pollutant discharge elimination system established under section 402 that allows trading to occur without requiring the reopening or reissuance of permits to incorporate individual trades.

“(7) AUTHORITY RELATING TO DEVELOPMENT.—The Administrator shall—

“(A) establish, for projects resulting in impervious development, guidance relating to site planning, design, construction, and maintenance strategies to ensure that the land maintains predevelopment hydrology with regard to the temperature, rate, volume, and duration of flow;

“(B) establish model ordinances and guidelines with respect to the construction of low-impact development infrastructure and nonstructural low-impact development techniques for use by States, local governments, and private entities; and

“(C) not later than 180 days after promulgation of the regulations under subsection (j)(3)(B), issue such guidance, model ordinances, and guidelines as are necessary to carry out this paragraph.

“(8) ASSISTANCE WITH RESPECT TO STORMWATER DISCHARGES.—

“(A) GRANT PROGRAM.—The Administrator may provide grants to any local government within the Chesapeake Bay watershed that adopts the guidance, ordinances, and guidelines issued under paragraph (7).

“(B) USE OF FUNDS.—A grant provided under subparagraph (A) may be used by a local government to pay costs associated with—

“(i) developing, implementing, and enforcing the guidance, ordinances, and guidelines issued under paragraph (7); and

“(ii) implementing projects designed to reduce stormwater discharges.

“(9) CONSUMER AND COMMERCIAL PRODUCT REPORT.—Not later than 3 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act of 2009, the Administrator, in consultation with the Chesapeake Executive Council, shall—

“(A) review consumer and commercial products, the use of which may affect the water quality of the Chesapeake Bay watershed or associated tributaries, to determine whether further product nutrient content restrictions are necessary to restore or maintain water quality in the Chesapeake Bay watershed and those tributaries; and

“(B) submit to the Committees on Appropriations, Environment and Public Works, and Commerce, Science, and Transportation of the Senate and the Committees on Appropriations, Natural Resources, Energy and Commerce, and Transportation and Infrastructure of the House of Representatives a product nutrient report detailing the findings of the review under subparagraph (A).

“(I) PROHIBITION ON INTRODUCTION OF ASIAN OYSTERS.—Not later than 2 years after the date of enactment of the Chesapeake Clean

Water and Ecosystem Restoration Act of 2009, the Administrator shall promulgate regulations—

“(1) to designate the Asian oyster as a ‘biological pollutant’ in the Chesapeake Bay and tidal waters pursuant to section 502;

“(2) to prohibit the issuance of permits under sections 402 and 404 for the discharge of the Asian oyster into the Chesapeake Bay and tidal waters; and

“(3) to specify conditions under which scientific research on Asian oysters may be conducted within the Chesapeake Bay and tidal waters.

“(m) CHESAPEAKE NUTRIA ERADICATION PROGRAM.—

“(1) GRANT AUTHORITY.—Subject to the availability of appropriations, the Secretary of the Interior (referred to in this subsection as the ‘Secretary’), may provide financial assistance to the States of Delaware, Maryland, and Virginia to carry out a program to implement measures—

“(A) to eradicate or control nutria; and

“(B) to restore marshland damaged by nutria.

“(2) GOALS.—The continuing goals of the program shall be—

“(A) to eradicate nutria in the Chesapeake Bay ecosystem; and

“(B) to restore marshland damaged by nutria.

“(3) ACTIVITIES.—In the States of Delaware, Maryland, and Virginia, the Secretary shall require that the program under this subsection consist of management, research, and public education activities carried out in accordance with the document published by the United States Fish and Wildlife Service entitled ‘Eradication Strategies for Nutria in the Chesapeake and Delaware Bay Watersheds’, dated March 2002, or any updates to the document.

“(n) STUDY ON THE IMPACTS OF THE COMMERCIAL HARVESTING OF MENHADEN ON THE WATER QUALITY OF THE CHESAPEAKE BAY.—

“(1) DEFINITIONS.—In this subsection:

“(A) FISHERIES COMMISSION.—The term ‘Fisheries Commission’ means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by pursuant to the Act of May 4, 1942 (56 Stat. 267, chapter 283) and the Act of May 19, 1949 (63 Stat. 70, chapter 238).

“(B) FISHING.—Except as otherwise provided, the term ‘fishing’—

“(i) means—

“(I) the commercial catching, taking, or harvesting of menhaden, except when incidental to harvesting that occurs in the course of commercial or recreational fish-catching activities directed at a species other than menhaden;

“(II) the attempted commercial catching, taking, or harvesting of menhaden; or

“(III) any operation at sea in support of, or in preparation for, any activity described in subclause (I) or (II); and

“(ii) does not include any scientific research authorized by the Federal Government or by any State Government.

“(2) STUDY.—Not later than 5 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act of 2009, building on the research underway or conducted under the oversight of the National Oceanic and Atmospheric Administration, the Administrator, in cooperation and consultation with the Administrator of the National Oceanic and Atmospheric Administration and the Fisheries Commission, shall conduct and submit to Congress a study for the purposes of determining—

“(A) progress toward understanding the structure of the menhaden population of the Atlantic Coast of the United States and of the Chesapeake Bay;

“(B) the role of the population as filter feeders, including the role of the population with respect to impacting water clarity, dissolved oxygen levels, and other ecosystem functions;

“(C) the role of the population as prey species for predatory fish in the Chesapeake Bay and in coastal ecosystems;

“(D) the impact on the Atlantic coastal and Chesapeake Bay ecosystems of fishing for menhaden;

“(E) the impact on attainment of the water quality goals of this Act of commercial fishing for menhaden; and

“(F) the recommendations of the Administrator, if any, for future sustainable management of such fishing and additional research needed to fully address the progress, roles, and impacts described in this paragraph.

“(o) EFFECT ON OTHER REQUIREMENTS.—

“(1) IN GENERAL.—Nothing in this section removes or otherwise affects any other obligation for a point source to comply with other applicable requirements under this Act.

“(2) VIOLATIONS BY STATES.—The failure of a State to submit a watershed implementation plan or biennial report, or to correct a previously missed 2-year commitment made in a watershed implementation plan, by the applicable deadline established under this section shall—

“(A) constitute a violation of this Act; and

“(B) subject the State to—

“(i) enforcement action by the Administrator; and

“(ii) civil actions commenced pursuant to section 505.

“(3) FAILURE OF ADMINISTRATOR TO ACT.—The failure of the Administrator to act under this section shall subject the Administrator to civil actions commenced pursuant to section 505.

“(p) EVALUATION BY THE INSPECTOR GENERAL.—The Inspector General of the Environmental Protection Agency shall evaluate the implementation of this section on a periodic basis of not less than once every 3 years.

“(q) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IMPLEMENTATION AND MONITORING GRANTS.—

“(A) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated or otherwise made available to carry out this section, there are authorized to be appropriated to the Administrator—

“(i) to provide implementation grants under subsection (e)(3)(A), \$80,000,000 for each of fiscal years 2010 through 2015, to remain available until expended;

“(ii) to carry out a freshwater monitoring program under subsection (e)(3)(B), \$5,000,000 for each of fiscal years 2010 through 2015; and

“(iii) to carry out a Chesapeake Bay and tidal water monitoring program under subsection (e)(3)(B), \$5,000,000 for each of fiscal years 2010 through 2015.

“(B) COST SHARING.—The Federal share of the cost of a program carried out using funds from a grant provided—

“(i) under subparagraph (A)(i) shall not exceed 50 percent; and

“(ii) under clause (ii) or (iii) of subparagraph (A) shall not exceed 80 percent.

“(2) CHESAPEAKE STEWARDSHIP GRANTS.—There is authorized to be appropriated to carry out subsection (h)(2) \$15,000,000 for each of fiscal years 2010 through 2014.

“(3) STORM WATER POLLUTION PLANNING AND IMPLEMENTATION GRANTS.—

“(A) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized or otherwise made available to carry out this section, there are authorized to be appropriated to the Administrator—

“(i) to carry out subsection (k)(8)(B)(i), \$10,000,000; and

“(i) to carry out subsection (k)(8)(B)(ii), \$1,500,000,000.

“(B) COST-SHARING.—A grant provided for a project under—

“(i) subsection (k)(8)(B)(i) may not be used to cover more than 80 percent of the cost of the project; and

“(ii) subsection (k)(8)(B)(ii) may not be used to cover more than 75 percent of the cost of the project.

“(4) NUTRIA ERADICATION GRANTS.—

“(A) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Interior to provide financial assistance in the Chesapeake Bay watershed under subsection (m) \$4,000,000 for each of fiscal years 2010 through 2015.

“(B) COST-SHARING.—

“(i) FEDERAL SHARE.—The Federal share of the cost of carrying out the program under subsection (m) may not exceed 75 percent of the total costs of the program.

“(ii) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of carrying out the program under subsection (m) may be provided in the form of in-kind contributions of materials or services.

“(5) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the annual amount of any grant provided by the Administrator or Secretary under any program described in paragraph (1), (2), (3), or (4) may be used for administrative expenses.

“(6) AVAILABILITY.—Amounts authorized to be appropriated under this subsection shall remain available until expended.”.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2694. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1776, to amend title XVIII of the Social Security Act to provide for the update under the Medicare physician fee schedule for years beginning with 2010 and to sunset the application of the sustainable growth rate formula, and for other purposes; which was ordered to lie on the table.

SA 2695. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 3548, to amend the Supplemental Appropriations Act, 2008 to provide for the temporary availability of certain additional emergency unemployment compensation, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2694. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1776, to amend title XVIII of the Social Security Act to provide for the update under the Medicare physician fee schedule for years beginning with 2010 and to sunset the application of the sustainable growth rate formula, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—MEDICAL CARE ACCESS PROTECTION

SEC. 1. SHORT TITLE.

This title may be cited as the “Medical Care Access Protection Act of 2009” or the “MCAP Act”.

SEC. 2. DEFINITIONS.

In this title:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term “alternative dispute resolution system” or “ADR” means a sys-

tem that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term “claimant” means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term “collateral source benefits” means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers’ compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term “compensatory damages” means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. Such term includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term “contingent fee” includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term “economic damages” means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE GOODS OR SERVICES.—The term “health care goods or services” means any goods or services provided by a health care institution, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, care, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(8) HEALTH CARE INSTITUTION.—The term “health care institution” means any entity licensed under Federal or State law to provide health care services (including but not limited to ambulatory surgical centers, assisted living facilities, emergency medical services providers, hospices, hospitals and

hospital systems, nursing homes, or other entities licensed to provide such services).

(9) HEALTH CARE LAWSUIT.—The term “health care lawsuit” means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of (or the failure to provide) health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider or a health care institution regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(10) HEALTH CARE LIABILITY ACTION.—The term “health care liability action” means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider or a health care institution regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(11) HEALTH CARE LIABILITY CLAIM.—The term “health care liability claim” means a demand by any person, whether or not pursuant to ADR, against a health care provider or health care institution, including third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(12) HEALTH CARE PROVIDER.—

(A) IN GENERAL.—The term “health care provider” means any person (including but not limited to a physician (as defined by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)), registered nurse, dentist, podiatrist, pharmacist, chiropractor, or optometrist) required by State or Federal law to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(B) TREATMENT OF CERTAIN PROFESSIONAL ASSOCIATIONS.—For purposes of this title, a professional association that is organized under State law by an individual physician or group of physicians, a partnership or limited liability partnership formed by a group of physicians, a nonprofit health corporation certified under State law, or a company formed by a group of physicians under State law shall be treated as a health care provider under subparagraph (A).

(13) MALICIOUS INTENT TO INJURE.—The term “malicious intent to injure” means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) NONECONOMIC DAMAGES.—The term “noneconomic damages” means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(15) PUNITIVE DAMAGES.—The term “punitive damages” means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider or health care