

116TH CONGRESS
1ST SESSION

S. 754

To encourage partnerships among public agencies and other interested parties to promote fish conservation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2019

Mr. CRAPO (for himself and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To encourage partnerships among public agencies and other interested parties to promote fish conservation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Fish Habitat
5 Conservation Act of 2019”.

1 **SEC. 2. NATIONAL FISH HABITAT CONSERVATION**
2 **THROUGH PARTNERSHIPS.**

3 (a) PURPOSE.—The purpose of this section is to en-
4 courage partnerships among public agencies and other in-
5 terested parties to promote fish conservation—

6 (1) to achieve measurable habitat conservation
7 results through strategic actions of Fish Habitat
8 Partnerships that lead to better fish habitat condi-
9 tions and increased fishing opportunities by—

10 (A) improving ecological conditions;

11 (B) restoring natural processes; or

12 (C) preventing the decline of intact and
13 healthy systems;

14 (2) to establish a consensus set of national con-
15 servation strategies as a framework to guide future
16 actions and investment by Fish Habitat Partner-
17 ships;

18 (3) to broaden the community of support for
19 fish habitat conservation by—

20 (A) increasing fishing opportunities;

21 (B) fostering the participation of local
22 communities, especially young people in local
23 communities, in conservation activities; and

24 (C) raising public awareness of the role
25 healthy fish habitat play in the quality of life
26 and economic well-being of local communities;

1 (4) to fill gaps in the National Fish Habitat As-
2 sessment and the associated database of the Na-
3 tional Fish Habitat Assessment—

4 (A) to empower strategic conservation ac-
5 tions supported by broadly available scientific
6 information; and

7 (B) to integrate socioeconomic data in the
8 analysis to improve the lives of humans in a
9 manner consistent with fish habitat conserva-
10 tion goals; and

11 (5) to communicate to the public and conserva-
12 tion partners—

13 (A) the conservation outcomes produced
14 collectively by Fish Habitat Partnerships; and

15 (B) new opportunities and voluntary ap-
16 proaches for conserving fish habitat.

17 (b) DEFINITIONS.—In this section:

18 (1) APPROPRIATE CONGRESSIONAL COMMIT-
19 TEES.—The term “appropriate congressional com-
20 mittees” means—

21 (A) the Committee on Commerce, Science,
22 and Transportation and the Committee on En-
23 vironment and Public Works of the Senate; and

24 (B) the Committee on Natural Resources
25 of the House of Representatives.

1 (2) BOARD.—The term “Board” means the Na-
2 tional Fish Habitat Board established by subsection
3 (c)(1)(A).

4 (3) DIRECTOR.—The term “Director” means
5 the Director of the United States Fish and Wildlife
6 Service.

7 (4) EPA ASSISTANT ADMINISTRATOR.—The
8 term “EPA Assistant Administrator” means the As-
9 sistant Administrator for Water of the Environ-
10 mental Protection Agency.

11 (5) INDIAN TRIBE.—The term “Indian tribe”
12 has the meaning given the term in section 4 of the
13 Indian Self-Determination and Education Assistance
14 Act (25 U.S.C. 5304).

15 (6) NOAA ASSISTANT ADMINISTRATOR.—The
16 term “NOAA Assistant Administrator” means the
17 Assistant Administrator for Fisheries of the Na-
18 tional Oceanic and Atmospheric Administration.

19 (7) PARTNERSHIP.—The term “Partnership”
20 means a self-governed entity designated by Congress
21 as a Fish Habitat Partnership under subsection
22 (d)(6) after a recommendation by the Board under
23 subsection (d)(1).

1 (8) REAL PROPERTY INTEREST.—The term
2 “real property interest” means an ownership interest
3 in—

4 (A) land; or

5 (B) water (including water rights).

6 (9) SECRETARY.—The term “Secretary” means
7 the Secretary of the Interior.

8 (10) STATE.—The term “State” means each of
9 the several States.

10 (11) STATE AGENCY.—The term “State agen-
11 cy” means—

12 (A) the fish and wildlife agency of a State;
13 and

14 (B) any department or division of a de-
15 partment or agency of a State that manages in
16 the public trust the inland or marine fishery re-
17 sources or sustains the habitat for those fishery
18 resources of the State pursuant to State law or
19 the constitution of the State.

20 (c) NATIONAL FISH HABITAT BOARD.—

21 (1) ESTABLISHMENT.—

22 (A) FISH HABITAT BOARD.—There is es-
23 tablished a board, to be known as the “National
24 Fish Habitat Board”, whose duties are—

1 (i) to promote, oversee, and coordinate
2 the implementation of this section;

3 (ii) to establish national goals and pri-
4 orities for fish habitat conservation;

5 (iii) to recommend to Congress enti-
6 ties for designation as Partnerships; and

7 (iv) to review and make recommenda-
8 tions regarding fish habitat conservation
9 projects.

10 (B) MEMBERSHIP.—The Board shall be
11 composed of 25 members, of whom—

12 (i) 1 shall be a representative of the
13 Department of the Interior;

14 (ii) 1 shall be a representative of the
15 United States Geological Survey;

16 (iii) 1 shall be a representative of the
17 Department of Commerce;

18 (iv) 1 shall be a representative of the
19 Department of Agriculture;

20 (v) 1 shall be a representative of the
21 Association of Fish and Wildlife Agencies;

22 (vi) 4 shall be representatives of State
23 agencies, 1 of whom shall be nominated by
24 a regional association of fish and wildlife
25 agencies from each of the Northeast,

1 Southeast, Midwest, and Western regions
2 of the United States;

3 (vii) 1 shall be a representative of ei-
4 ther—

5 (I) Indian tribes in the State of
6 Alaska; or

7 (II) Indian tribes in States other
8 than the State of Alaska;

9 (viii) 1 shall be a representative of ei-
10 ther—

11 (I) the Regional Fishery Manage-
12 ment Councils established under sec-
13 tion 302 of the Magnuson-Stevens
14 Fishery Conservation and Manage-
15 ment Act (16 U.S.C. 1852); or

16 (II) a representative of the Ma-
17 rine Fisheries Commissions, which is
18 composed of—

19 (aa) the Atlantic States Ma-
20 rine Fisheries Commission;

21 (bb) the Gulf States Marine
22 Fisheries Commission; and

23 (cc) the Pacific States Ma-
24 rine Fisheries Commission;

1 (ix) 1 shall be a representative of the
2 Sportfishing and Boating Partnership
3 Council;

4 (x) 7 shall be representatives selected
5 from each of—

6 (I) the recreational sportfishing
7 industry;

8 (II) the commercial fishing in-
9 dustry;

10 (III) marine recreational anglers;

11 (IV) freshwater recreational an-
12 glers;

13 (V) habitat conservation organi-
14 zations; and

15 (VI) science-based fishery organi-
16 zations;

17 (xi) 1 shall be a representative of a
18 national private landowner organization;

19 (xii) 1 shall be a representative of an
20 agricultural production organization;

21 (xiii) 1 shall be a representative of
22 local government interests involved in fish
23 habitat restoration;

1 (xiv) 2 shall be representatives from
2 different sectors of corporate industries,
3 which may include—

4 (I) natural resource commodity
5 interests, such as petroleum or min-
6 eral extraction;

7 (II) natural resource user indus-
8 tries; and

9 (III) industries with an interest
10 in fish and fish habitat conservation;
11 and

12 (xv) 1 shall be a leadership private
13 sector or landowner representative of an
14 active partnership.

15 (C) COMPENSATION.—A member of the
16 Board shall serve without compensation.

17 (D) TRAVEL EXPENSES.—A member of the
18 Board may be allowed travel expenses, includ-
19 ing per diem in lieu of subsistence, at rates au-
20 thorized for an employee of an agency under
21 subchapter I of chapter 57 of title 5, United
22 States Code, while away from the home or reg-
23 ular place of business of the member in the per-
24 formance of the duties of the Board.

25 (2) APPOINTMENT AND TERMS.—

1 (A) IN GENERAL.—Except as otherwise
2 provided in this subsection, a member of the
3 Board described in any of clauses (vi) through
4 (xiv) of paragraph (1)(B) shall serve for a term
5 of 3 years.

6 (B) INITIAL BOARD MEMBERSHIP.—

7 (i) IN GENERAL.—The initial Board
8 will consist of representatives as described
9 in clauses (i) through (vi) of paragraph
10 (1)(B).

11 (ii) REMAINING MEMBERS.—Not later
12 than 60 days after the date of enactment
13 of this Act, the representatives of the ini-
14 tial Board pursuant to clause (i) shall ap-
15 point the remaining members of the Board
16 described in clauses (viii) through (xiv) of
17 paragraph (1)(B).

18 (iii) TRIBAL REPRESENTATIVES.—Not
19 later than 60 days after the enactment of
20 this Act, the Secretary shall provide to the
21 Board a recommendation of not fewer than
22 3 Tribal representatives, from which the
23 Board shall appoint 1 representative pur-
24 suant to clause (vii) of paragraph (1)(B).

1 (C) TRANSITIONAL TERMS.—Of the mem-
2 bers described in paragraph (1)(B)(x) initially
3 appointed to the Board—

4 (i) 2 shall be appointed for a term of
5 1 year;

6 (ii) 2 shall be appointed for a term of
7 2 years; and

8 (iii) 3 shall be appointed for a term of
9 3 years.

10 (D) VACANCIES.—

11 (i) IN GENERAL.—A vacancy of a
12 member of the Board described in any of
13 clauses (viii) through (xiv) of paragraph
14 (1)(B) shall be filled by an appointment
15 made by the remaining members of the
16 Board.

17 (ii) TRIBAL REPRESENTATIVES.—Fol-
18 lowing a vacancy of a member of the
19 Board described in clause (vii) of para-
20 graph (1)(B), the Secretary shall rec-
21 ommend to the Board a list of not fewer
22 than 3 Tribal representatives, from which
23 the remaining members of the Board shall
24 appoint a representative to fill the vacancy.

1 (E) CONTINUATION OF SERVICE.—An indi-
2 vidual whose term of service as a member of the
3 Board expires may continue to serve on the
4 Board until a successor is appointed.

5 (F) REMOVAL.—If a member of the Board
6 described in any of clauses (viii) through (xiv)
7 of paragraph (1)(B) misses 3 consecutive regu-
8 larly scheduled Board meetings, the members of
9 the Board may—

10 (i) vote to remove that member; and

11 (ii) appoint another individual in ac-
12 cordance with subparagraph (D).

13 (3) CHAIRPERSON.—

14 (A) IN GENERAL.—The representative of
15 the Association of Fish and Wildlife Agencies
16 appointed pursuant to paragraph (1)(B)(v)
17 shall serve as Chairperson of the Board.

18 (B) TERM.—The Chairperson of the Board
19 shall serve for a term of 3 years.

20 (4) MEETINGS.—

21 (A) IN GENERAL.—The Board shall
22 meet—

23 (i) at the call of the Chairperson; but

24 (ii) not less frequently than twice each
25 calendar year.

1 (B) PUBLIC ACCESS.—All meetings of the
2 Board shall be open to the public.

3 (5) PROCEDURES.—

4 (A) IN GENERAL.—The Board shall estab-
5 lish procedures to carry out the business of the
6 Board, including—

7 (i) a requirement that a quorum of
8 the members of the Board be present to
9 transact business;

10 (ii) a requirement that no rec-
11 ommendations may be adopted by the
12 Board, except by the vote of $\frac{2}{3}$ of all mem-
13 bers;

14 (iii) procedures for establishing na-
15 tional goals and priorities for fish habitat
16 conservation for the purposes of this sec-
17 tion;

18 (iv) procedures for designating Part-
19 nerships under subsection (d); and

20 (v) procedures for reviewing, evalu-
21 ating, and making recommendations re-
22 garding fish habitat conservation projects.

23 (B) QUORUM.—A majority of the members
24 of the Board shall constitute a quorum.

25 (d) FISH HABITAT PARTNERSHIPS.—

1 (1) AUTHORITY TO RECOMMEND.—The Board
2 may recommend to Congress the designation of Fish
3 Habitat Partnerships in accordance with this sub-
4 section.

5 (2) PURPOSES.—The purposes of a Partnership
6 shall be—

7 (A) to work with other regional habitat
8 conservation programs to promote cooperation
9 and coordination to enhance fish and fish habi-
10 tats;

11 (B) to engage local and regional commu-
12 nities to build support for fish habitat conserva-
13 tion;

14 (C) to involve diverse groups of public and
15 private partners;

16 (D) to develop collaboratively a strategic
17 vision and achievable implementation plan that
18 is scientifically sound;

19 (E) to leverage funding from sources that
20 support local and regional partnerships;

21 (F) to use adaptive management prin-
22 ciples, including evaluation of project success
23 and functionality;

24 (G) to develop appropriate local or regional
25 habitat evaluation and assessment measures

1 and criteria that are compatible with national
2 habitat condition measures; and

3 (H) to implement local and regional pri-
4 ority projects that improve conditions for fish
5 and fish habitat.

6 (3) CRITERIA FOR DESIGNATION.—An entity
7 seeking to be designated by Congress as a Partner-
8 ship shall—

9 (A) submit to the Board an application at
10 such time, in such manner, and containing such
11 information as the Board may reasonably re-
12 quire; and

13 (B) demonstrate to the Board that the en-
14 tity has—

15 (i) a focus on promoting the health of
16 important fish and fish habitats;

17 (ii) an ability to coordinate the imple-
18 mentation of priority projects that support
19 the goals and national priorities set by the
20 Board that are within the Partnership
21 boundary;

22 (iii) a self-governance structure that
23 supports the implementation of strategic
24 priorities for fish habitat;

1 (iv) the ability to develop local and re-
2 gional relationships with a broad range of
3 entities to further strategic priorities for
4 fish and fish habitat;

5 (v) a strategic plan that details re-
6 quired investments for fish habitat con-
7 servation that addresses the strategic fish
8 habitat priorities of the Partnership and
9 supports and meets the strategic priorities
10 of the Board;

11 (vi) the ability to develop and imple-
12 ment fish habitat conservation projects
13 that address strategic priorities of the
14 Partnership and the Board; and

15 (vii) the ability to develop fish habitat
16 conservation priorities based on sound
17 science and data, the ability to measure
18 the effectiveness of fish habitat projects of
19 the Partnership, and a clear plan as to
20 how Partnership science and data compo-
21 nents will be integrated with the overall
22 Board science and data effort.

23 (4) REQUIREMENTS FOR RECOMMENDATION TO
24 CONGRESS.—The Board may recommend to Con-
25 gress for designation an application for a Partner-

1 ship submitted under paragraph (3)(A) if the Board
2 determines that the applicant—

3 (A) meets the criteria described in para-
4 graph (3)(B);

5 (B) identifies representatives to provide
6 support and technical assistance to the Partner-
7 ship from a diverse group of public and private
8 partners, which may include State or local gov-
9 ernments, nonprofit entities, Indian tribes, and
10 private individuals, that are focused on con-
11 servation of fish habitats to achieve results
12 across jurisdictional boundaries on public and
13 private land;

14 (C) is organized to promote the health of
15 important fish species and important fish habi-
16 tats, including reservoirs, natural lakes, coastal
17 and marine environments, and estuaries;

18 (D) identifies strategic fish and fish habi-
19 tat priorities for the Partnership area in the
20 form of geographical focus areas or key
21 stressors or impairments to facilitate strategic
22 planning and decision making;

23 (E) is able to address issues and priorities
24 on a nationally significant scale;

25 (F) includes a governance structure that—

1 (i) reflects the range of all partners;

2 and

3 (ii) promotes joint strategic planning

4 and decision making by the applicant;

5 (G) demonstrates completion of, or signifi-

6 cant progress toward the development of, a

7 strategic plan to address the decline in fish pop-

8 ulations, rather than simply treating symptoms,

9 in accordance with the goals and national prior-

10 ities established by the Board; and

11 (H) promotes collaboration in developing a

12 strategic vision and implementation program

13 that is scientifically sound and achievable.

14 (5) REPORT TO CONGRESS.—

15 (A) IN GENERAL.—Not later than Feb-

16 ruary 1 of the first fiscal year beginning after

17 the date of enactment of this Act and each Feb-

18 ruary 1 thereafter, the Board shall develop and

19 submit to the appropriate congressional com-

20 mittees an annual report, to be entitled “Report

21 to Congress on Future Fish Habitat Partner-

22 ships and Modifications”, that—

23 (i) identifies any entity that—

24 (I) meets the requirements de-

25 scribed in paragraph (4); and

1 (II) the Board recommends for
2 designation as a Partnership;

3 (ii) describes any proposed modifica-
4 tions to a Partnership previously des-
5 igned by Congress under paragraph (6);

6 (iii) with respect to each entity rec-
7 ommended for designation as a Partner-
8 ship, describes, to the maximum extent
9 practicable—

10 (I) the purpose of the rec-
11 ommended Partnership; and

12 (II) how the recommended Part-
13 nership fulfills the requirements de-
14 scribed in paragraph (4).

15 (B) PUBLIC AVAILABILITY; NOTIFICA-
16 TION.—The Board shall—

17 (i) make the report publicly available,
18 including on the internet; and

19 (ii) provide to the appropriate con-
20 gressional committees and the State agen-
21 cy of any State included in a recommended
22 Partnership area written notification of the
23 public availability of the report.

1 (6) DESIGNATION OR MODIFICATION OF PART-
2 NERSHIP.—Congress shall have the sole authority to
3 designate or modify a Partnership.

4 (7) EXISTING PARTNERSHIPS.—

5 (A) DESIGNATION REVIEW.—Not later
6 than 5 years after the date of enactment of this
7 Act, any fish habitat partnership receiving Fed-
8 eral funds as of the date of enactment of this
9 Act shall be subject to a designation review by
10 Congress in which Congress shall have the op-
11 portunity to designate the partnership under
12 paragraph (6).

13 (B) INELIGIBILITY FOR FEDERAL
14 FUNDS.—A partnership referred to in subpara-
15 graph (A) that Congress does not designate as
16 described in that subparagraph shall be ineli-
17 gible to receive Federal funds under this sec-
18 tion.

19 (e) FISH HABITAT CONSERVATION PROJECTS.—

20 (1) SUBMISSION TO BOARD.—Not later than
21 March 31 of each calendar year, each Partnership
22 shall submit to the Board a list of priority fish habi-
23 tat conservation projects recommended by the Part-
24 nership for annual funding under this section.

1 (2) RECOMMENDATIONS BY BOARD.—Not later
2 than July 1 of each calendar year, the Board shall
3 submit to the Secretary a priority list of fish habitat
4 conservation projects that includes the description,
5 including estimated costs, of each project that the
6 Board recommends that the Secretary approve and
7 fund under this section for the following fiscal year.

8 (3) CRITERIA FOR PROJECT SELECTION.—The
9 Board shall select each fish habitat conservation
10 project to be recommended to the Secretary under
11 paragraph (2) after taking into consideration, at a
12 minimum, the following information:

13 (A) A recommendation of the Partnership
14 that is, or will be, participating actively in im-
15 plementing the fish habitat conservation
16 project.

17 (B) The capabilities and experience of
18 project proponents to implement successfully
19 the proposed project.

20 (C) The extent to which the fish habitat
21 conservation project—

22 (i) fulfills a local or regional priority
23 that is directly linked to the strategic plan
24 of the Partnership and is consistent with
25 the purpose of this section;

1 (ii) addresses the national priorities
2 established by the Board;

3 (iii) is supported by the findings of
4 the Habitat Assessment of the Partnership
5 or the Board, and aligns or is compatible
6 with other conservation plans;

7 (iv) identifies appropriate monitoring
8 and evaluation measures and criteria that
9 are compatible with national measures;

10 (v) provides a well-defined budget
11 linked to deliverables and outcomes;

12 (vi) leverages other funds to imple-
13 ment the project;

14 (vii) addresses the causes and proc-
15 esses behind the decline of fish or fish
16 habitats; and

17 (viii) includes an outreach or edu-
18 cation component that includes the local or
19 regional community.

20 (D) The availability of sufficient non-Fed-
21 eral funds to match Federal contributions for
22 the fish habitat conservation project, as re-
23 quired by paragraph (5).

24 (E) The extent to which the local or re-
25 gional fish habitat conservation project—

1 (i) will increase fish populations in a
2 manner that leads to recreational fishing
3 opportunities for the public;

4 (ii) will be carried out through a coop-
5 erative agreement among Federal, State,
6 and local governments, Indian tribes, and
7 private entities;

8 (iii) increases public access to land or
9 water for fish and wildlife-dependent rec-
10 reational opportunities;

11 (iv) advances the conservation of fish
12 and wildlife species that have been identi-
13 fied by the States as species of greatest
14 conservation need;

15 (v) where appropriate, advances the
16 conservation of fish and fish habitats
17 under the Magnuson-Stevens Fishery Con-
18 servation and Management Act (16 U.S.C.
19 1801 et seq.) and other relevant Federal
20 law and State wildlife action plans; and

21 (vi) promotes strong and healthy fish
22 habitats so that desired biological commu-
23 nities are able to persist and adapt.

24 (F) The substantiality of the character and
25 design of the fish habitat conservation project.

1 (4) LIMITATIONS.—

2 (A) REQUIREMENTS FOR EVALUATION.—

3 No fish habitat conservation project may be
4 recommended by the Board under paragraph
5 (2) or provided financial assistance under this
6 section unless the fish habitat conservation
7 project includes an evaluation plan designed
8 using applicable Board guidance—

9 (i) to appropriately assess the biologi-
10 cal, ecological, or other results of the habi-
11 tat protection, restoration, or enhancement
12 activities carried out using the assistance;

13 (ii) to reflect appropriate changes to
14 the fish habitat conservation project if the
15 assessment substantiates that the fish
16 habitat conservation project objectives are
17 not being met;

18 (iii) to identify improvements to exist-
19 ing fish populations, recreational fishing
20 opportunities and the overall economic ben-
21 efits for the local community of the fish
22 habitat conservation project; and

23 (iv) to require the submission to the
24 Board of a report describing the findings
25 of the assessment.

1 (B) ACQUISITION AUTHORITIES.—

2 (i) IN GENERAL.—A State, local gov-
3 ernment, or other non-Federal entity is eli-
4 gible to receive funds for the acquisition of
5 real property from willing sellers under
6 this section if the acquisition ensures 1
7 of—

8 (I) public access for compatible
9 fish and wildlife-dependent recreation;
10 or

11 (II) a scientifically based, direct
12 enhancement to the health of fish and
13 fish populations, as determined by the
14 Board.

15 (ii) STATE AGENCY APPROVAL.—

16 (I) IN GENERAL.—All real prop-
17 erty interest acquisition projects fund-
18 ed under this section are required to
19 be approved by the State agency in
20 the State in which the project is oc-
21 ccurring.

22 (II) PROHIBITION.—The Board
23 may not recommend, and the Sec-
24 retary may not provide any funding
25 for, any real property interest acquisi-

1 tion that has not been approved by
2 the State agency.

3 (iii) ASSESSMENT OF OTHER AU-
4 THORITIES.—The Fish Habitat Partner-
5 ship shall conduct a project assessment,
6 submitted with the funding request and
7 approved by the Board, to demonstrate all
8 other Federal, State, and local authorities
9 for the acquisition of real property have
10 been exhausted.

11 (iv) RESTRICTIONS.—A real property
12 interest may not be acquired pursuant to a
13 fish habitat conservation project by a
14 State, local government, or other non-Fed-
15 eral entity, unless—

16 (I) the owner of the real property
17 authorizes the State, local govern-
18 ment, or other non-Federal entity to
19 acquire the real property; and

20 (II) the Secretary and the Board
21 determine that the State, local govern-
22 ment, or other non-Federal entity
23 would benefit from undertaking the
24 management of the real property
25 being acquired because that is in ac-

1 cordance with the goals of a partner-
2 ship.

3 (5) NON-FEDERAL CONTRIBUTIONS.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), no fish habitat conservation
6 project may be recommended by the Board
7 under paragraph (2) or provided financial as-
8 sistance under this section unless at least 50
9 percent of the cost of the fish habitat conserva-
10 tion project will be funded with non-Federal
11 funds.

12 (B) NON-FEDERAL SHARE.—The non-Fed-
13 eral share of the cost of a fish habitat conserva-
14 tion project—

15 (i) may not be derived from another
16 Federal grant program; but

17 (ii) may include in-kind contributions
18 and cash.

19 (C) SPECIAL RULE FOR INDIAN TRIBES.—
20 Notwithstanding subparagraph (A) or any other
21 provision of law, any funds made available to
22 an Indian tribe pursuant to this section may be
23 considered to be non-Federal funds for the pur-
24 pose of subparagraph (A).

25 (6) APPROVAL.—

1 (A) IN GENERAL.—Not later than 90 days
2 after the date of receipt of the recommended
3 priority list of fish habitat conservation projects
4 under paragraph (2), subject to the limitations
5 of paragraph (4), and based, to the maximum
6 extent practicable, on the criteria described in
7 paragraph (3), the Secretary, after consulting
8 with the Secretary of Commerce on marine or
9 estuarine projects, shall approve or reject any
10 fish habitat conservation project recommended
11 by the Board.

12 (B) FUNDING.—If the Secretary approves
13 a fish habitat conservation project under sub-
14 paragraph (A), the Secretary shall use amounts
15 made available to carry out this section to pro-
16 vide funds to carry out the fish habitat con-
17 servation project.

18 (C) NOTIFICATION.—If the Secretary re-
19 jects any fish habitat conservation project rec-
20 ommended by the Board under paragraph (2),
21 not later than 90 days after the date of receipt
22 of the recommendation, the Secretary shall pro-
23 vide to the Board, the appropriate Partnership,
24 and the appropriate congressional committees a
25 written statement of the reasons that the Sec-

1 retary rejected the fish habitat conservation
2 project.

3 (f) TECHNICAL AND SCIENTIFIC ASSISTANCE.—

4 (1) IN GENERAL.—The Director, the NOAA
5 Assistant Administrator, the EPA Assistant Admin-
6 istrator, and the Director of the United States Geo-
7 logical Survey, in coordination with the Forest Serv-
8 ice and other appropriate Federal departments and
9 agencies, may provide scientific and technical assist-
10 ance to the Partnerships, participants in fish habitat
11 conservation projects, and the Board.

12 (2) INCLUSIONS.—Scientific and technical as-
13 sistance provided pursuant to paragraph (1) may in-
14 clude—

15 (A) providing technical and scientific as-
16 sistance to States, Indian tribes, regions, local
17 communities, and nongovernmental organiza-
18 tions in the development and implementation of
19 Partnerships;

20 (B) providing technical and scientific as-
21 sistance to Partnerships for habitat assessment,
22 strategic planning, and prioritization;

23 (C) supporting the development and imple-
24 mentation of fish habitat conservation projects

1 that are identified as high priorities by Partner-
2 ships and the Board;

3 (D) supporting and providing recommenda-
4 tions regarding the development of science-
5 based monitoring and assessment approaches
6 for implementation through Partnerships;

7 (E) supporting and providing recommenda-
8 tions for a national fish habitat assessment;

9 (F) ensuring the availability of experts to
10 assist in conducting scientifically based evalua-
11 tion and reporting of the results of fish habitat
12 conservation projects; and

13 (G) providing resources to secure state
14 agency scientific and technical assistance to
15 support Partnerships, participants in fish habi-
16 tat conservation projects, and the Board.

17 (g) COORDINATION WITH STATES AND INDIAN
18 TRIBES.—The Secretary shall provide a notice to, and co-
19 operate with, the appropriate State agency or Tribal agen-
20 cy, as applicable, of each State and Indian tribe within
21 the boundaries of which an activity is planned to be car-
22 ried out pursuant to this section, including notification,
23 by not later than 30 days before the date on which the
24 activity is implemented.

1 (h) INTERAGENCY OPERATIONAL PLAN.—Not later
2 than 1 year after the date of enactment of this Act, and
3 every 5 years thereafter, the Director, in cooperation with
4 the NOAA Assistant Administrator, the EPA Assistant
5 Administrator, the Director of the United States Geologi-
6 cal Survey, and the heads of other appropriate Federal
7 departments and agencies (including at a minimum, those
8 agencies represented on the Board) shall develop an inter-
9 agency operational plan that describes—

10 (1) the functional, operational, technical, sci-
11 entific, and general staff, administrative, and mate-
12 rial needs for the implementation of this section; and

13 (2) any interagency agreements between or
14 among Federal departments and agencies to address
15 those needs.

16 (i) ACCOUNTABILITY AND REPORTING.—

17 (1) REPORTING.—

18 (A) IN GENERAL.—Not later than 5 years
19 after the date of enactment of this Act, and
20 every 5 years thereafter, the Board shall submit
21 to the appropriate congressional committees a
22 report describing the progress of this section.

23 (B) CONTENTS.—Each report submitted
24 under subparagraph (A) shall include—

1 (i) an estimate of the number of
2 acres, stream miles, or acre-feet, or other
3 suitable measures of fish habitat, that was
4 maintained or improved by partnerships of
5 Federal, State, or local governments, In-
6 dian tribes, or other entities in the United
7 States during the 5-year period ending on
8 the date of submission of the report;

9 (ii) a description of the public access
10 to fish habitats established or improved
11 during that 5-year period;

12 (iii) a description of the improved op-
13 portunities for public recreational fishing;
14 and

15 (iv) an assessment of the status of
16 fish habitat conservation projects carried
17 out with funds provided under this section
18 during that period, disaggregated by year,
19 including—

20 (I) a description of the fish habi-
21 tat conservation projects recommend-
22 ed by the Board under subsection
23 (e)(2);

24 (II) a description of each fish
25 habitat conservation project approved

1 by the Secretary under subsection
2 (e)(6), in order of priority for funding;
3 (III) a justification for—
4 (aa) the approval of each
5 fish habitat conservation project;
6 and
7 (bb) the order of priority for
8 funding of each fish habitat con-
9 servation project;
10 (IV) a justification for any rejec-
11 tion of a fish habitat conservation
12 project recommended by the Board
13 under subsection (e)(2) that was
14 based on a factor other than the cri-
15 teria described in subsection (e)(3);
16 and
17 (V) an accounting of expendi-
18 tures by Federal, State, or local gov-
19 ernments, Indian tribes, or other enti-
20 ties to carry out fish habitat conserva-
21 tion projects.

22 (2) STATUS AND TRENDS REPORT.—Not later
23 than December 31, 2020, and every 5 years there-
24 after, the Board shall submit to the appropriate con-
25 gressional committees a report that includes—

1 (A) a status of all Partnerships designated
2 under this section;

3 (B) a description of the status of fish habi-
4 tats in the United States as identified by estab-
5 lished Partnerships; and

6 (C) enhancements or reductions in public
7 access as a result of—

8 (i) the activities of the Partnerships;

9 or

10 (ii) any other activities carried out
11 pursuant to this section.

12 (j) EFFECT OF SECTION.—

13 (1) WATER RIGHTS.—Nothing in this section—

14 (A) establishes any express or implied re-
15 served water right in the United States for any
16 purpose;

17 (B) affects any water right in existence on
18 the date of enactment of this Act;

19 (C) preempts or affects any State water
20 law or interstate compact governing water; or

21 (D) affects any Federal or State law in ex-
22 istence on the date of enactment of the Act re-
23 garding water quality or water quantity.

24 (2) AUTHORITY TO ACQUIRE WATER RIGHTS OR
25 RIGHTS TO PROPERTY.—Under this section, only a

1 State, local government, or other non-Federal entity
2 may acquire, under State law, water rights or rights
3 to property.

4 (3) STATE AUTHORITY.—Nothing in this sec-
5 tion—

6 (A) affects the authority, jurisdiction, or
7 responsibility of a State to manage, control, or
8 regulate fish and wildlife under the laws and
9 regulations of the State; or

10 (B) authorizes the Secretary to control or
11 regulate within a State the fishing or hunting
12 of fish and wildlife.

13 (4) EFFECT ON INDIAN TRIBES.—Nothing in
14 this section abrogates, abridges, affects, modifies,
15 supersedes, or alters any right of an Indian tribe
16 recognized by treaty or any other means, includ-
17 ing—

18 (A) an agreement between the Indian tribe
19 and the United States;

20 (B) Federal law (including regulations);

21 (C) an Executive order; or

22 (D) a judicial decree.

23 (5) ADJUDICATION OF WATER RIGHTS.—Noth-
24 ing in this section diminishes or affects the ability
25 of the Secretary to join an adjudication of rights to

1 the use of water pursuant to subsection (a), (b), or
2 (c) of section 208 of the Department of Justice Ap-
3 propriation Act, 1953 (43 U.S.C. 666).

4 (6) DEPARTMENT OF COMMERCE AUTHOR-
5 ITY.—Nothing in this section affects the authority,
6 jurisdiction, or responsibility of the Department of
7 Commerce to manage, control, or regulate fish or
8 fish habitats under the Magnuson-Stevens Fishery
9 Conservation and Management Act (16 U.S.C. 1801
10 et seq.).

11 (7) EFFECT ON OTHER AUTHORITIES.—

12 (A) PRIVATE PROPERTY PROTECTION.—

13 Nothing in this section permits the use of funds
14 made available to carry out this section to ac-
15 quire real property or a real property interest
16 without the written consent of each owner of
17 the real property or real property interest.

18 (B) MITIGATION.—Nothing in this section
19 permits the use of funds made available to
20 carry out this section for fish and wildlife miti-
21 gation purposes under—

22 (i) the Federal Water Pollution Con-
23 trol Act (33 U.S.C. 1251 et seq.);

24 (ii) the Fish and Wildlife Coordina-
25 tion Act (16 U.S.C. 661 et seq.);

1 (iii) the Water Resources Develop-
 2 ment Act of 1986 (Public Law 99–662;
 3 100 Stat. 4082); or

4 (iv) any other Federal law or court
 5 settlement.

6 (C) CLEAN WATER ACT.—Nothing in this
 7 section affects any provision of the Federal
 8 Water Pollution Control Act (33 U.S.C. 1251 et
 9 seq.), including any definition in that Act.

10 (k) NONAPPLICABILITY OF FEDERAL ADVISORY
 11 COMMITTEE ACT.—The Federal Advisory Committee Act
 12 (5 U.S.C. App.) shall not apply to—

13 (1) the Board; or

14 (2) any Partnership.

15 (l) FUNDING.—

16 (1) AUTHORIZATION OF APPROPRIATIONS.—

17 (A) FISH HABITAT CONSERVATION
 18 PROJECTS.—There is authorized to be appro-
 19 priated to the Secretary \$7,200,000 for each of
 20 fiscal years 2020 through 2024 to provide
 21 funds for fish habitat conservation projects ap-
 22 proved under subsection (e)(6), of which 5 per-
 23 cent shall be made available for each fiscal year
 24 for projects carried out by Indian tribes.

1 (B) ADMINISTRATIVE AND PLANNING EX-
2 PENSES.—There is authorized to be appro-
3 priated to the Secretary for each of fiscal years
4 2020 through 2024 an amount equal to 5 per-
5 cent of the amount appropriated for the appli-
6 cable fiscal year pursuant to subparagraph
7 (A)—

8 (i) for administrative and planning ex-
9 penses; and

10 (ii) to carry out subsection (i).

11 (C) TECHNICAL AND SCIENTIFIC ASSIST-
12 ANCE.—There is authorized to be appropriated
13 for each of fiscal years 2020 through 2024 to
14 carry out, and provide technical and scientific
15 assistance under, subsection (f)—

16 (i) \$400,000 to the Secretary for use
17 by the United States Fish and Wildlife
18 Service;

19 (ii) \$400,000 to the NOAA Assistant
20 Administrator for use by the National Oce-
21 anic and Atmospheric Administration;

22 (iii) \$400,000 to the EPA Assistant
23 Administrator for use by the Environ-
24 mental Protection Agency;

1 (iv) \$400,000 to the Secretary for use
2 by the United States Geological Survey;
3 and

4 (v) \$400,000 to the Secretary of Agri-
5 culture for use by the Forest Service.

6 (2) AGREEMENTS AND GRANTS.—The Secretary
7 may—

8 (A) on the recommendation of the Board,
9 and notwithstanding sections 6304 and 6305 of
10 title 31, United States Code, and the Federal
11 Financial Assistance Management Improvement
12 Act of 1999 (31 U.S.C. 6101 note; Public Law
13 106–107), enter into a grant agreement, coop-
14 erative agreement, or contract with a Partner-
15 ship or other entity for a fish habitat conserva-
16 tion project or restoration or enhancement
17 project;

18 (B) apply for, accept, and use a grant
19 from any individual or entity to carry out the
20 purposes of this section; and

21 (C) make funds available to any Federal
22 department or agency for use by that depart-
23 ment or agency to provide grants for any fish
24 habitat protection project, restoration project,

1 or enhancement project that the Secretary de-
2 termines to be consistent with this section.

3 (3) DONATIONS.—

4 (A) IN GENERAL.—The Secretary may—

5 (i) enter into an agreement with any
6 organization described in section 501(c)(3)
7 of the Internal Revenue Code of 1986 that
8 is exempt from taxation under section
9 501(a) of that Code to solicit private dona-
10 tions to carry out the purposes of this sec-
11 tion; and

12 (ii) accept donations of funds, prop-
13 erty, and services to carry out the purposes
14 of this section.

15 (B) TREATMENT.—A donation accepted
16 under this section—

17 (i) shall be considered to be a gift or
18 bequest to, or otherwise for the use of, the
19 United States; and

20 (ii) may be—

21 (I) used directly by the Sec-
22 retary; or

23 (II) provided to another Federal
24 department or agency through an
25 interagency agreement.

1 (m) PROHIBITION AGAINST IMPLEMENTATION OF
2 REGULATORY AUTHORITY BY FEDERAL AGENCIES.—Any

3 Partnership designated under this section—

4 (1) shall be for the sole purpose of promoting
5 fish conservation; and

6 (2) shall not be used to implement any regu-
7 latory authority of any Federal agency.

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