

115TH CONGRESS
1ST SESSION

S. _____

To amend certain Acts to reauthorize those Acts and to increase protections for wildlife, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BARRASSO (for himself, Mr. CARDIN, Mr. BOOZMAN, Ms. KLOBUCHAR, Mrs. CAPITO, and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend certain Acts to reauthorize those Acts and to increase protections for wildlife, 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 “Hunting Heritage and
5 Environmental Legacy Preservation for Wildlife Act” or
6 the “HELP for Wildlife Act”.

7 **SEC. 2. TARGET PRACTICE AND MARKSMANSHIP.**

8 (a) PURPOSE.—The purpose of this section is to fa-
9 cilitate the construction and expansion of public target

1 ranges, including ranges on Federal land managed by the
2 Forest Service and the Bureau of Land Management.

3 (b) DEFINITION OF PUBLIC TARGET RANGE.—In
4 this section, the term “public target range” means a spe-
5 cific location that—

6 (1) is identified by a governmental agency for
7 recreational shooting;

8 (2) is open to the public;

9 (3) may be supervised; and

10 (4) may accommodate archery or rifle, pistol, or
11 shotgun shooting.

12 (c) AMENDMENTS TO PITTMAN-ROBERTSON WILD-
13 LIFE RESTORATION ACT.—

14 (1) DEFINITIONS.—Section 2 of the Pittman-
15 Robertson Wildlife Restoration Act (16 U.S.C.
16 669a) is amended—

17 (A) by redesignating paragraphs (2)
18 through (8) as paragraphs (3) through (9), re-
19 spectively; and

20 (B) by inserting after paragraph (1) the
21 following:

22 “(2) the term ‘public target range’ means a
23 specific location that—

24 “(A) is identified by a governmental agen-
25 cy for recreational shooting;

1 “(B) is open to the public;

2 “(C) may be supervised; and

3 “(D) may accommodate archery or rifle,
4 pistol, or shotgun shooting;”.

5 (2) EXPENDITURES FOR MANAGEMENT OF
6 WILDLIFE AREAS AND RESOURCES.—Section 8(b) of
7 the Pittman-Robertson Wildlife Restoration Act (16
8 U.S.C. 669g(b)) is amended—

9 (A) by striking “(b) Each State” and in-
10 sserting the following:

11 “(b) EXPENDITURES FOR MANAGEMENT OF WILD-
12 LIFE AREAS AND RESOURCES.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), each State”;

15 (B) in paragraph (1) (as so designated), in
16 the first sentence, by striking “construction, op-
17 eration,” and inserting “operation”;

18 (C) in the second sentence, by striking
19 “The non-Federal share” and inserting the fol-
20 lowing:

21 “(3) NON-FEDERAL SHARE.—The non-Federal
22 share”;

23 (D) in the third sentence, by striking “The
24 Secretary” and inserting the following:

25 “(4) REGULATIONS.—The Secretary”; and

1 (E) by inserting after paragraph (1) (as
2 designated by subparagraph (A)) the following:

3 “(2) EXCEPTION.—Notwithstanding the limita-
4 tion described in paragraph (1), a State may pay up
5 to 90 percent of the cost of acquiring land for, ex-
6 panding, or constructing a public target range.”.

7 (3) FIREARM AND BOW HUNTER EDUCATION
8 AND SAFETY PROGRAM GRANTS.—Section 10 of the
9 Pittman-Robertson Wildlife Restoration Act (16
10 U.S.C. 669h–1) is amended—

11 (A) in subsection (a), by adding at the end
12 the following:

13 “(3) ALLOCATION OF ADDITIONAL AMOUNTS.—
14 Of the amount apportioned to a State for any fiscal
15 year under section 4(b), the State may elect to allo-
16 cate not more than 10 percent, to be combined with
17 the amount apportioned to the State under para-
18 graph (1) for that fiscal year, for acquiring land for,
19 expanding, or constructing a public target range.”;

20 (B) by striking subsection (b) and insert-
21 ing the following:

22 “(b) COST SHARING.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), the Federal share of the cost of any activ-
25 ity carried out using a grant under this section shall

1 not exceed 75 percent of the total cost of the activ-
2 ity.

3 “(2) PUBLIC TARGET RANGE CONSTRUCTION OR
4 EXPANSION.—The Federal share of the cost of ac-
5 quiring land for, expanding, or constructing a public
6 target range in a State on Federal or non-Federal
7 land pursuant to this section or section 8(b) shall
8 not exceed 90 percent of the cost of the activity.”;
9 and

10 (C) in subsection (c)(1)—

11 (i) by striking “Amounts made” and
12 inserting the following:

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), amounts made”; and

15 (ii) by adding at the end the fol-
16 lowing:

17 “(B) EXCEPTION.—Amounts provided for
18 acquiring land for, constructing, or expanding a
19 public target range shall remain available for
20 expenditure and obligation during the 5-fiscal-
21 year period beginning on October 1 of the first
22 fiscal year for which the amounts are made
23 available.”.

24 (d) SENSE OF CONGRESS REGARDING COOPERA-
25 TION.—It is the sense of Congress that, consistent with

1 applicable laws (including regulations), the Chief of the
2 Forest Service and the Director of the Bureau of Land
3 Management should cooperate with State and local au-
4 thorities and other entities to carry out waste removal and
5 other activities on any Federal land used as a public target
6 range to encourage continued use of that land for target
7 practice or marksmanship training.

8 **SEC. 3. BAITING OF MIGRATORY GAME BIRDS.**

9 Section 3 of the Migratory Bird Treaty Act (16
10 U.S.C. 704) is amended by striking subsection (b) and in-
11 serting the following:

12 “(b) PROHIBITION OF BAITING.—

13 “(1) DEFINITIONS.—In this subsection:

14 “(A) BAITED AREA.—

15 “(i) IN GENERAL.—The term ‘baited
16 area’ means—

17 “(I) any area on which salt,
18 grain, or other feed has been placed,
19 exposed, deposited, distributed, or
20 scattered, if the salt, grain, or feed
21 could lure or attract migratory game
22 birds; and

23 “(II) in the case of waterfowl,
24 cranes (family Gruidae), and coots
25 (family Rallidae), a standing,

1 unharvested crop that has been ma-
2 nipulated through activities such as
3 mowing, discing, or rolling, unless the
4 activities are normal agricultural prac-
5 tices.

6 “(ii) EXCLUSIONS.—An area shall not
7 be considered to be a ‘baited area’ if the
8 area—

9 “(I) has been treated with a nor-
10 mal agricultural practice;

11 “(II) has standing crops that
12 have not been manipulated; or

13 “(III) has standing crops that
14 have been or are flooded.

15 “(B) BAITING.—The term ‘baiting’ means
16 the direct or indirect placing, exposing, depos-
17 iting, distributing, or scattering of salt, grain,
18 or other feed that could lure or attract migra-
19 tory game birds to, on, or over any areas on
20 which a hunter is attempting to take migratory
21 game birds.

22 “(C) MIGRATORY GAME BIRD.—The term
23 ‘migratory game bird’ means migratory bird
24 species—

1 “(i) that are within the taxonomic
2 families of Anatidae, Columbidae, Gruidae,
3 Rallidae, and Scolopacidae; and

4 “(ii) for which open seasons are pre-
5 scribed by the Secretary of the Interior.

6 “(D) NORMAL AGRICULTURAL PRAC-
7 TICE.—

8 “(i) IN GENERAL.—The term ‘normal
9 agricultural practice’ means any practice in
10 1 annual growing season that—

11 “(I) is carried out in order to
12 produce a marketable crop, including
13 planting, harvest, post-harvest, or soil
14 conservation practices; and

15 “(II) is recommended for the
16 successful harvest of a given crop by
17 the applicable State office of the Co-
18 operative Extension System of the De-
19 partment of Agriculture, in consulta-
20 tion with, and if requested, the con-
21 currence of, the head of the applicable
22 State department of fish and wildlife.

23 “(ii) INCLUSIONS.—

24 “(I) IN GENERAL.—Subject to
25 subclause (II), the term ‘normal agri-

1 cultural practice' includes the destruc-
2 tion of a crop in accordance with
3 practices required by the Federal
4 Crop Insurance Corporation for agri-
5 cultural producers to obtain crop in-
6 surance under the Federal Crop In-
7 surance Act (7 U.S.C. 1501 et seq.)
8 on land on which a crop during the
9 current or immediately preceding crop
10 year was not harvestable due to a nat-
11 ural disaster (including any hurricane,
12 storm, tornado, flood, high water,
13 wind-driven water, tidal wave, tsu-
14 nami, earthquake, volcanic eruption,
15 landslide, mudslide, drought, fire,
16 snowstorm, or other catastrophe that
17 is declared a major disaster by the
18 President in accordance with section
19 401 of the Robert T. Stafford Dis-
20 aster Relief and Emergency Assist-
21 ance Act (42 U.S.C. 5170)).

22 “(II) LIMITATIONS.—The term
23 ‘normal agricultural practice’ only in-
24 cludes a crop described in subclause
25 (I) that has been destroyed or manip-

1 ulated through activities that include
2 (but are not limited to) mowing,
3 discing, or rolling if the Federal Crop
4 Insurance Corporation certifies that
5 flooding was not an acceptable method
6 of destruction to obtain crop insur-
7 ance under the Federal Crop Insur-
8 ance Act (7 U.S.C. 1501 et seq.).

9 “(E) WATERFOWL.—The term ‘waterfowl’
10 means native species of the family Anatidae.

11 “(2) PROHIBITION.—It shall be unlawful for
12 any person—

13 “(A) to take any migratory game bird by
14 baiting or on or over any baited area, if the
15 person knows or reasonably should know that
16 the area is a baited area; or

17 “(B) to place or direct the placement of
18 bait on or adjacent to an area for the purpose
19 of causing, inducing, or allowing any person to
20 take or attempt to take any migratory game
21 bird by baiting or on or over the baited area.

22 “(3) REGULATIONS.—The Secretary of the In-
23 terior may promulgate regulations to implement this
24 subsection.

1 “(4) REPORTS.—Annually, the Secretary of Ag-
2 riculture shall submit to the Secretary of the Inte-
3 rior a report that describes any changes to normal
4 agricultural practices across the range of crops
5 grown by agricultural producers in each region of
6 the United States in which the recommendations are
7 provided to agricultural producers.”.

8 **SEC. 4. NORTH AMERICAN WETLANDS CONSERVATION ACT.**

9 (a) REAL PROPERTY.—Section 6(a)(3) of the North
10 American Wetlands Conservation Act (16 U.S.C.
11 4405(a)(3)) is amended—

12 (1) by striking “(3) in lieu of” and inserting
13 the following:

14 “(3) PROVISION OF FUNDS OR CONVEYANCE OF
15 REAL PROPERTY INTEREST.—

16 “(A) IN GENERAL.—In lieu of”;

17 (2) in the second sentence, by striking “The
18 Secretary shall” and inserting the following:

19 “(B) DETERMINATION.—The Secretary
20 shall”; and

21 (3) by striking the third sentence and inserting
22 the following:

23 “(C) REAL PROPERTY.—Any real property
24 interest conveyed under this paragraph shall be

1 subject to terms and conditions that ensure
2 that—

3 “(i) the real property interest will be
4 administered for the long-term conserva-
5 tion and management of the wetland eco-
6 system and the fish and wildlife dependent
7 on that ecosystem;

8 “(ii) the grantor of a real property in-
9 terest has been provided with information
10 relating to all available conservation op-
11 tions, including conservation options that
12 involve the conveyance of a real property
13 interest for a limited period of time; and

14 “(iii) the provision of the information
15 described in clause (ii) has been docu-
16 mented.”.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
18 7(c) of the North American Wetlands Conservation Act
19 (16 U.S.C. 4406(c)) is amended—

20 (1) in paragraph (4), by striking “and”;

21 (2) in paragraph (5), by striking the period at
22 the end and inserting “; and”; and

23 (3) by adding at the end the following:

24 “(6) \$50,000,000 for each of fiscal years 2018
25 through 2022.”.

1 **SEC. 5. NATIONAL FISH AND WILDLIFE FOUNDATION ES-**
2 **TABLISHMENT ACT.**

3 (a) BOARD OF DIRECTORS OF FOUNDATION.—

4 (1) IN GENERAL.—Section 3 of the National
5 Fish and Wildlife Foundation Establishment Act (16
6 U.S.C. 3702) is amended—

7 (A) in subsection (b)—

8 (i) by striking paragraph (2) and in-
9 serting the following:

10 “(2) IN GENERAL.—After consulting with the
11 Secretary of Commerce and considering the rec-
12 ommendations submitted by the Board, the Sec-
13 retary of the Interior shall appoint 28 Directors
14 who, to the maximum extent practicable, shall—

15 “(A) be knowledgeable and experienced in
16 matters relating to the conservation of fish,
17 wildlife, or other natural resources; and

18 “(B) represent a balance of expertise in
19 ocean, coastal, freshwater, and terrestrial re-
20 source conservation.”; and

21 (ii) by striking paragraph (3) and in-
22 serting the following:

23 “(3) TERMS.—Each Director (other than a Di-
24 rector described in paragraph (1)) shall be appointed
25 for a term of 6 years.”; and

26 (B) in subsection (g)(2)—

1 (i) in subparagraph (A), by striking
2 “(A) Officers and employees may not be
3 appointed until the Foundation has suffi-
4 cient funds to pay them for their service.
5 Officers” and inserting the following:

6 “(A) IN GENERAL.—Officers”; and

7 (ii) by striking subparagraph (B) and
8 inserting the following:

9 “(B) EXECUTIVE DIRECTOR.—The Foun-
10 dation shall have an Executive Director who
11 shall be—

12 “(i) appointed by, and serve at the di-
13 rection of, the Board as the chief executive
14 officer of the Foundation; and

15 “(ii) knowledgeable and experienced in
16 matters relating to fish and wildlife con-
17 servation.”.

18 (2) CONFORMING AMENDMENT.—Section
19 4(a)(1)(B) of the North American Wetlands Con-
20 servation Act (16 U.S.C. 4403(a)(1)(B)) is amended
21 by striking “Secretary of the Board” and inserting
22 “Executive Director of the Board”.

23 (b) RIGHTS AND OBLIGATIONS OF FOUNDATION.—
24 Section 4 of the National Fish and Wildlife Foundation
25 Establishment Act (16 U.S.C. 3703) is amended—

1 (1) in subsection (c)—

2 (A) by striking “(c) POWERS.—To carry
3 out its purposes under” and inserting the fol-
4 lowing:

5 “(c) POWERS.—

6 “(1) IN GENERAL.—To carry out the purposes
7 described in”;

8 (B) by redesignating paragraphs (1)
9 through (11) as subparagraphs (A) through
10 (K), respectively, and indenting appropriately;

11 (C) in subparagraph (D) (as redesignated
12 by subparagraph (B)), by striking “that are in-
13 sured by an agency or instrumentality of the
14 United States” and inserting “at 1 or more fi-
15 nancial institutions that are members of the
16 Federal Deposit Insurance Corporation or the
17 Securities Investment Protection Corporation”;

18 (D) in subparagraph (E) (as redesignated
19 by subparagraph (B)), by striking “paragraph
20 (3) or (4)” and inserting “subparagraph (C) or
21 (D)”;

22 (E) in subparagraph (J) (as redesignated
23 by subparagraph (B)), by striking “and” at the
24 end;

1 (F) by striking subparagraph (K) (as re-
2 designated by subparagraph (B)) and inserting
3 the following:

4 “(K) to receive and administer restitution
5 and community service payments, amounts for
6 mitigation of impacts to natural resources, and
7 other amounts arising from legal, regulatory, or
8 administrative proceedings, subject to the con-
9 dition that the amounts are received or admin-
10 istered for purposes that further the conserva-
11 tion and management of fish, wildlife, plants,
12 and other natural resources; and

13 “(L) to do acts necessary to carry out the
14 purposes of the Foundation.”; and

15 (G) by striking the undesignated matter at
16 the end and inserting the following:

17 “(2) TREATMENT OF REAL PROPERTY.—

18 “(A) IN GENERAL.—For purposes of this
19 Act, an interest in real property shall be treated
20 as including easements or other rights for pres-
21 ervation, conservation, protection, or enhance-
22 ment by and for the public of natural, scenic,
23 historic, scientific, educational, inspirational, or
24 recreational resources.

1 “(B) ENCUMBERED REAL PROPERTY.—A
2 gift, devise, or bequest may be accepted by the
3 Foundation even though the gift, devise, or be-
4 quest is encumbered, restricted, or subject to
5 beneficial interests of private persons if any
6 current or future interest in the gift, devise, or
7 bequest is for the benefit of the Foundation.

8 “(3) SAVINGS CLAUSE.—The acceptance and
9 administration of amounts by the Foundation under
10 paragraph (1)(K) does not alter, supersede, or limit
11 any regulatory or statutory requirement associated
12 with those amounts.”;

13 (2) by striking subsections (f) and (g); and

14 (3) by redesignating subsections (h) and (i) as
15 subsections (f) and (g), respectively.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
17 10 of the National Fish and Wildlife Foundation Estab-
18 lishment Act (16 U.S.C. 3709) is amended—

19 (1) in subsection (a), by striking paragraph (1)
20 and inserting the following:

21 “(1) IN GENERAL.—There are authorized to be
22 appropriated to carry out this Act for each of fiscal
23 years 2018 through 2022—

24 “(A) \$15,000,000 to the Secretary of the
25 Interior;

1 “(B) \$5,000,000 to the Secretary of Agri-
2 culture; and

3 “(C) \$5,000,000 to the Secretary of Com-
4 merce.”;

5 (2) in subsection (b)—

6 (A) by striking paragraph (1) and insert-
7 ing the following:

8 “(1) AMOUNTS FROM FEDERAL AGENCIES.—

9 “(A) IN GENERAL.—In addition to the
10 amounts authorized to be appropriated under
11 subsection (a), Federal departments, agencies,
12 or instrumentalities are authorized to provide
13 funds to the Foundation through Federal finan-
14 cial assistance grants and cooperative agree-
15 ments, subject to the condition that the
16 amounts are used for purposes that further the
17 conservation and management of fish, wildlife,
18 plants, and other natural resources in accord-
19 ance with this Act.

20 “(B) ADVANCES.—Federal departments,
21 agencies, or instrumentalities may advance
22 amounts described in subparagraph (A) to the
23 Foundation in a lump sum without regard to
24 when the expenses for which the amounts are
25 used are incurred.

1 “(C) MANAGEMENT FEES.—The Founda-
2 tion may assess and collect fees for the manage-
3 ment of amounts received under this para-
4 graph.”;

5 (B) in paragraph (2)—

6 (i) in the paragraph heading, by strik-
7 ing “FUNDS” and inserting “AMOUNTS”;

8 (ii) by striking “shall be used” and in-
9 serting “may be used”; and

10 (iii) by striking “and State and local
11 government agencies” and inserting “,
12 State and local government agencies, and
13 other entities”; and

14 (C) by adding at the end the following:

15 “(3) ADMINISTRATION OF AMOUNTS.—

16 “(A) IN GENERAL.—In entering into con-
17 tracts, agreements, or other partnerships pursu-
18 ant to this Act, a Federal department, agency,
19 or instrumentality shall have discretion to waive
20 any competitive process applicable to the de-
21 partment, agency, or instrumentality for enter-
22 ing into contracts, agreements, or partnerships
23 with the Foundation if the purpose of the waiv-
24 er is—

1 “(i) to address an environmental
2 emergency resulting from a natural or
3 other disaster; or

4 “(ii) as determined by the head of the
5 applicable Federal department, agency, or
6 instrumentality, to reduce administrative
7 expenses and expedite the conservation and
8 management of fish, wildlife, plants, and
9 other natural resources.

10 “(B) REPORTS.—The Foundation shall in-
11 clude in the annual report submitted under sec-
12 tion 7(b) a description of any use of the author-
13 ity under subparagraph (A) by a Federal de-
14 partment, agency, or instrumentality in that fis-
15 cal year.”; and

16 (3) by adding at the end the following:

17 “(d) USE OF GIFTS, DEVISES, OR BEQUESTS OF
18 MONEY OR OTHER PROPERTY.—Any gifts, devises, or be-
19 quests of amounts or other property, or any other amounts
20 or other property, transferred to, deposited with, or other-
21 wise in the possession of the Foundation pursuant to this
22 Act, may be made available by the Foundation to Federal
23 departments, agencies, or instrumentalities and may be
24 accepted and expended (or the disposition of the amounts
25 or property directed), without further appropriation, by

1 those Federal departments, agencies, or instrumentalities,
2 subject to the condition that the amounts or property be
3 used for purposes that further the conservation and man-
4 agement of fish, wildlife, plants, and other natural re-
5 sources.”.

6 (d) LIMITATION ON AUTHORITY.—Section 11 of the
7 National Fish and Wildlife Foundation Establishment Act
8 (16 U.S.C. 3710) is amended by inserting “exclusive” be-
9 fore “authority”.

10 **SEC. 6. REAUTHORIZATION OF NEOTROPICAL MIGRATORY**
11 **BIRD CONSERVATION ACT.**

12 Section 10 of the Neotropical Migratory Bird Con-
13 servation Act (16 U.S.C. 6109) is amended to read as fol-
14 lows:

15 **“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

16 “(a) IN GENERAL.—There is authorized to be appro-
17 priated to carry out this Act \$6,500,000 for each of fiscal
18 years 2018 through 2022.

19 “(b) USE OF FUNDS.—Of the amounts made avail-
20 able under subsection (a) for each fiscal year, not less than
21 75 percent shall be expended for projects carried out at
22 a location outside of the United States.”.

1 **SEC. 7. REISSUANCE OF FINAL RULE REGARDING GRAY**
2 **WOLVES IN WESTERN GREAT LAKES.**

3 Before the end of the 60-day period beginning on the
4 date of enactment of this Act, the Secretary of the Interior
5 shall reissue the final rule published on December 28,
6 2011 (76 Fed. Reg. 81666), without regard to any other
7 provision of statute or regulation that applies to issuance
8 of such rule. Such reissuance shall not be subject to judi-
9 cial review.

10 **SEC. 8. REISSUANCE OF FINAL RULE REGARDING GRAY**
11 **WOLVES IN WYOMING.**

12 The final rule published on September 10, 2012 (77
13 Fed. Reg. 55530) that was reinstated on March 3, 2017,
14 by the decision of the U.S. Court of Appeals for the Dis-
15 trict of Columbia (No. 14–5300) and further republished
16 on May 1, 2017 (82 Fed. Reg. 20284–85) that reinstates
17 the removal of Federal protections for the gray wolf in
18 Wyoming under the Endangered Species Act of 1973, as
19 amended, shall not be subject to judicial review.

20 **SEC. 9. MODIFICATION OF DEFINITION OF SPORT FISHING**
21 **EQUIPMENT UNDER TOXIC SUBSTANCES**
22 **CONTROL ACT.**

23 Section 3(2)(B) of the Toxic Substances Control Act
24 (15 U.S.C. 2602(2)(B)) is amended—

25 (1) in clause (v), by striking “and” at the end;

1 (2) in clause (vi) by striking the period at the
2 end and inserting “, and”; and

3 (3) by inserting after clause (vi) the following:

4 “(vii) any sport fishing equipment (as such
5 term is defined in section 4162(a) of the Internal
6 Revenue Code of 1986) the sale of which is subject
7 to the tax imposed by section 4161(a) of such Code
8 (determined without regard to any exemptions from
9 such tax provided by section 4162 or 4221 or any
10 other provision of such Code), and sport fishing
11 equipment components.”.

12 **SEC. 10. REAUTHORIZATION OF CHESAPEAKE BAY PRO-**
13 **GRAM.**

14 Section 117 of the Federal Water Pollution Control
15 Act (33 U.S.C. 1267) is amended by striking subsection
16 (j) and inserting the following:

17 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
18 is authorized to be appropriated to carry out this section
19 \$90,000,000 for each of fiscal years 2018 through 2022.”.

20 **SEC. 11. REAUTHORIZATION OF CHESAPEAKE BAY INITIA-**
21 **TIVE ACT OF 1998.**

22 Section 502(c) of the Chesapeake Bay Initiative Act
23 of 1998 (Public Law 105–312; 112 Stat. 2963; 129 Stat.
24 2579) is amended by striking “2017” and inserting
25 “2023”.

1 **SEC. 12. 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 decisionmaking;

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 decisionmaking 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 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 180 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 rec-
22 ommended by the Board under sub-
23 section (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, 2018, 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 2018 through 2022 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 2018 through 2022 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 2018 through 2022 to
14 carry out, and provide technical and scientific
15 assistance under, subsection (f)—

16 (i) \$500,000 to the Secretary for use
17 by the United States Fish and Wildlife
18 Service;

19 (ii) \$500,000 to the NOAA Assistant
20 Administrator for use by the National Oce-
21 anic and Atmospheric Administration;

22 (iii) \$500,000 to the EPA Assistant
23 Administrator for use by the Environ-
24 mental Protection Agency; and

1 (iv) \$500,000 to the Secretary for use
2 by the United States Geological Survey.

3 (2) AGREEMENTS AND GRANTS.—The Secretary
4 may—

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

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

18 (C) make funds available to any Federal
19 department or agency for use by that depart-
20 ment or agency to provide grants for any fish
21 habitat protection project, restoration project,
22 or enhancement project that the Secretary de-
23 termines to be consistent with this section.

24 (3) DONATIONS.—

25 (A) IN GENERAL.—The Secretary may—

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

8 (ii) accept donations of funds, prop-
9 erty, and services to carry out the purposes
10 of this section.

11 (B) TREATMENT.—A donation accepted
12 under this section—

13 (i) shall be considered to be a gift or
14 bequest to, or otherwise for the use of, the
15 United States; and

16 (ii) may be—

17 (I) used directly by the Sec-
18 retary; or

19 (II) provided to another Federal
20 department or agency through an
21 interagency agreement.

22 (m) PROHIBITION AGAINST IMPLEMENTATION OF
23 REGULATORY AUTHORITY BY FEDERAL AGENCIES .—
24 Any Partnership designated under this section—

- 1 (1) shall be for the sole purpose of promoting
- 2 fish conservation; and
- 3 (2) shall not be used to implement any regu-
- 4 latory authority of any Federal agency.