To conserve fish and aquatic communities in the United States through partnerships that foster fish habitat conservation, improve the quality of life for the people of the United States, enhance fish and wildlife-dependent recreation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To conserve fish and aquatic communities in the United States through partnerships that foster fish habitat conservation, improve the quality of life for the people of the United States, enhance fish and wildlife-dependent recreation, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “National Fish Habitat Conservation Act”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:
SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) healthy populations of fish depend on the conservation, protection, restoration, and enhancement of fish habitats in the United States;

(2) fish habitats (including wetlands, streams, rivers, lakes, estuaries, and coastal and marine habitats) perform numerous valuable environmental functions that sustain environmental, social, and cultural values, including recycling nutrients, purifying water, attenuating floods, augmenting and maintaining stream flows, recharging ground water, acting as primary producers in the food chain, and providing essential and significant habitat for plants, fish, wildlife, and other dependent species;

(3) the extensive and diverse fish habitat resources of the United States are of enormous significance to the economy of the United States, providing—
(A) recreation for 60,000,000 anglers;

(B) more than 828,000 jobs and approximately $115,000,000,000 in economic impact each year relating to recreational fishing; and

(C) approximately 575,000 jobs and an additional $36,000,000,000 in economic impact each year relating to commercial fishing;

(4) at least 40 percent of all threatened species and endangered species in the United States are directly dependent on fish habitats;

(5) certain fish species are considered to be ecological indicators of fish habitat quality, such that the presence of those species reflects high-quality habitat for fish species;

(6) loss and degradation of fish habitat, riparian habitat, water quality, and water volume caused by activities such as alteration of watercourses, stream blockages, water withdrawals and diversions, erosion, pollution, sedimentation, and destruction or modification of wetlands have—

(A) caused significant declines in fish populations throughout the United States, especially declines in native fish populations; and

(B) resulted in economic losses to the United States;
(7)(A) providing for the conservation and sustainabil-
y of fish populations has not been fully re-
lized, despite federally funded fish and wildlife res-
toration programs and other activities intended to
conserve fish habitat; and

(B) conservation and sustainability may be sig-
nificantly advanced through a renewed commitment
and sustained, cooperative efforts that are com-
plementary to existing fish and wildlife restoration
programs and clean water programs;

(8) the National Fish Habitat Action Plan pro-
vides a framework for maintaining and restoring fish
habitats to perpetuate populations of fish species;

(9) the United States can achieve significant
progress toward providing fish habitats for the con-
servation and restoration of fish species through a
voluntary, nonregulatory incentive program that is
based on technical and financial assistance provided
by the Federal Government;

(10) the creation of partnerships between local
citizens, Indian tribes, Alaska Native organizations,
corporations, nongovernmental organizations, and
Federal, State, and tribal agencies is critical to the
success of activities to restore fish habitats;
(11) the Federal Government has numerous land and water management agencies that are critical to the implementation of the National Fish Habitat Action Plan, including—

(A) the United States Fish and Wildlife Service;
(B) the Bureau of Land Management;
(C) the National Park Service;
(D) the Bureau of Reclamation;
(E) the Bureau of Indian Affairs;
(F) the National Marine Fisheries Service;
(G) the Forest Service;
(H) the Natural Resources Conservation Service; and
(I) the Environmental Protection Agency;

(12) the United States Fish and Wildlife Service, the Forest Service, the Bureau of Land Management, and the National Marine Fisheries Service each play a vital role in—

(A) the protection, restoration, and enhancement of the fish communities and fish habitats in the United States; and
(B) the development, operation, and long-term success of fish habitat partnerships and project implementation;
(13) the United States Geological Survey, the United States Fish and Wildlife Service, and the National Marine Fisheries Service each play a vital role in scientific evaluation, data collection, and mapping for fishery resources in the United States;

(14) the State and Territorial fish and wildlife agencies play a vital role in—

(A) the protection, restoration, and enhancement of the fish communities and fish habitats in their respective States and territories; and

(B) the development, operation, and long-term success of fish habitat partnerships and project implementation; and

(15) many of the programs for conservation on private farmland, ranchland, and forestland that are carried out by the Secretary of Agriculture, including the Natural Resources Conservation Service and the State and Private Forestry programs of the Forest Service, are able to significantly contribute to the implementation of the National Fish Habitat Action Plan through the engagement of private landowners.

(b) PURPOSE.—The purpose of this Act is to encourage partnerships among public agencies and other inter-
ated parties consistent with the mission and goals of the
National Fish Habitat Action Plan—

(1) to promote intact and healthy fish habitats;

(2) to improve the quality and quantity of fish
habitats and overall health of fish species;

(3) to increase the quality and quantity of fish
habitats that support a broad natural diversity of
fish and other aquatic species;

(4) to improve fish habitats in a manner that
leads to improvement of the annual economic output
from recreational, subsistence, and commercial fishing;

(5) to enhance fish and wildlife-dependent
recreation;

(6) to coordinate and facilitate activities carried
out by Federal departments and agencies under the
leadership of—

(A) the Director of the United States Fish
and Wildlife Service;

(B) the Assistant Administrator for Fish-
eries of the National Oceanic and Atmospheric
Administration; and

(C) the Director of the United States Geo-
logical Survey; and
(7) to achieve other purposes in accordance with the mission and goals of the National Fish Habitat Action Plan.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate; and

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

(2) ASSISTANT ADMINISTRATOR.—The term “Assistant Administrator” means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

(3) BOARD.—The term “Board” means the National Fish Habitat Board established by section 4(a)(1).

(4) CONSERVATION; CONSERVE; MANAGE; MANAGEMENT.—The terms “conservation”, “conserve”, “manage”, and “management” mean to maintain, sustain, and, where practicable, restore and enhance, using methods and procedures associated with mod-
ern scientific resource programs (including protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and the regulated harvesting of fish)—

(A) a healthy population of fish;

(B) a habitat required to sustain fish and fish populations; or

(C) a habitat required to sustain fish productivity.

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

(6) FISH.—

(A) IN GENERAL.—The term “fish” means any freshwater, diadromous, estuarine, or marine finfish or shellfish.

(B) INCLUSIONS.—The term “fish” includes the egg, spawn, spat, larval, and other juvenile stages of an organism described in subparagraph (A).

(7) FISH AND WILDLIFE-DEPENDENT RECREATION.—The term “fish and wildlife-dependent recreation” means a use involving hunting, fishing, wildlife observation and photography, or conservation education and interpretation.
(8) **Fish habitat.**—

(A) **In general.**—The term “fish habitat” means an area on which fish depend to carry out the life processes of the fish, including an area used by the fish for spawning, incubation, nursery, rearing, growth to maturity, food supply, or migration.

(B) **Inclusions.**—The term “fish habitat” may include—

(i) an area immediately adjacent to an aquatic environment, if the immediately adjacent area—

(I) contributes to the quality and quantity of water sources; or

(II) provides public access for the use of fishery resources; and

(ii) an area inhabited by saltwater and brackish fish, including an offshore artificial marine reef in the Gulf of Mexico.

(9) **Fish habitat conservation project.**—

(A) **In general.**—The term “fish habitat conservation project” means a project that—

(i) is submitted to the Board by a Partnership and approved by the Secretary under section 6; and
(ii) provides for the conservation or management of a fish habitat.

(B) INCLUSIONS.—The term “fish habitat conservation project” includes—

(i) the provision of technical assistance to a State, Indian tribe, or local community by the National Fish Habitat Conservation Partnership Program or any other agency to facilitate the development of strategies and priorities for the conservation of fish habitats; or

(ii) the voluntary obtaining of a real property interest in land or water, by a State, local government, or other non-Federal entity, including water rights, in accordance with terms and conditions that ensure that the real property will be administered for the long-term conservation of—

(I) the land or water; and

(II) the fish dependent on the land or water.

(10) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the

(11) NATIONAL FISH HABITAT ACTION PLAN.—The term “National Fish Habitat Action Plan” means the National Fish Habitat Action Plan dated April 24, 2006, and any subsequent revisions or amendments to that plan.

(12) PARTNERSHIP.—The term “Partnership” means an entity designated by the Board as a Fish Habitat Conservation Partnership pursuant to section 5(a).

(13) REAL PROPERTY INTEREST.—The term “real property interest” means an ownership interest in—

(A) land;

(B) water (including water rights); or

(C) a building or object that is permanently affixed to land.

(14) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(15) STATE.—The term “State” means—

(A) each of the several States;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;
1 (E) the Virgin Islands; and
2
3 (F) any other territory or possession of the
4 United States.
5
(E) the Virgin Islands; and
(F) any other territory or possession of the
United States.
5
(16) STATE AGENCY.—The term “State agen-
6 cy” means—
7
(A) the fish and wildlife agency of a State;
8 (B) any department or division of a de-
9 partment or agency of a State that manages in
10 the public trust the inland or marine fishery re-
11 sources or sustains the habitat for those fishery
12 resources of the State pursuant to State law or
13 the constitution of the State; or
14
(C) the fish and wildlife agency of the
15 Commonwealth of Puerto Rico, Guam, the Vir-
16 gin Islands, or any other territory or possession
17 of the United States.
18
SEC. 4. NATIONAL FISH HABITAT BOARD.
19 (a) Establishment.—
20 (1) FISH HABITAT BOARD.—There is estab-
21 lished a board, to be known as the “National Fish
22 Habitat Board”, whose duties are—
23
(A) to promote, oversee, and coordinate the
24 implementation of this Act and the National
25 Fish Habitat Action Plan;
(B) to establish national goals and priorities for fish habitat conservation;

(C) to approve Partnerships; and

(D) to review and make recommendations regarding fish habitat conservation projects.

(2) MEMBERSHIP.—The Board shall be composed of 28 members, of whom—

(A) 1 shall be the Director;

(B) 1 shall be the Assistant Administrator;

(C) 1 shall be the Chief of the Natural Resources Conservation Service;

(D) 1 shall be the Chief of the Forest Service;

(E) 1 shall be the Assistant Administrator for Water of the Environmental Protection Agency;

(F) 1 shall be the President of the Association of Fish and Wildlife Agencies;

(G) 1 shall be the Secretary of the Board of Directors of the National Fish and Wildlife Foundation appointed pursuant to section 3(g)(2)(B) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(g)(2)(B));
(H) 4 shall be representatives of State agencies, 1 of whom shall be nominated by a regional association of fish and wildlife agencies from each of the Northeast, Southeast, Midwest, and Western regions of the United States;

(I) 1 shall be a representative of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or any other territory or possession of the United States;

(J) 1 shall be a representative of the American Fisheries Society;

(K) 2 shall be representatives of Indian tribes, of whom—

(i) 1 shall represent Indian tribes from the State of Alaska; and

(ii) 1 shall represent Indian tribes from the other States;

(L) 1 shall be a representative of the Regional Fishery Management Councils established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852);
(i) the Atlantic States Marine Fisheries Commission;

(ii) the Gulf States Marine Fisheries Commission; and

(iii) the Pacific States Marine Fisheries Commission;

(N) 1 shall be a representative of the Sportfishing and Boating Partnership Council;

and

(O) 10 shall be representatives selected from each of the following groups:

(i) The recreational sportfishing industry.

(ii) The commercial fishing industry.

(iii) Marine recreational anglers.

(iv) Freshwater recreational anglers.

(v) Terrestrial resource conservation organizations.

(vi) Aquatic resource conservation organizations.

(vii) The livestock and poultry production industry.

(viii) The land development industry.

(ix) The row crop industry.
(x) Natural resource commodity interests, such as petroleum or mineral extraction.

(3) Compensation.—A member of the Board shall serve without compensation.

(4) Travel expenses.—A member of the Board may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Board.

(b) Appointment and Terms.—

(1) In General.—Except as otherwise provided in this subsection, a member of the Board described in any of subparagraphs (H) through (O) of subsection (a)(2) shall serve for a term of 3 years.

(2) Initial Board Membership.—

(A) In General.—Not later than 180 days after the date of enactment of this Act, the representatives of the board established by the National Fish Habitat Action Plan shall appoint the initial members of the Board de-
scribed in subparagraphs (H), (I), (J), (L), (M), (N), and (O) of subsection (a)(2).

(B) TRIBAL REPRESENTATIVES.—Not later than 180 days after the enactment of this Act, the Secretary shall provide to the board established by the National Fish Habitat Action Plan a recommendation of not less than 4 tribal representatives, from which that board shall appoint 2 representatives pursuant to subparagraph (K) of subsection (a)(2).

(3) TRANSITIONAL TERMS.—Of the members described in subsection (a)(2)(O) initially appointed to the Board—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 3 shall be appointed for a term of 3 years.

(4) VACANCIES.—

(A) IN GENERAL.—A vacancy of a member of the Board described in subparagraphs (H), (I), (J), (L), (M), (N), and (O) of subsection (a)(2) shall be filled by an appointment made by the remaining members of the Board.
(B) Tribal representatives.—Following a vacancy of a member of the Board described in subparagraph (K) of subsection (a)(2), the Secretary shall recommend to the Board a list of not less than 4 tribal representatives, from which the remaining members of the Board shall appoint a representative to fill the vacancy.

(5) Continuation of service.—An individual whose term of service as a member of the Board expires may continue to serve on the Board until a successor is appointed.

(6) Removal.—If a member of the Board described in any of subparagraphs (H) through (O) of subsection (a)(2) misses 3 consecutive regularly scheduled Board meetings, the members of the Board may—

(A) vote to remove that member; and

(B) appoint another individual in accordance with paragraph (4).

(c) Chairperson.—

(1) In general.—The Board shall elect a member of the Board to serve as Chairperson of the Board.
(2) TERM.—The Chairperson of the Board shall serve for a term of 3 years.

(d) MEETINGS.—

(1) IN GENERAL.—The Board shall meet—

(A) at the call of the Chairperson; but

(B) not less frequently than twice each calendar year.

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

(e) PROCEDURES.—

(1) IN GENERAL.—The Board shall establish procedures to carry out the business of the Board, including—

(A) a requirement that a quorum of the members of the Board be present to transact business;

(B) a requirement that no recommendations may be adopted by the Board, except by the vote of 2⁄3 of all members;

(C) procedures for establishing national goals and priorities for fish habitat conservation for the purposes of this Act;

(D) procedures for designating Partnerships under section 5; and
(E) procedures for reviewing, evaluating, and making recommendations regarding fish habitat conservation projects.

(2) QUORUM.—A majority of the members of the Board shall constitute a quorum.

SEC. 5. FISH HABITAT PARTNERSHIPS.

(a) AUTHORITY TO APPROVE.—The Board may approve and designate Fish Habitat Partnerships in accordance with this section.

(b) PURPOSES.—The purposes of a Partnership shall be—

(1) to coordinate the implementation of the National Fish Habitat Action Plan at a regional level;

(2) to identify strategic priorities for fish habitat conservation;

(3) to recommend to the Board fish habitat conservation projects that address a strategic priority of the Board; and

(4) to develop and carry out fish habitat conservation projects.

(c) APPLICATIONS.—An entity seeking to be designated as a Partnership shall submit to the Board an application at such time, in such manner, and containing such information as the Board may reasonably require.
(d) APPROVAL.—The Board may approve an application for a Partnership submitted under subsection (c) if the Board determines that the applicant—

(1) identifies representatives to provide support and technical assistance to the Partnership from a diverse group of public and private partners, which may include Federal, State, or local governments, nonprofit entities, Indian tribes, and private individuals, that are focused on conservation of fish habitats to achieve results across jurisdictional boundaries on public and private land;

(2) is organized to promote the health of important fish habitats and distinct geographical areas, important fish species, or system types, including reservoirs, natural lakes, coastal and marine environments, and estuaries;

(3) identifies strategic fish and fish habitat priorities for the Partnership area in the form of geographical focus areas or key stressors or impairments to facilitate strategic planning and decision-making;

(4) is able to address issues and priorities on a nationally significant scale;

(5) includes a governance structure that—

(A) reflects the range of all partners; and
(B) promotes joint strategic planning and
decisionmaking by the applicant;

(6) demonstrates completion of, or significant
progress toward the development of, a strategic plan
to address the decline in fish populations, rather
than simply treating symptoms in accordance with
the National Fish Habitat Action Plan; and

(7) promotes collaboration in developing a stra-
tegic vision and implementation program that is sci-
entifically sound and achievable.

SEC. 6. FISH HABITAT CONSERVATION PROJECTS.

(a) Submission to Board.—Not later than March
31 of each calendar year, each Partnership shall submit
to the Board a list of fish habitat conservation projects
recommended by the Partnership for annual funding
under this Act.

(b) Recommendations by Board.—Not later than
July 1 of each calendar year, the Board shall submit to
the Secretary a description, including estimated costs, of
each fish habitat conservation project that the Board rec-
ommends that the Secretary approve and fund under this
Act, in order of priority, for the following fiscal year.

(c) Considerations.—The Board shall select each
fish habitat conservation project to be recommended to the
Secretary under subsection (b)—
(1) based on a recommendation of the Partnership that is, or will be, participating actively in carrying out the fish habitat conservation project; and

(2) after taking into consideration—

(A) the extent to which the fish habitat conservation project fulfills a purpose of this Act or a goal of the National Fish Habitat Action Plan;

(B) the extent to which the fish habitat conservation project addresses the national priorities established by the Board;

(C) the availability of sufficient non-Federal funds to match Federal contributions for the fish habitat conservation project, as required by subsection (e);

(D) the extent to which the fish habitat conservation project—

   (i) increases recreational fishing opportunities for the public;

   (ii) will be carried out through a cooperative agreement among Federal, State, and local governments, Indian tribes, and private entities;
(iii) increases public access to land or water for fish and wildlife-dependent recreational opportunities;

(iv) advances the conservation of fish and wildlife species that have been identified by the States as species in greatest need of conservation;

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

(vi) promotes strong and healthy fish habitats such that desired biological communities are able to persist and adapt; and

(E) the substantiality of the character and design of the fish habitat conservation project.

(d) Limitations.—

(1) Requirements for evaluation.—No fish habitat conservation project may be recommended by the Board under subsection (b) or provided financial assistance under this Act unless the fish habitat conservation project includes an evaluation plan designed—
(A) to appropriately assess the biological, ecological, or other results of the habitat protection, restoration, or enhancement activities carried out using the assistance;

(B) to reflect appropriate changes to the fish habitat conservation project if the assessment substantiates that the fish habitat conservation project objectives are not being met;

(C) to identify improvements to existing recreational fishing opportunities and the overall economic benefits for the local community of the fish habitat conservation project; and

(D) to require the submission to the Board of a report describing the findings of the assessment.

(2) ACQUISITION OF REAL PROPERTY INTERESTS.—

(A) ACQUISITION OF REAL PROPERTY INTERESTS.—

(i) IN GENERAL.—Subject to clause (ii), a State, local government, or other non-Federal entity shall be eligible to receive funds under this Act for the acquisition of real property.
(ii) **Restriction.**—No fish habitat conservation project that will result in the acquisition by a State, local government, or other non-Federal entity, in whole or in part, of any real property interest may be recommended by the Board under subsection (b) or provided financial assistance under this Act unless the project meets the requirements of subparagraph (B).

**(B) Requirements.**—

(i) **In general.**—A real property interest may not be acquired pursuant to a fish habitat conservation project by a State, local government, or other non-Federal entity unless—

- (I) the Secretary determines that the State, local government, or other non-Federal entity is obligated to undertake the management of the real property being acquired in accordance with the purposes of this Act; and
- (II) the owner of the real property authorizes the State, local government, or other non-Federal entity to acquire the real property.
(ii) ADDITIONAL CONDITIONS.—Any real property interest acquired by a State, local government, or other non-Federal entity pursuant to a fish habitat conservation project shall be subject to terms and conditions established by the Secretary providing for the long-term conservation and management of the fish habitat and the fish and wildlife dependent on that habitat.

(iii) PUBLIC ACCESS.—

(I) IN GENERAL.—Any acquisition of fee title to real property by a State, local government, or non-Federal entity pursuant to this Act shall, where applicable and consistent with State laws and regulations, provide public access to that real property for compatible fish and wildlife-dependent recreation.

(II) PUBLIC ACCESS.—Public access to real property described in subclause (I) shall be closed only for purposes of protecting public safety, the property, or habitat.

(iv) STATE AGENCY APPROVAL.—
(I) IN GENERAL.—Any real property interest acquired by a State, local government, or other non-Federal entity under this Act shall be approved by the applicable State agency in the State in which the fish habitat conservation project is carried out.

(II) ADMINISTRATION.—The Board shall not recommend, and the Secretary shall not provide any funding under this Act for, the acquisition of any real property interest described in subclause (I) that has not been approved by the applicable State agency.

(v) VIOLATION.—If the State, local government, or other non-Federal entity violates any term or condition established by the Secretary under clause (ii), the Secretary may require the State, local government, or other non-Federal entity to refund all or part of any payments received under this Act, with interest on the payments as determined appropriate by the Secretary.

(e) NON-FEDERAL CONTRIBUTIONS.—
(1) IN GENERAL.—Except as provided in paragraph (2), no fish habitat conservation project may be recommended by the Board under subsection (b) or provided financial assistance under this Act unless at least 50 percent of the cost of the fish habitat conservation project will be funded with non-Federal funds.

(2) PROJECTS ON FEDERAL LAND OR WATER.—Notwithstanding paragraph (1), Federal funds may be used for payment of 100 percent of the costs of a fish habitat conservation project located on Federal land or water.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of a fish habitat conservation project—

(A) may not be derived from a Federal grant program; but

(B) may include in-kind contributions and cash.

(4) SPECIAL RULE FOR INDIAN TRIBES.—Notwithstanding paragraph (1) or any other provision of law, any funds made available to an Indian tribe pursuant to this Act may be considered to be non-Federal funds for the purpose of paragraph (1).

(f) APPROVAL.—
(1) **IN GENERAL.**—Not later than 180 days after the date of receipt of the recommendations of the Board for fish habitat conservation projects under subsection (b), subject to the limitations under subsection (d), and based, to the maximum extent practicable, on the criteria described in subsection (c)—

(A) the Secretary shall approve, reject, or reorder the priority of any fish habitat conservation project recommended by the Board that is not within a marine or estuarine habitat; and

(B) the Secretary and the Secretary of Commerce shall jointly approve, reject, or reorder the priority of any fish habitat conservation project recommended by the Board that is within a marine or estuarine habitat.

(2) **FUNDING.**—If a fish habitat conservation project under paragraph (1) is approved by the Secretary, or the Secretary and the Secretary of Commerce jointly, the Secretary, or the Secretary and the Secretary of Commerce jointly, as applicable, shall use amounts made available to carry out this Act to provide funds to carry out the fish habitat conservation project.
(3) NOTIFICATION.—If the priority of any fish habitat conservation project recommended by the Board under subsection (b) is rejected or reordered by the Secretary, or the Secretary and the Secretary of Commerce jointly, the Secretary, or the Secretary and the Secretary of Commerce jointly, shall, not later than 180 days after the date of receipt of the recommendations, provide to the Board, the appropriate Partnership, and the appropriate congressional committees a written statement of the Secretary, or the Secretary and the Secretary of Commerce jointly, as applicable, detailing the reasons why the Secretary or the Secretary and the Secretary of Commerce jointly rejected or reordered the priority of the fish habitat conservation project.

SEC. 7. NATIONAL FISH HABITAT CONSERVATION PARTNERSHIP PROGRAM.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Director shall establish a program, to be known as the “National Fish Habitat Conservation Partnership Program”, within the Division of Fish and Aquatic Conservation of the United States Fish and Wildlife Service.

(b) FUNCTIONS.—The National Fish Habitat Conservation Partnership Program shall—
(1) provide funding for the operational needs of the Partnerships, including funding for activities such as planning, project development and implementation, coordination, monitoring, evaluation, communication, and outreach;

(2) provide funding to support the detail of State and tribal fish and wildlife staff to the Program;

(3) facilitate the cooperative development and approval of Partnerships;

(4) assist the Secretary and the Board in carrying out this Act;

(5) assist the Secretary in carrying out the requirements of sections 8 and 10;

(6) facilitate communication, cohesiveness, and efficient operations for the benefit of Partnerships and the Board;

(7) facilitate, with assistance from the Director, the Assistant Administrator, and the President of the Association of Fish and Wildlife Agencies, the consideration of fish habitat conservation projects by the Board;

(8) provide support to the Director regarding the development and implementation of the inter-agency operational plan under subsection (c);
(9) coordinate technical and scientific reporting as required by section 11;

(10) facilitate the efficient use of resources and activities of Federal departments and agencies to carry out this Act in an efficient manner; and

(11) provide support to the Board for national communication and outreach efforts that promote public awareness of fish habitat conservation.

(e) INTERAGENCY OPERATIONAL PLAN.—Not later than 1 year after the date of enactment of this Act, and every 5 years thereafter, the Director, in cooperation with the Assistant Administrator and the heads of other appropriate Federal departments and agencies, shall develop an interagency operational plan for the National Fish Habitat Conservation Partnership Program that describes—

(1) the functional, operational, technical, scientific, and general staff, administrative, and material needs of the Program; and

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

(d) STAFF AND SUPPORT.—

(1) DEPARTMENTS OF INTERIOR AND COMMERCE.—The Director and the Assistant Administrator shall each provide appropriate staff to support
the National Fish Habitat Conservation Partnership Program, subject to the availability of funds under section 14.

(2) States and Indian tribes.—Each State and Indian tribe is encouraged to provide staff to support the National Fish Habitat Conservation Partnership Program.

(3) Detailees and contractors.—The National Fish Habitat Conservation Partnership Program may accept staff or other administrative support from other entities—

(A) through interagency details; or

(B) as contractors.

(4) Qualifications.—The staff of the National Fish Habitat Conservation Partnership Program shall include members with education and experience relating to the principles of fish, wildlife, and habitat conservation.

(e) Reports.—Not less frequently than once each year, the Director shall provide to the Board a report describing the activities of the National Fish Habitat Conservation Partnership Program.

SEC. 8. TECHNICAL AND SCIENTIFIC ASSISTANCE.

(a) In general.—The Director, the Assistant Administrator, and the Director of the United States Geo-
logical Survey, in coordination with the Forest Service and other appropriate Federal departments and agencies, shall provide scientific and technical assistance to the Partnerships, participants in fish habitat conservation projects, and the Board.

(b) INCLUSIONS.—Scientific and technical assistance provided pursuant to subsection (a) may include—

(1) providing technical and scientific assistance to States, Indian tribes, regions, local communities, and nongovernmental organizations in the development and implementation of Partnerships;

(2) providing technical and scientific assistance to Partnerships for habitat assessment, strategic planning, and prioritization;

(3) supporting the development and implementation of fish habitat conservation projects that are identified as high priorities by Partnerships and the Board;

(4) supporting and providing recommendations regarding the development of science-based monitoring and assessment approaches for implementation through Partnerships;

(5) supporting and providing recommendations for a national fish habitat assessment;
(6) ensuring the availability of experts to conduct scientifically based evaluation and reporting of the results of fish habitat conservation projects; and

(7) providing resources to secure State agency scientific and technical assistance to support Partnerships, participants in fish habitat conservation projects, and the Board.

SEC. 9. CONSERVATION OF FISH HABITAT ON FEDERAL LAND.

To the extent consistent with the mission and authority of the applicable department or agency, the head of each Federal department and agency may coordinate with the Assistant Administrator and the Director to promote healthy fish populations and fish habitats.

SEC. 10. COORDINATION WITH STATES AND INDIAN TRIBES.

The Secretary shall provide a notice to, and cooperate with, the appropriate State agency or tribal agency, as applicable, of each State and Indian tribe within the boundaries of which an activity is planned to be carried out pursuant to this Act, including notification, by not later than 30 days before the date on which the activity is implemented.

SEC. 11. ACCOUNTABILITY AND REPORTING.

(a) REPORTING.—
(1) IN GENERAL.—Not later than 2 years after
the date of enactment of this Act, and every 2 years
thereafter, the Board shall submit to the appropriate
congressional committees a report describing the
progress of—

(A) this Act; and
(B) the National Fish Habitat Action
Plan.

(2) CONTENTS.—Each report submitted under
paragraph (1) shall include—

(A) an estimate of the number of acres,
stream miles, or acre-feet (or other suitable
measure) of fish habitat that was maintained or
improved under the National Fish Habitat Ac-
tion Plan by Federal, State, or local govern-
ments, Indian tribes, or other entities in the
United States during the 2-year period ending
on the date of submission of the report;

(B) a description of the public access to
fish habitats established or improved under the
National Fish Habitat Action Plan during that
2-year period;

(C) a description of the opportunities for
public recreational fishing established under the
National Fish Habitat Action Plan during that period; and

(D) an assessment of the status of fish habitat conservation projects carried out with funds provided under this Act during that period, disaggregated by year, including—

(i) a description of the fish habitat conservation projects recommended by the Board under section 6(b);

(ii) a description of each fish habitat conservation project approved by the Secretary under section 6(f), in order of priority for funding;

(iii) a justification for—

(I) the approval of each fish habitat conservation project; and

(II) the order of priority for funding of each fish habitat conservation project;

(iv) a justification for any rejection or reordering of the priority of each fish habitat conservation project recommended by the Board under section 6(b) that was based on a factor other than the criteria described in section 6(e); and
(v) an accounting of expenditures by Federal, State, or local governments, Indian tribes, or other entities to carry out fish habitat conservation projects.

(b) STATUS AND TRENDS REPORT.—Not later than December 31, 2015, and every 5 years thereafter, the Board shall submit to the appropriate congressional committees a report describing the status of fish habitats in the United States.

(c) REVISIONS.—Not later than December 31, 2015, and every 5 years thereafter, the Board shall revise the goals and other elements of the National Fish Habitat Action Plan, after consideration of each report required by subsection (b).

SEC. 12. EFFECT OF ACT.

(a) WATER RIGHTS.—Nothing in this Act—

(1) establishes any express or implied reserved water right in the United States for any purpose;

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

(3) preempts or affects any State water law or interstate compact governing water; or

(4) affects any Federal or State law in existence on the date of enactment of this Act regarding water quality or water quantity.
(b) Authority to Acquire Water Rights or Rights to Property.—In carrying out section 6(d)(2), only a State, local government, or other non-Federal entity may acquire, in accordance with applicable State law, water rights or rights to property pursuant to a fish habitat conservation project funded under this Act.

(c) State Authority.—Nothing in this Act—

(1) affects the authority, jurisdiction, or responsibility of a State to manage, control, or regulate fish and wildlife under the laws and regulations of the State; or

(2) authorizes the Secretary to control or regulate within a State the fishing or hunting of fish and wildlife.

(d) Effect on Indian Tribes.—Nothing in this Act abrogates, abridges, affects, modifies, supersedes, or alters any right of an Indian tribe recognized by treaty or any other means, including—

(1) an agreement between the Indian tribe and the United States;

(2) Federal law (including regulations);

(3) an Executive order; or

(4) a judicial decree.

(e) Adjudication of Water Rights.—Nothing in this Act diminishes or affects the ability of the Secretary
to join an adjudication of rights to the use of water pursuant to subsection (a), (b), or (e) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666).

(f) DEPARTMENT OF COMMERCE AUTHORITY.—Nothing in this Act affects the authority, jurisdiction, or responsibility of the Department of Commerce to manage, control, or regulate fish or fish habitats under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(g) EFFECT ON OTHER AUTHORITIES.—

(1) PRIVATE PROPERTY PROTECTION.—Nothing in this Act permits the use of funds made available to carry out this Act to acquire real property or a real property interest without the written consent of each owner of the real property or real property interest.

(2) MITIGATION.—Nothing in this Act permits the use of funds made available to carry out this Act for fish and wildlife mitigation purposes under—

(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(B) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.).
(C) the Water Resources Development Act of 1986 (Public Law 99–662; 100 Stat. 4082);

or

(D) any other Federal law or court settlement.

(3) CLEAN WATER ACT.—Nothing in this Act affects or alters any provision of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including any definition in that Act.

SEC. 13. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to—

(1) the Board; or

(2) any Partnership.

SEC. 14. FUNDING.

(a) Authorization of Appropriations.—

(1) Fish habitat conservation projects.—

There is authorized to be appropriated to the Secretary $7,200,000 for each of fiscal years 2014 through 2018 to provide funds for fish habitat conservation projects approved under section 6(f), of which 5 percent shall be made available for each fiscal year for projects carried out by Indian tribes.
PARTNERSHIP PROGRAM.—

(A) IN GENERAL.—There is authorized to be appropriated to the Secretary for each of fiscal years 2014 through 2018 for the National Fish Habitat Conservation Partnership Program, and to carry out section 11, an amount equal to 5 percent of the amount appropriated for the applicable fiscal year pursuant to paragraph (1).

(B) REQUIRED TRANSFERS.—The Secretary shall annually transfer to other Federal departments and agencies such percentage of the amounts made available pursuant to subparagraph (A) as is required to support participation by those departments and agencies in the National Fish Habitat Conservation Partnership Program pursuant to the interagency operational plan under section 7(c).

(3) TECHNICAL AND SCIENTIFIC ASSISTANCE.—There are authorized to be appropriated for each of fiscal years 2014 through 2018 to carry out, and provide technical and scientific assistance under, section 8—
(A) $500,000 to the Secretary for use by the United States Fish and Wildlife Service;

(B) $500,000 to the Assistant Administrator for use by the National Oceanic and Atmospheric Administration; and

(C) $500,000 to the Secretary for use by the United States Geological Survey.

(4) PLANNING AND ADMINISTRATIVE EXPENSES.—There is authorized to be appropriated to the Secretary for each of fiscal years 2014 through 2018 for use by the Board, the Director, and the Assistant Administrator for planning and administrative expenses an amount equal to 3 percent of the amount appropriated for the applicable fiscal year pursuant to paragraph (1).

(b) AGREEMENTS AND GRANTS.—The Secretary may—

(1) on the recommendation of the Board, and notwithstanding sections 6304 and 6305 of title 31, United States Code, and the Federal Financial Assistance Management Improvement Act of 1999 (31 U.S.C. 6101 note; Public Law 106–107), enter into a grant agreement, cooperative agreement, or contract with a Partnership or other entity for a fish
habitat conservation project or restoration or enhancement project;

(2) apply for, accept, and use a grant from any individual or entity to carry out the purposes of this Act; and

(3) make funds available to any Federal department or agency for use by that department or agency to provide grants for any fish habitat protection project, restoration project, or enhancement project that the Secretary determines to be consistent with this Act.

(c) DONATIONS.—

(1) IN GENERAL.—The Secretary may—

(A) enter into an agreement with any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code to solicit private donations to carry out the purposes of this Act; and

(B) accept donations of funds, property, and services to carry out the purposes of this Act.

(2) TREATMENT.—A donation accepted under this section—
(A) shall be considered to be a gift or be-
quest to, or otherwise for the use of, the United
States; and

(B) may be—

(i) used directly by the Secretary; or

(ii) provided to another Federal de-
partment or agency through an inter-
agency agreement.