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116TH CONGRESS
1ST SESSION

H. R. 1747

[Report No. 116-314]

To encourage partnerships among public agencies and other interested persons
to promote fish conservation.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2019

Mr. WITTMAN (for himself and Mr. VEASEY) introduced the following bill;
which was referred to the Committee on Natural Resources

NOVEMBER 26, 2019

Additional sponsors: Mr. CASE, Ms. LOFGREN, Mr. CARTWRIGHT, Miss
GONZÁLEZ-COLÓN of Puerto Rico, Mrs. LURIA, and Mr. KIND

NOVEMBER 26, 2019

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

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

[For text of introduced bill, see copy of bill as introduced on March 13, 2019]

A BILL

To encourage partnerships among public agencies and other interested persons to promote fish conservation.

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “National Fish Habitat*
5 *Conservation Through Partnerships Act”.*

6 **SEC. 2. PURPOSE.**

7 *The purpose of this Act is to encourage partnerships*
8 *among public agencies and other interested persons to pro-*
9 *mote fish conservation—*

10 *(1) to achieve measurable habitat conservation*
11 *results through strategic actions of Fish Habitat Part-*
12 *nerships that lead to better fish habitat conditions*
13 *and increased fishing opportunities by—*

14 *(A) improving ecological conditions;*

15 *(B) restoring natural processes; or*

16 *(C) preventing the decline of intact and*
17 *healthy systems;*

18 *(2) to establish a consensus set of national con-*
19 *servation strategies as a framework to guide future*
20 *actions and investment by Fish Habitat Partnerships;*

21 *(3) to broaden the community of support for fish*
22 *habitat conservation by—*

23 *(A) increasing fishing opportunities;*

1 (B) fostering the participation of local com-
2 munities, especially young people in local com-
3 munities, in conservation activities; and

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

7 (4) to fill gaps in the National Fish Habitat As-
8 sessment and the associated database of the National
9 Fish Habitat Assessment—

10 (A) to empower strategic conservation ac-
11 tions supported by broadly available scientific
12 information; and

13 (B) to integrate socioeconomic data in the
14 analysis to improve the lives of humans in a
15 manner consistent with fish habitat conservation
16 goals; and

17 (5) to communicate to the public and conserva-
18 tion partners—

19 (A) the conservation outcomes produced col-
20 lectively by Fish Habitat Partnerships; and

21 (B) new opportunities and voluntary ap-
22 proaches for conserving fish habitat.

23 **SEC. 3. DEFINITIONS.**

24 *In this Act:*

1 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
2 *TEES.—The term “appropriate congressional commit-*
3 *tees” means—*

4 (A) *the Committee on Commerce, Science,*
5 *and Transportation and the Committee on Envi-*
6 *ronment and Public Works of the Senate; and*

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

9 (2) *BOARD.—The term “Board” means the Na-*
10 *tional Fish Habitat Board established by section 4.*

11 (3) *DIRECTOR.—The term “Director” means the*
12 *Director of the United States Fish and Wildlife Serv-*
13 *ice.*

14 (4) *EPA ASSISTANT ADMINISTRATOR.—The term*
15 *“EPA Assistant Administrator” means the Assistant*
16 *Administrator for Water of the Environmental Pro-*
17 *tection Agency.*

18 (5) *INDIAN TRIBE.—The term “Indian Tribe”*
19 *has the meaning given to the term “Indian tribe” in*
20 *section 4 of the Indian Self-Determination and Edu-*
21 *cation Assistance Act (25 U.S.C. 5304).*

22 (6) *NOAA ASSISTANT ADMINISTRATOR.—The*
23 *term “NOAA Assistant Administrator” means the As-*
24 *stant Administrator for Fisheries of the National*
25 *Oceanic and Atmospheric Administration.*

1 (7) *PARTNERSHIP.*—*The term “Partnership”*
2 *means a self-governed entity designated by Congress*
3 *as a Fish Habitat Partnership under subsection*
4 *(d)(6) after a recommendation by the Board under*
5 *section 5.*

6 (8) *REAL PROPERTY INTEREST.*—*The term “real*
7 *property interest” means an ownership interest in—*
8 *(A) land; or*
9 *(B) water (including water rights).*

10 (9) *MARINE FISHERIES COMMISSIONS.*—*The*
11 *term “Marine Fisheries Commissions” means—*

12 *(A) The Atlantic States Marine Fisheries*
13 *Commission;*

14 *(B) the Gulf States Marine Fisheries Com-*
15 *mission; and*

16 *(C) the Pacific States Marine Commission.*

17 (10) *SECRETARY.*—*The term “Secretary” means*
18 *the Secretary of the Interior.*

19 (11) *STATE.*—*The term “State” means each of*
20 *the several States, Puerto Rico, American Samoa,*
21 *Guam, the Northern Mariana Islands, the United*
22 *States Virgin Islands, and the District of Columbia.*

23 (12) *STATE AGENCY.*—*The term “State agency”*
24 *means—*

1 (A) the fish and wildlife agency of a State;
2 and

3 (B) any department or division of a depart-
4 ment or agency of a State that manages in the
5 public trust the inland or marine fishery re-
6 sources of the State or sustains the habitat for
7 those fishery resources pursuant to State law or
8 the constitution of the State.

9 **SEC. 4. NATIONAL FISH HABITAT BOARD.**

10 (a) *ESTABLISHMENT.*—

11 (1) *FISH HABITAT BOARD.*—There is established
12 a board, to be known as the “National Fish Habitat
13 Board”, whose duties are—

14 (A) to promote, oversee, and coordinate the
15 implementation of this Act;

16 (B) to establish national goals and prior-
17 ities for fish habitat conservation;

18 (C) to recommend to Congress entities for
19 designation as Partnerships; and

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

22 (2) *MEMBERSHIP.*—The Board shall be composed
23 of 25 members, of whom—

24 (A) 1 shall be a representative of the De-
25 partment of the Interior;

1 (B) 1 shall be a representative of the United
2 States Geological Survey;

3 (C) 1 shall be a representative of the De-
4 partment of Commerce;

5 (D) 1 shall be a representative of the De-
6 partment of Agriculture;

7 (E) 1 shall be a representative of the Asso-
8 ciation of Fish and Wildlife Agencies;

9 (F) 4 shall be representatives of State agen-
10 cies, 1 of whom shall be nominated by a regional
11 association of fish and wildlife agencies from
12 each of the Northeast, Southeast, Midwest, and
13 Western regions of the United States;

14 (G) 1 shall be a representative of either—

15 (i) Indian Tribes in the State of Alas-
16 ka; or

17 (ii) Indian Tribes in States other than
18 the State of Alaska;

19 (H) 1 shall be a representative of either—

20 (i) the Regional Fishery Management
21 Councils established under section 302 of the
22 Magnuson-Stevens Fishery Conservation
23 and Management Act (16 U.S.C. 1852); or

24 (ii) a representative of the Marine
25 Fisheries Commissions;

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

3 (J) 7 shall be representatives selected from
4 at least one from each of the following:

5 (i) the recreational sportfishing indus-
6 try;

7 (ii) the commercial fishing industry;

8 (iii) marine recreational anglers;

9 (iv) freshwater recreational anglers;

10 (v) habitat conservation organizations;

11 and

12 (vi) science-based fishery organizations;

13 (K) 1 shall be a representative of a national
14 private landowner organization;

15 (L) 1 shall be a representative of an agri-
16 cultural production organization;

17 (M) 1 shall be a representative of local gov-
18 ernment interests involved in fish habitat res-
19 toration;

20 (N) 2 shall be representatives from different
21 sectors of corporate industries, which may in-
22 clude—

23 (i) natural resource commodity inter-
24 ests, such as petroleum or mineral extrac-
25 tion;

1 (ii) *natural resource user industries;*

2 *and*

3 (iii) *industries with an interest in fish*

4 *and fish habitat conservation; and*

5 (O) *1 shall be a leadership private sector or*

6 *landowner representative of an active partner-*

7 *ship.*

8 (3) *COMPENSATION.—A member of the Board*

9 *shall serve without compensation.*

10 (4) *TRAVEL EXPENSES.—A member of the Board*

11 *may be allowed travel expenses, including per diem in*

12 *lieu of subsistence, at rates authorized for an em-*

13 *ployee of an agency under subchapter I of chapter 57*

14 *of title 5, United States Code, while away from the*

15 *home or regular place of business of the member in*

16 *the performance of the duties of the Board.*

17 (b) *APPOINTMENT AND TERMS.—*

18 (1) *IN GENERAL.—Except as otherwise provided*

19 *in this section, a member of the Board described in*

20 *any of subparagraphs (F) through (O) of subsection*

21 *(a)(2) shall serve for a term of 3 years.*

22 (2) *INITIAL BOARD MEMBERSHIP.—*

23 (A) *IN GENERAL.—The initial Board shall*

24 *consist of representatives as described in sub-*

25 *paragraphs (A) through (F) of subsection (a)(2).*

1 (B) *REMAINING MEMBERS.*—Not later than
2 60 days after the date of enactment of this Act,
3 the representatives of the initial Board under
4 subparagraph (A) shall appoint the remaining
5 members of the Board described in subpara-
6 graphs (H) through (O) of subsection (a)(2).

7 (C) *TRIBAL REPRESENTATIVES.*—Not later
8 than 60 days after the enactment of this Act, the
9 Secretary shall provide to the Board a rec-
10 ommendation of not fewer than 3 Tribal rep-
11 resentatives, from which the Board shall appoint
12 1 representative pursuant to subparagraph (G)
13 of subsection (a)(2).

14 (3) *STAGGERED TERMS.*—Of the members de-
15 scribed in subsection (a)(2)(J) initially appointed to
16 the Board—

17 (A) 2 shall be appointed for a term of 1
18 year;

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

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

23 (4) *VACANCIES.*—

24 (A) *IN GENERAL.*—A vacancy of a member
25 of the Board described in subparagraph (H), (I),

1 *(J), (K), (L), (M), (N), or (O) of subsection*
2 *(a)(2) shall be filled by an appointment made by*
3 *the remaining members of the Board.*

4 *(B) TRIBAL REPRESENTATIVES.—Following*
5 *a vacancy of a member of the Board described in*
6 *subparagraph (G) of subsection (a)(2), the Sec-*
7 *retary shall recommend to the Board a list of not*
8 *fewer than 3 Tribal representatives, from which*
9 *the remaining members of the Board shall ap-*
10 *point a representative to fill the vacancy.*

11 *(5) CONTINUATION OF SERVICE.—An individual*
12 *whose term of service as a member of the Board ex-*
13 *pires may continue to serve on the Board until a suc-*
14 *cessor is appointed.*

15 *(6) REMOVAL.—If a member of the Board de-*
16 *scribed in any of subparagraphs (H) through (O) of*
17 *subparagraph (a)(2) misses 3 consecutive regularly*
18 *scheduled Board meetings, the members of the Board*
19 *may—*

20 *(A) vote to remove that member; and*

21 *(B) appoint another individual in accord-*
22 *ance with paragraph (4).*

23 *(c) CHAIRPERSON.—*

24 *(1) IN GENERAL.—The representative of the As-*
25 *sociation of Fish and Wildlife Agencies appointed*

1 *under subsection (a)(2)(E) shall serve as Chairperson*
2 *of the Board.*

3 (2) *TERM.—The Chairperson of the Board shall*
4 *serve for a term of 3 years.*

5 (d) *MEETINGS.—*

6 (1) *IN GENERAL.—The Board shall meet—*

7 (A) *at the call of the Chairperson; but*

8 (B) *not less frequently than twice each cal-*
9 *endar year.*

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

12 (e) *PROCEDURES.—*

13 (1) *IN GENERAL.—The Board shall establish pro-*
14 *cedures to carry out the business of the Board, includ-*
15 *ing—*

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

19 (B) *a requirement that no recommendations*
20 *may be adopted by the Board, except by the vote*
21 *of $\frac{2}{3}$ of all members;*

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

1 (D) procedures for designating Partnerships
2 under section 5; and

3 (E) procedures for reviewing, evaluating,
4 and making recommendations regarding fish
5 habitat conservation projects.

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

8 **SEC. 5. FISH HABITAT PARTNERSHIPS.**

9 (a) *AUTHORITY TO RECOMMEND.*—The Board may
10 recommend to Congress the designation of Fish Habitat
11 Partnerships in accordance with this section.

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

14 (1) to work with other regional habitat conserva-
15 tion programs to promote cooperation and coordina-
16 tion to enhance fish populations and fish habitats;

17 (2) to engage local and regional communities to
18 build support for fish habitat conservation;

19 (3) to involve diverse groups of public and pri-
20 vate partners;

21 (4) to develop collaboratively a strategic vision
22 and achievable implementation plan that is scientif-
23 ically sound;

24 (5) to leverage funding from sources that support
25 local and regional partnerships;

1 (6) to use adaptive management principles, in-
2 cluding evaluation of project success and function-
3 ality;

4 (7) to develop appropriate local or regional habi-
5 tat evaluation and assessment measures and criteria
6 that are compatible with national habitat condition
7 measures; and

8 (8) to implement local and regional priority
9 projects that improve conditions for fish and fish
10 habitat.

11 (c) *CRITERIA FOR DESIGNATION.*—An entity seeking
12 to be designated by Congress as a Partnership shall—

13 (1) submit to the Board an application at such
14 time, in such manner, and containing such informa-
15 tion as the Board may reasonably require; and

16 (2) demonstrate to the Board that the entity
17 has—

18 (A) a focus on promoting the health of im-
19 portant fish and fish habitats;

20 (B) an ability to coordinate the implemen-
21 tation of priority projects that support the goals
22 and national priorities set by the Board that are
23 within the Partnership boundary;

1 (C) a self-governance structure that sup-
2 ports the implementation of strategic priorities
3 for fish habitat;

4 (D) the ability to develop local and regional
5 relationships with a broad range of entities to
6 further strategic priorities for fish and fish habi-
7 tat;

8 (E) a strategic plan that details required
9 investments for fish habitat conservation that ad-
10 dresses the strategic fish habitat priorities of the
11 Partnership and supports and meets the strategic
12 priorities of the Board;

13 (F) the ability to develop and implement
14 fish habitat conservation projects that address
15 strategic priorities of the Partnership and the
16 Board; and

17 (G) the ability to develop fish habitat con-
18 servation priorities based on sound science and
19 data, the ability to measure the effectiveness of
20 fish habitat projects of the Partnership, and a
21 clear plan as to how Partnership science and
22 data components will be integrated with the
23 overall Board science and data effort.

24 (d) *REQUIREMENTS FOR RECOMMENDATION TO CON-*
25 *GRESS.*—The Board may recommend to Congress for des-

1 *ignation an application for a Partnership submitted under*
2 *subsection (c) if the Board determines that the applicant—*

3 *(1) meets the criteria described in subsection*
4 *(c)(2);*

5 *(2) identifies representatives to provide support*
6 *and technical assistance to the Partnership from a di-*
7 *verse group of public and private partners, which*
8 *may include State or local governments, nonprofit en-*
9 *tities, Indian Tribes, and private individuals, that*
10 *are focused on conservation of fish habitats to achieve*
11 *results across jurisdictional boundaries on public and*
12 *private land;*

13 *(3) is organized to promote the health of impor-*
14 *tant fish species and important fish habitats, includ-*
15 *ing reservoirs, natural lakes, coastal and marine en-*
16 *vironments, and estuaries;*

17 *(4) identifies strategic fish and fish habitat pri-*
18 *orities for the Partnership area in the form of geo-*
19 *graphical focus areas or key stressors or impairments*
20 *to facilitate strategic planning and decision making;*

21 *(5) is able to address issues and priorities on a*
22 *nationally significant scale;*

23 *(6) includes a governance structure that—*

24 *(A) reflects the range of all partners; and*

1 (B) promotes joint strategic planning and
2 decision making by the applicant;

3 (7) demonstrates completion of, or significant
4 progress toward the development of, a strategic plan
5 to address declines in fish populations, rather than
6 simply treating symptoms, in accordance with the
7 goals and national priorities established by the
8 Board; and

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

12 (e) *REPORT TO CONGRESS.*—

13 (1) *IN GENERAL.*—Not later than February 1 of
14 the first fiscal year beginning after the date of enact-
15 ment of this Act and each February 1 thereafter, the
16 Board shall develop and submit to the appropriate
17 congressional committees an annual report, to be enti-
18 tled “Report to Congress on Future Fish Habitat
19 Partnerships and Modifications”, that—

20 (A) identifies each entity that—

21 (i) meets the requirements described in
22 subsection (d); and

23 (ii) the Board recommends to Congress
24 for designation as a Partnership;

1 (B) describes any proposed modifications to
2 a Partnership previously designated by Congress
3 under subsection (f);

4 (C) with respect to each entity recommended
5 for designation as a Partnership, describes, to
6 the maximum extent practicable—

7 (i) the purpose of the recommended
8 Partnership; and

9 (ii) how the recommended Partnership
10 fulfills the requirements described in sub-
11 section (d).

12 (2) *PUBLIC AVAILABILITY; NOTIFICATION.*—The
13 Board shall—

14 (A) make the report publicly available, in-
15 cluding on the internet; and

16 (B) provide to the appropriate congressional
17 committees and the State agency of any State
18 included in a recommended Partnership area
19 written notification of the public availability of
20 the report.

21 (f) *DESIGNATION OR MODIFICATION OF PARTNER-*
22 *SHIP.*—Congress shall have the exclusive authority to des-
23 ignate or modify a Partnership.

24 (g) *EXISTING PARTNERSHIPS.*—

1 (1) *DESIGNATION REVIEW.*—Not later than 5
2 years after the date of enactment of this Act, any
3 partnership receiving Federal funds as of the date of
4 enactment of this Act shall be subject to a designation
5 review by Congress in which Congress shall have the
6 opportunity to designate the partnership under sub-
7 section (f).

8 (2) *INELIGIBILITY FOR FEDERAL FUNDS.*—A
9 partnership referred to in paragraph (1) that Con-
10 gress does not designate as described in that para-
11 graph shall be ineligible to receive Federal funds
12 under this Act.

13 **SEC. 6. FISH HABITAT CONSERVATION PROJECTS.**

14 (a) *SUBMISSION TO BOARD.*—Not later than March 31
15 of each year, each Partnership shall submit to the Board
16 a list of priority fish habitat conservation projects rec-
17 ommended by the Partnership for annual funding under
18 this Act.

19 (b) *RECOMMENDATIONS BY BOARD.*—Not later than
20 July 1 of each year, the Board shall submit to the Secretary
21 a priority list of fish habitat conservation projects that in-
22 cludes a description, including estimated costs, of each
23 project that the Board recommends that the Secretary ap-
24 prove and fund under this Act for the following fiscal year.

1 (c) *CRITERIA FOR PROJECT SELECTION.*—*The Board*
2 *shall select each fish habitat conservation project rec-*
3 *ommended to the Secretary under subsection (b) after tak-*
4 *ing into consideration, at a minimum, the following infor-*
5 *mation:*

6 (1) *A recommendation of the Partnership that is,*
7 *or will be, participating actively in implementing the*
8 *fish habitat conservation project.*

9 (2) *The capabilities and experience of project*
10 *proponents to implement successfully the proposed*
11 *project.*

12 (3) *The extent to which the fish habitat conserva-*
13 *tion project—*

14 (A) *fulfills a local or regional priority that*
15 *is directly linked to the strategic plan of the*
16 *Partnership and is consistent with the purpose*
17 *of this Act;*

18 (B) *addresses the national priorities estab-*
19 *lished by the Board;*

20 (C) *is supported by the findings of the habi-*
21 *tat assessment of the Partnership or the Board,*
22 *and aligns or is compatible with other conserva-*
23 *tion plans;*

1 (D) identifies appropriate monitoring and
2 evaluation measures and criteria that are com-
3 patible with national measures;

4 (E) provides a well-defined budget linked to
5 deliverables and outcomes;

6 (F) leverages other funds to implement the
7 project;

8 (G) addresses the causes and processes be-
9 hind the decline of fish or fish habitats; and

10 (H) includes an outreach or education com-
11 ponent that includes the local or regional com-
12 munity.

13 (4) The availability of sufficient non-Federal
14 funds to match Federal contributions for the fish
15 habitat conservation project, as required by subsection
16 (e).

17 (5) The extent to which the fish habitat conserva-
18 tion project—

19 (A) will increase fish populations in a
20 manner that leads to recreational fishing oppor-
21 tunities for the public;

22 (B) will be carried out through a coopera-
23 tive agreement among Federal, State, and local
24 governments, Indian Tribes, and private entities;

1 (C) increases public access to land or water
2 for fish and wildlife-dependent recreational op-
3 portunities;

4 (D) advances the conservation of fish and
5 wildlife species that have been identified by a
6 State agency as species of greatest conservation
7 need;

8 (E) where appropriate, advances the con-
9 servation of fish and fish habitats under the
10 Magnuson-Stevens Fishery Conservation and
11 Management Act (16 U.S.C. 1801 et seq.) and
12 other relevant Federal law and State wildlife ac-
13 tion plans; and

14 (F) promotes strong and healthy fish habi-
15 tats so that desired biological communities are
16 able to persist and adapt.

17 (6) The substantiality of the character and de-
18 sign of the fish habitat conservation project.

19 (d) LIMITATIONS.—

20 (1) REQUIREMENTS FOR EVALUATION.—No fish
21 habitat conservation project may be recommended by
22 the Board under subsection (b) or provided financial
23 assistance under this Act unless the fish habitat con-
24 servation project includes an evaluation plan de-
25 signed using applicable Board guidance—

1 (A) to appropriately assess the biological,
2 ecological, or other results of the habitat protec-
3 tion, restoration, or enhancement activities car-
4 ried out using the assistance;

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

9 (C) to identify improvements to existing
10 fish populations, recreational fishing opportuni-
11 ties, and the overall economic benefits for the
12 local community of the fish habitat conservation
13 project; and

14 (D) to require the submission to the Board
15 of a report describing the findings of the assess-
16 ment.

17 (2) ACQUISITION AUTHORITIES.—

18 (A) IN GENERAL.—A State, local govern-
19 ment, or other non-Federal entity is eligible to
20 receive funds for the acquisition of real property
21 from willing sellers under this Act if the acquisi-
22 tion ensures—

23 (i) public access for fish and wildlife-
24 dependent recreation; or

1 (ii) a scientifically based, direct en-
2 hancement to the health of fish and fish
3 populations, as determined by the Board.

4 (B) STATE AGENCY APPROVAL.—

5 (i) IN GENERAL.—All real property in-
6 terest acquisition projects funded under this
7 Act must be approved by the State agency
8 in the State in which the project is occur-
9 ring.

10 (ii) PROHIBITION.—The Board may
11 not recommend, and the Secretary may not
12 provide any funding for, any real property
13 interest acquisition that has not been ap-
14 proved by the State agency.

15 (C) ASSESSMENT OF OTHER AUTHORI-
16 TIES.—The Board may not recommend, and the
17 Secretary may not provide any funding under
18 this Act for, any real property interest acquisi-
19 tion unless the Partnership that recommended
20 the project has conducted a project assessment,
21 submitted with the funding request and approved
22 by the Board, to demonstrate all other Federal,
23 State, and local authorities for the acquisition of
24 real property have been exhausted.

1 (D) *RESTRICTIONS.*—*A real property inter-*
2 *est may not be acquired pursuant to a fish habi-*
3 *tat conservation project by a State, local govern-*
4 *ment, or other non-Federal entity conducted with*
5 *funds provided under this Act, unless—*

6 (i) *the owner of the real property au-*
7 *thorizes the State, local government, or*
8 *other non-Federal entity to acquire the real*
9 *property; and*

10 (ii) *the Secretary and the Board deter-*
11 *mine that the State, local government, or*
12 *other non-Federal entity would benefit from*
13 *undertaking the management of the real*
14 *property being acquired because that is in*
15 *accordance with the goals of a Partnership.*

16 (e) *NON-FEDERAL CONTRIBUTIONS.*—

17 (1) *IN GENERAL.*—*Except as provided in para-*
18 *graph (2), no fish habitat conservation project may be*
19 *recommended by the Board under subsection (b) or*
20 *provided financial assistance under this Act unless at*
21 *least 50 percent of the cost of the fish habitat con-*
22 *servaion project will be funded with non-Federal*
23 *funds.*

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

4 (A) *may not be derived from another Fed-*
5 *eral grant program; and*

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

8 (3) *SPECIAL RULE FOR INDIAN TRIBES.*—*Not-*
9 *withstanding paragraph (1) or any other provision of*
10 *law, any funds made available to an Indian Tribe*
11 *pursuant to this Act may be considered to be non-*
12 *Federal funds for the purpose of paragraph (1).*

13 (f) *APPROVAL.*—

14 (1) *IN GENERAL.*—*Not later than 90 days after*
15 *the date of receipt of the recommended priority list of*
16 *fish habitat conservation projects under subsection*
17 *(b), and subject to subsection (d) and based, to the*
18 *maximum extent practicable, on the criteria described*
19 *in subsection (c), the Secretary, after consulting with*
20 *the Secretary of Commerce on marine or estuarine*
21 *projects, shall approve or reject any fish habitat con-*
22 *servation project recommended by the Board.*

23 (2) *FUNDING.*—*If the Secretary approves a fish*
24 *habitat conservation project under paragraph (1), the*
25 *Secretary shall use amounts made available to carry*

1 *out this Act to provide funds to carry out the fish*
2 *habitat conservation project.*

3 (3) *NOTIFICATION.—If the Secretary rejects*
4 *under paragraph (1) any fish habitat conservation*
5 *project recommended by the Board, not later than 90*
6 *days after the date of receipt of the recommendation,*
7 *the Secretary shall provide to the Board, the appro-*
8 *priate Partnership, and the appropriate congressional*
9 *committees a written statement of the reasons that the*
10 *Secretary rejected the fish habitat conservation*
11 *project.*

12 **SEC. 7. TECHNICAL AND SCIENTIFIC ASSISTANCE.**

13 (a) *IN GENERAL.—The Director, the NOAA Assistant*
14 *Administrator, the EPA Assistant Administrator, and the*
15 *Director of the United States Geological Survey, in coordi-*
16 *nation with the Forest Service and other appropriate Fed-*
17 *eral departments and agencies, may provide scientific and*
18 *technical assistance to Partnerships, participants in fish*
19 *habitat conservation projects, and the Board.*

20 (b) *INCLUSIONS.—Scientific and technical assistance*
21 *provided under subsection (a) may include—*

22 (1) *providing technical and scientific assistance*
23 *to States, Indian Tribes, regions, local communities,*
24 *and nongovernmental organizations in the develop-*
25 *ment and implementation of Partnerships;*

1 (2) *providing technical and scientific assistance*
2 *to Partnerships for habitat assessment, strategic plan-*
3 *ning, and prioritization;*

4 (3) *supporting the development and implementa-*
5 *tion of fish habitat conservation projects that are*
6 *identified as high priorities by Partnerships and the*
7 *Board;*

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

12 (5) *supporting and providing recommendations*
13 *for a national fish habitat assessment;*

14 (6) *ensuring the availability of experts to assist*
15 *in conducting scientifically based evaluation and re-*
16 *porting of the results of fish habitat conservation*
17 *projects; and*

18 (7) *providing resources to secure State agency*
19 *scientific and technical assistance to support Partner-*
20 *ships, participants in fish habitat conservation*
21 *projects, and the Board.*

22 **SEC. 8. COORDINATION WITH STATES AND INDIAN TRIBES.**

23 *The Secretary shall provide a notice to, and cooperate*
24 *with, the appropriate State agency or Tribal agency, as ap-*
25 *plicable, of each State and Indian Tribe within the bound-*

1 *aries of which an activity is planned to be carried out pur-*
2 *suant to this Act, including notification, by not later than*
3 *30 days before the date on which the activity is imple-*
4 *mented.*

5 **SEC. 9. INTERAGENCY OPERATIONAL PLAN.**

6 *Not later than 1 year after the date of enactment of*
7 *this Act, and every 5 years thereafter, the Director, in co-*
8 *operation with the NOAA Assistant Administrator, the*
9 *EPA Assistant Administrator, the Director of the United*
10 *States Geological Survey, and the heads of other appro-*
11 *priate Federal departments and agencies (including, at a*
12 *minimum, those agencies represented on the Board) shall*
13 *develop an interagency operational plan that describes—*

14 *(1) the functional, operational, technical, sci-*
15 *entific, and general staff, administrative, and mate-*
16 *rial needs for the implementation of this Act; and*

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

20 **SEC. 10. ACCOUNTABILITY AND REPORTING.**

21 *(a) REPORTING.—*

22 *(1) IN GENERAL.—Not later than 5 years after*
23 *the date of enactment of this Act, and every 5 years*
24 *thereafter, the Board shall submit to the appropriate*

1 *congressional committees a report describing the*
2 *progress of this Act.*

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

5 (A) *an estimate of the number of acres,*
6 *stream miles, or acre-feet, or other suitable meas-*
7 *ures of fish habitat, that was maintained or im-*
8 *proved by Partnerships under this Act during*
9 *the 5-year period ending on the date of submis-*
10 *sion of the report;*

11 (B) *a description of the public access to fish*
12 *habitats established or improved under this Act*
13 *during that 5-year period;*

14 (C) *a description of the improved opportu-*
15 *nities for public recreational fishing achieved*
16 *under this Act; and*

17 (D) *an assessment of the status of fish habi-*
18 *tat conservation projects carried out with funds*
19 *provided under this Act during that period,*
20 *disaggregated by year, including—*

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

24 (ii) *a description of each fish habitat*
25 *conservation project approved by the Sec-*

1 retary under section 6(f), in order of pri-
2 ority for funding;

3 (iii) a justification for—

4 (I) the approval of each fish habi-
5 tat conservation project; and

6 (II) the order of priority for fund-
7 ing of each fish habitat conservation
8 project;

9 (iv) a justification for any rejection of
10 a fish habitat conservation project rec-
11 ommended by the Board under section 6(b)
12 that was based on a factor other than the
13 criteria described in section 6(c); and

14 (v) an accounting of expenditures by
15 Federal, State, or local governments, Indian
16 Tribes, or other entities to carry out fish
17 habitat conservation projects under this Act.

18 (b) *STATUS AND TRENDS REPORT.*—Not later than
19 December 31, 2020, and every 5 years thereafter, the Board
20 shall submit to the appropriate congressional committees a
21 report that includes—

22 (1) a status of all Partnerships designated under
23 this Act;

1 (2) a description of the status of fish habitats in
2 the United States as identified by designated Partner-
3 ships; and

4 (3) enhancements or reductions in public access
5 as a result of—

6 (A) the activities of the Partnerships; or

7 (B) any other activities carried out pursu-
8 ant to this Act.

9 **SEC. 11. EFFECT OF THE ACT.**

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

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

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

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

17 (4) affects any Federal or State law in existence
18 on the date of enactment of the Act regarding water
19 quality or water quantity.

20 (b) *AUTHORITY TO ACQUIRE WATER RIGHTS OR*
21 *RIGHTS TO PROPERTY.*—Only a State, local government,
22 or other non-Federal entity may acquire, under State law,
23 water rights or rights to property with funds made avail-
24 able through section 13.

25 (c) *STATE AUTHORITY.*—Nothing in this Act—

1 (1) *affects the authority, jurisdiction, or respon-*
2 *sibility of a State to manage, control, or regulate fish*
3 *and wildlife under the laws and regulations of the*
4 *State; or*

5 (2) *authorizes the Secretary to control or regu-*
6 *late within a State the fishing or hunting of fish and*
7 *wildlife.*

8 (d) *EFFECT ON INDIAN TRIBES.—Nothing in this Act*
9 *abrogates, abridges, affects, modifies, supersedes, or alters*
10 *any right of an Indian Tribe recognized by treaty or any*
11 *other means, including—*

12 (1) *an agreement between the Indian Tribe and*
13 *the United States;*

14 (2) *Federal law (including regulations);*

15 (3) *an Executive order; or*

16 (4) *a judicial decree.*

17 (e) *ADJUDICATION OF WATER RIGHTS.—Nothing in*
18 *this Act diminishes or affects the ability of the Secretary*
19 *to join an adjudication of rights to the use of water pursu-*
20 *ant to subsection (a), (b), or (c) of section 208 of the Depart-*
21 *ments of State, Justice, Commerce, and The Judiciary Ap-*
22 *propriation Act, 1953 (43 U.S.C. 666).*

23 (f) *DEPARTMENT OF COMMERCE AUTHORITY.—Noth-*
24 *ing in this Act affects the authority, jurisdiction, or respon-*
25 *sibility of the Department of Commerce to manage, control,*

1 *or regulate fish or fish habitats under the Magnuson-Stevens*
2 *Fishery Conservation and Management Act (16 U.S.C.*
3 *1801 et seq.).*

4 *(g) EFFECT ON OTHER AUTHORITIES.—*

5 *(1) PRIVATE PROPERTY PROTECTION.—Nothing*
6 *in this Act permits the use of funds made available*
7 *to carry out this Act to acquire real property or a*
8 *real property interest without the written consent of*
9 *each owner of the real property or real property in-*
10 *terest, respectively.*

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

14 *(A) the Federal Water Pollution Control Act*
15 *(33 U.S.C. 1251 et seq.);*

16 *(B) the Fish and Wildlife Coordination Act*
17 *(16 U.S.C. 661 et seq.);*

18 *(C) the Water Resources Development Act of*
19 *1986 (Public Law 99–662; 100 Stat. 4082); or*

20 *(D) any other Federal law or court settle-*
21 *ment.*

22 *(3) CLEAN WATER ACT.—Nothing in this Act af-*
23 *fects any provision of the Federal Water Pollution*
24 *Control Act (33 U.S.C. 1251 et seq.), including any*
25 *definition in that Act.*

1 **SEC. 12. NONAPPLICABILITY OF FEDERAL ADVISORY COM-**
2 **MITTEE ACT.**

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

- 5 *(1) the Board; or*
6 *(2) any Partnership.*

7 **SEC. 13. FUNDING.**

8 *(a) AUTHORIZATION OF APPROPRIATIONS.—*

9 *(1) FISH HABITAT CONSERVATION PROJECTS.—*

10 *There is authorized to be appropriated to the Sec-*
11 *retary \$7,200,000 for each of fiscal years 2019*
12 *through 2023 to provide funds for fish habitat con-*
13 *servations projects approved under section 6(f), of*
14 *which 5 percent is authorized only for projects carried*
15 *out by Indian Tribes.*

16 *(2) ADMINISTRATIVE AND PLANNING EX-*
17 *PENSES.—There is authorized to be appropriated to*
18 *the Secretary for each of fiscal years 2019 through*
19 *2023 an amount equal to 5 percent of the amount ap-*
20 *propriated for the applicable fiscal year pursuant to*
21 *paragraph (1)—*

22 *(A) for administrative and planning ex-*
23 *penses under this Act; and*

24 *(B) to carry out section 10.*

25 *(3) TECHNICAL AND SCIENTIFIC ASSISTANCE.—*

26 *There is authorized to be appropriated for each of fis-*

1 *cal years 2020 through 2024 to carry out, and pro-*
2 *vide technical and scientific assistance under, section*
3 *7—*

4 *(A) \$400,000 to the Secretary for use by the*
5 *United States Fish and Wildlife Service;*

6 *(B) \$400,000 to the NOAA Assistant Ad-*
7 *ministrator for use by the National Oceanic and*
8 *Atmospheric Administration;*

9 *(C) \$400,000 to the EPA Assistant Admin-*
10 *istrator for use by the Environmental Protection*
11 *Agency;*

12 *(D) \$400,000 to the Secretary for use by the*
13 *United States Geological Survey; and*

14 *(E) \$400,000 to the Chief of the Forest*
15 *Service for use by the United States Department*
16 *of Agriculture Forest Service.*

17 *(b) AGREEMENTS AND GRANTS.—The Secretary*
18 *may—*

19 *(1) on the recommendation of the Board, and*
20 *notwithstanding sections 6304 and 6305 of title 31,*
21 *United States Code, and the Federal Financial Assist-*
22 *ance Management Improvement Act of 1999 (31*
23 *U.S.C. 6101 note; Public Law 106–107), enter into a*
24 *grant agreement, cooperative agreement, or contract*
25 *with a Partnership or other entity to provide funds*

1 *authorized by this Act for a fish habitat conservation*
2 *project or restoration or enhancement project;*

3 *(2) apply for, accept, and, subject to the avail-*
4 *ability of appropriations, use a grant from any indi-*
5 *vidual or entity to carry out the purposes of this Act;*
6 *and*

7 *(3) subject to the availability of appropriations,*
8 *make funds authorized by this Act available to any*
9 *Federal department or agency for use by that depart-*
10 *ment or agency to provide grants for any fish habitat*
11 *protection project, restoration project, or enhancement*
12 *project that the Secretary determines to be consistent*
13 *with this Act.*

14 *(c) DONATIONS.—*

15 *(1) IN GENERAL.—The Secretary may—*

16 *(A) enter into an agreement with any orga-*
17 *nization described in section 501(c)(3) of the In-*
18 *ternal Revenue Code of 1986 that is exempt from*
19 *taxation under section 501(a) of that Code to so-*
20 *licit private donations to carry out the purposes*
21 *of this Act; and*

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

1 (2) *TREATMENT.*—A donation accepted under
2 *this Act*—

3 (A) shall be considered to be a gift or be-
4 quest to, or otherwise for the use of, the United
5 States; and

6 (B) may be—

7 (i) used directly by the Secretary; or

8 (ii) provided to another Federal de-
9 partment or agency through an interagency
10 agreement.

11 **SEC. 14. PROHIBITION AGAINST IMPLEMENTATION OF REG-**
12 **ULATORY AUTHORITY BY FEDERAL AGENCIES**
13 **THROUGH PARTNERSHIPS.**

14 *Any Partnership designated under this Act*—

15 (1) shall be for the sole purpose of promoting fish
16 conservation; and

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

Union Calendar No. 255

116TH CONGRESS
1ST Session

H. R. 1747

[Report No. 116-314]

A BILL

To encourage partnerships among public agencies and other interested persons to promote fish conservation.

NOVEMBER 26, 2019

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