

Union Calendar No. 489

119TH CONGRESS
2D SESSION

H. R. 1897

[Report No. 119–568]

To amend the Endangered Species Act of 1973 to optimize conservation through resource prioritization, incentivize wildlife conservation on private lands, provide for greater incentives to recover listed species, create greater transparency and accountability in recovering listed species, streamline the permitting process, eliminate barriers to conservation, and restore congressional intent.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2025

Mr. WESTERMAN (for himself, Ms. HAGEMAN, Mr. STAUBER, Mr. TIFFANY, Mr. GOSAR, Mr. HURD of Colorado, Mr. NEWHOUSE, Mr. BENTZ, Mr. FULCHER, Mr. BEGICH, Mr. EZELL, Mr. AMODEI of Nevada, Mr. HUNT, Ms. MALOY, Mr. BIGGS of Arizona, and Mr. LAMALFA) introduced the following bill; which was referred to the Committee on Natural Resources

MARCH 24, 2026

Additional sponsors: Ms. BOEBERT, Mr. McDOWELL, Mr. COLLINS, Mr. CALVERT, Mr. WALBERG, Mr. DOWNING, Mr. HIGGINS of Louisiana, Mr. GROTHMAN, Mr. LATTI, Mr. RULLI, and Mr. THOMPSON of Pennsylvania

MARCH 24, 2026

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 *italic*]

[For text of introduced bill, see copy of bill as introduced on March 6, 2025]

A BILL

To amend the Endangered Species Act of 1973 to optimize conservation through resource prioritization, incentivize wildlife conservation on private lands, provide for greater incentives to recover listed species, create greater transparency and accountability in recovering listed species, streamline the permitting process, eliminate barriers to conservation, and restore congressional intent.

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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“ESA Amendments Act of 2025”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Endangered Species Act of 1973 definitions.

Sec. 3. Authorization of appropriations.

Sec. 4. Rule of construction.

Sec. 5. Renaming of Endangered Species Act of 1973 to Endangered Species Re-
covery Act.

**TITLE I—OPTIMIZING CONSERVATION THROUGH RESOURCE
 PRIORITIZATION**

Sec. 101. Prioritization of listing petitions, reviews, and determinations.

**TITLE II—INCENTIVIZING WILDLIFE CONSERVATION ON PRIVATE
 LANDS**

Sec. 201. Conservation Benefit Agreements.

Sec. 202. Conservation plans.

Sec. 203. NEPA exemption for incidental take permits.

**TITLE III—PROVIDING FOR GREATER INCENTIVES TO RECOVER
 LISTED SPECIES**

Sec. 301. Protective regulations under Endangered Species Act of 1973.

Sec. 302. 5-year review determinations.

Sec. 303. Judicial review during monitoring period.

Sec. 304. Designation of critical habitat.

Sec. 305. Treatment of State, Tribal, and local government data.

Sec. 306. Clarifying significant portion of range of species.

Sec. 307. Delisting criteria.

**TITLE IV—CREATING GREATER TRANSPARENCY AND
 ACCOUNTABILITY IN RECOVERING LISTED SPECIES**

Sec. 401. Requirement to publish basis for listings and critical habitat designa-
tions online.

Sec. 402. Decisional transparency and use of State, Tribal, and local informa-
tion.

Sec. 403. Disclosure of expenditures under Endangered Species Act of 1973.

Sec. 404. Award of litigation costs to prevailing parties in accordance with exist-
ing law.

Sec. 405. Analysis of impacts and benefits of determination of endangered or
threatened status.

Sec. 406. Notification of Congress of certain critical habitat designations.
Sec. 407. Notification of Congress of certain releases of experimental populations.
Sec. 408. Annual cost analysis by the Fish and Wildlife Service.

TITLE V—STREAMLINING PERMITTING PROCESS

Sec. 501. Limitation on reasonable and prudent measures.
Sec. 502. Successive consultations.
Sec. 503. Clarifying jeopardy.
Sec. 504. Clarifying action area.
Sec. 505. Judicial review.
Sec. 506. Expansion of exemption process and eligibility under section 7 of Endangered Species Act of 1973.

TITLE VI—ELIMINATING BARRIERS TO CONSERVATION

Sec. 601. Permits for CITES-listed species.
Sec. 602. Utilize Convention standard for permits applicable to non-native species.

TITLE VII—RESTORING CONGRESSIONAL INTENT

Sec. 701. Limiting agency regulations.

1 SEC. 2. ENDANGERED SPECIES ACT OF 1973 DEFINITIONS.

2 (a) *FORESEEABLE FUTURE*.—Section 3(20) *Endan-*
 3 *gered Species Act of 1973 (16 U.S.C. 1532(20)) is amended*
 4 *by—*

5 (1) *striking “The term” and inserting “(A) The*
 6 *term”; and*

7 (2) *by adding at the end the following:*

8 “(B) *For the purposes of applying subparagraph (A),*
 9 *the term ‘foreseeable future’ means the period of time ex-*
 10 *tending into the future within which the Secretary, based*
 11 *on the best scientific and commercial data available, is able*
 12 *to determine that a factor described in subparagraphs (A)*
 13 *through (E) of section 4(a)(1) is likely to occur with respect*
 14 *to the species.”.*

1 (b) *COMMERCIAL ACTIVITY*.—Section 3(2) *Endangered*
2 *Species Act of 1973* (16 U.S.C. 1532(2)) is amended by in-
3 serting “or public display or education aimed at the preser-
4 vation or conservation of a species” after “organizations”.

5 (c) *CONSERVE; CONSERVING; CONSERVATION*.—Sec-
6 tion 3(3) of the *Endangered Species Act of 1973* (16 U.S.C.
7 1532(3)) is amended by striking “and transplantation, and,
8 in the extraordinary case where population pressures with-
9 in a given ecosystem cannot be otherwise relieved, may in-
10 clude” and inserting “transplantation, and, at the discre-
11 tion of the Secretary,”.

12 (d) *HABITAT*.—Section 3(5) of the *Endangered Species*
13 *Act of 1973* (16 U.S.C. 1532(5)) is amended by adding at
14 the end the following:

15 “(D)(i) For the purpose of designating critical habitat
16 for a threatened species or an endangered species under this
17 Act, the term ‘habitat’—

18 “(I) means the abiotic and biotic setting that
19 currently or periodically contains the resources and
20 conditions necessary to support 1 or more life proc-
21 esses of the threatened species or endangered species;
22 and

23 “(II) does not include an area—

1 “(aa) outside the current or historic range
 2 of the threatened species or endangered species;
 3 or

4 “(bb) visited by only vagrant individual
 5 members of the threatened species or endangered
 6 species.

7 “(ii) If the setting described in clause (i)(I) does not
 8 support all of the life processes of the relevant threatened
 9 species or endangered species, the threatened species or en-
 10 dangered species must be able to access, from the setting,
 11 other areas necessary to support its remaining life proc-
 12 esses.”.

13 (e) *BEST SCIENTIFIC AND COMMERCIAL DATA AVAIL-*
 14 *ABLE.—Section 3 of the Endangered Species Act of 1973*
 15 *(16 U.S.C. 1532) is amended—*

16 (1) *by redesignating paragraphs (2) through (10)*
 17 *as paragraphs (3) through (11), respectively; and*

18 (2) *by inserting after paragraph (1) the fol-*
 19 *lowing:*

20 “(2) *The terms ‘best scientific and commercial data*
 21 *available’ and ‘best scientific data available’—*

22 “(A) *mean all relevant and objective scientific*
 23 *and commercial information available at the time of*
 24 *the agency action; and*

1 “(B) include credible and reliable data, quan-
2 titative analyses, conceptual and numerical models,
3 and model results that—

4 “(i) account for known or potential sources
5 or error;

6 “(ii) are applied using prevailing prin-
7 ciples, methods, tools, and professional standards
8 of practice; and

9 “(iii) are impartially gathered and objec-
10 tively applied without reliance on precautionary
11 assumptions in favor of a species or other as-
12 sumptions or policy prescriptions that bias the
13 application.”.

14 (f) *ENVIRONMENTAL BASELINE*.—Section 7 of the En-
15 dangered Species Act of 1973 (16 U.S.C. 1536) is amended
16 by adding at the end the following:

17 “(g) *ENVIRONMENTAL BASELINE DEFINED*.—In this
18 section, the term ‘environmental baseline’—

19 “(1) means the condition of the species or the
20 critical habitat of the species in the area directly af-
21 fected by the agency action at the time of the proposed
22 agency action, without the consequences to the species
23 or the critical habitat of the species caused by the pro-
24 posed action; and

25 “(2) includes—

1 “(A) the past and present effects of all Fed-
2 eral, State, local, and private actions and other
3 human activities in the area directly affected by
4 the agency action;

5 “(B) the anticipated effects of each proposed
6 Federal project within the area directly affected
7 by the agency action for which a consultation
8 under this section has been completed;

9 “(C) the effects of State and private actions
10 that are contemporaneous with the consultation
11 in process;

12 “(D) existing structures and facilities and
13 the past, present, and future effects of the phys-
14 ical existence of such structures and facilities on
15 the species or the critical habitat of the species;
16 and

17 “(E) the effects of Federal actions being car-
18 ried out at the time of the proposed agency ac-
19 tion and existing Federal facilities that are not
20 within the discretion of the Secretary to mod-
21 ify.”.

22 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) *IN GENERAL.*—Section 15 of the Endangered Spe-
24 cies Act of 1973 (16 U.S.C. 1542) is amended—

25 (1) in subsection (a)—

1 (A) by striking “subsection (b), (c), and
2 (d)” and inserting “subsections (b) and (c)”;

3 (B) in paragraph (1)—

4 (i) by striking “and” after “fiscal year
5 1991,”; and

6 (ii) by inserting “, and \$287,978,000
7 for each of fiscal years 2026 through 2031”
8 after “fiscal year 1992”;

9 (C) in paragraph (2)—

10 (i) by striking “and” after “fiscal
11 years 1989 and 1990,”; and

12 (ii) by inserting “, and \$105,400,000
13 for each of fiscal years 2026 through 2031”
14 after “fiscal years 1991 and 1992”; and

15 (D) in paragraph (3)—

16 (i) by striking “and” after “fiscal
17 years 1989 and 1990,”; and

18 (ii) by inserting “and \$2,600,000 for
19 each of fiscal years 2026 through 2031”
20 after “fiscal years 1991 and 1992,”;

21 (2) in subsection (b), by inserting “and \$600,000
22 for each of fiscal years 2026 through 2031” after
23 “1992”; and

24 (3) in subsection (c)—

1 (A) by striking “and” after “fiscal years
2 1988, 1989, and 1990,”; and

3 (B) by inserting “and \$9,900,000 for each
4 of fiscal years 2026 through 2031,” after “fiscal
5 years 1991 and 1992,”.

6 (b) *TECHNICAL AMENDMENT.*—Section 15(b) of the
7 *Endangered Species Act of 1973* (16 U.S.C. 1542(b)) is
8 amended by striking “sections 7 (e), (g), and (h)” and in-
9 serting “subsections (e), (g), and (h) of section 7”.

10 **SEC. 4. RULE OF CONSTRUCTION.**

11 *Nothing in this Act or the amendments made by this*
12 *Act may be construed to enlarge or diminish the authority,*
13 *jurisdiction, or responsibility of a State (as that term is*
14 *defined in section 3 of the Endangered Species Act of 1973*
15 *(16 U.S.C. 1532)) to manage, control, or regulate fish and*
16 *wildlife on lands and waters, including Federal lands and*
17 *waters, within the State.*

18 **SEC. 5. RENAMING OF ENDANGERED SPECIES ACT OF 1973**

19 **TO ENDANGERED SPECIES RECOVERY ACT.**

20 (a) *RENAMING.*—The first section of the *Endangered*
21 *Species Act of 1973* (16 U.S.C. 1531 note; Public Law 93–
22 205) is amended by striking “may be cited as the ‘Endan-
23 gered Species Act of 1973’” and inserting “may be cited
24 as the ‘Endangered Species Recovery Act’”.

1 (b) *REFERENCES*.—Any reference in a law, map, regu-
 2 lation, document, paper, or other record of the United
 3 States to the “Endangered Species Act of 1973” shall be
 4 deemed to be a reference to the “Endangered Species Recov-
 5 ery Act”.

6 **TITLE I—OPTIMIZING CON-**
 7 **SERVATION THROUGH RE-**
 8 **SOURCE PRIORITIZATION**

9 **SEC. 101. PRIORITIZATION OF LISTING PETITIONS, RE-**
 10 **VIEWS, AND DETERMINATIONS.**

11 (a) *IN GENERAL*.—Section 4 of the Endangered Spe-
 12 cies Act of 1973 (16 U.S.C. 1533) is amended by adding
 13 at the end the following:

14 “(j) *NATIONAL LISTING WORK PLAN*.—

15 “(1) *IN GENERAL*.—Not later than the date de-
 16 scribed in paragraph (2), the Secretary shall submit
 17 to Congress a national listing work plan that estab-
 18 lishes, for each covered species, a schedule for the com-
 19 pletion during the 5-fiscal year period beginning on
 20 October 1 of the first fiscal year after the date of the
 21 submission of the work plan of—

22 “(A) findings as described in subsection
 23 (b)(3)(B);

24 “(B) any proposed or final determination
 25 under subsection (a)(1) required by a court

1 *order, court decree, or court-approved settlement*
2 *agreement; and*

3 “(C) *any proposed or final designation of*
4 *critical habitat under subsection (a)(3) required*
5 *by a court order, court decree, or court-approved*
6 *settlement agreement.*

7 “(2) *SUBMISSION TO CONGRESS.—*

8 “(A) *IN GENERAL.—The Secretary shall*
9 *submit to Congress—*

10 “(i) *together with the budget request of*
11 *the Secretary for the first fiscal year that*
12 *begins not less than 365 days after the date*
13 *of the enactment of this subsection, the ini-*
14 *tial work plan required under paragraph*
15 *(1); and*

16 “(ii) *together with the budget request of*
17 *the Secretary for each fiscal year thereafter,*
18 *an updated work plan under paragraph (1).*

19 “(B) *ADDITIONAL INCLUSIONS.—The Sec-*
20 *retary shall include with each budget request re-*
21 *ferred to in subparagraph (A) a description of*
22 *the amounts to be requested to carry out the*
23 *work plan for the fiscal year covered by the*
24 *budget request, including any amounts requested*
25 *to address potential future listings of species con-*

1 *sidered on an emergency basis in that fiscal*
2 *year.*

3 *“(3) PRIORITY.—*

4 *“(A) IN GENERAL.—In developing a work*
5 *plan under this subsection, the Secretary shall*
6 *assign to each species included in the work plan*
7 *a priority classification of Priority 1 through*
8 *Priority 5, such that, as determined by the Sec-*
9 *retary, the following apply:*

10 *“(i) Priority 1 represents species of the*
11 *highest priority, to be designated as criti-*
12 *cally imperiled and in need of immediate*
13 *action.*

14 *“(ii) Priority 2 represents species with*
15 *respect to which the best scientific and com-*
16 *mercial data available support a clear deci-*
17 *sion regarding the status of the species.*

18 *“(iii) Priority 3 represents species*
19 *with respect to which studies regarding the*
20 *status of the species are being carried out—*

21 *“(I) to answer key questions that*
22 *may influence the findings of a peti-*
23 *tion to list the species submitted under*
24 *subsection (b)(3); and*

1 “(II) to resolve any uncertainty
2 regarding the status of the species
3 within a reasonable timeframe.

4 “(iv) Priority 4 represents species for
5 which proactive conservation efforts likely to
6 reduce the effects of the factors described in
7 subparagraphs (A) through (E) of sub-
8 section (a)(1) on the species are being devel-
9 oped or carried out, within a reasonable
10 timeframe and in an organized manner, by
11 Federal agencies, States, landowners, or
12 other stakeholders.

13 “(v) Priority 5 represents species—
14 “(I) for which there exists little
15 information regarding—

16 “(aa) the effects of the factors
17 described in subparagraphs (A)
18 through (E) of subsection (a)(1)
19 on to the species; or

20 “(bb) the status of the species;
21 or

22 “(II) that would receive limited
23 conservation benefit in the foreseeable
24 future by listing the species as a

1 *threatened species or endangered spe-*
2 *cies under this section.*

3 “(B) *USE OF METHODOLOGY.*—*The Sec-*
4 *retary shall establish and assign priority classi-*
5 *fications under subparagraph (A) in accordance*
6 *with the notice of the Director of the United*
7 *States Fish and Wildlife Service titled ‘Method-*
8 *ology for Prioritizing Status Reviews and Ac-*
9 *companying 12–Month Findings on Petitions for*
10 *Listing Under the Endangered Species Act’ (81*
11 *Fed. Reg. 49248; published July 27, 2016), or*
12 *any successor document.*

13 “(C) *EXTENSIONS FOR CERTAIN PRIORITY*
14 *CLASSIFICATIONS.*—

15 “(i) *PRIORITY 3.*—*With respect to a*
16 *species classified as Priority 3 under sub-*
17 *paragraph (A)(iii), if the Secretary deter-*
18 *mines that additional time would allow for*
19 *more complete data collection or the comple-*
20 *tion of studies relating to the species, the*
21 *Secretary may retain the species under the*
22 *work plan for a period of not more than 5*
23 *years after the deadline under paragraph*
24 *(4).*

1 “(ii) *PRIORITY 4.*—With respect to a
2 species classified as Priority 4 under sub-
3 paragraph (A)(iv), if the Secretary deter-
4 mines that existing conservation efforts con-
5 tinue to meet the conservation needs of the
6 species, the Secretary may retain the species
7 under the work plan for a period of not
8 more than 5 years after the deadline under
9 paragraph (4).

10 “(iii) *PRIORITY 5.*—With respect to a
11 species classified as Priority 5 under sub-
12 paragraph (A)(v), the Secretary may retain
13 the species under the work plan for a period
14 of not more than 5 years after the deadline
15 under paragraph (4).

16 “(D) *REVISION OF PRIORITY CLASSIFICA-*
17 *TION.*—The Secretary may revise, in accordance
18 with subparagraph (A), the assignment to a pri-
19 ority classification of a species included in a
20 work plan at any time.

21 “(E) *EFFECT OF PRIORITY CLASSIFICA-*
22 *TION.*—The assignment of a priority classifica-
23 tion to a species included in a work plan is not
24 a final agency action.

1 “(4) *DEADLINE.*—*The Secretary shall act on any*
 2 *petition to add a species to a list published under*
 3 *subsection (c) submitted under subsection (b)(3) not*
 4 *later than the last day of the fiscal year specified for*
 5 *that petition in the most recent work plan.*

6 “(5) *REGULATIONS.*—*The Secretary may issue*
 7 *such regulations as the Secretary determines appro-*
 8 *priate to carry out this subsection.*

9 “(6) *EFFECT OF SUBSECTION.*—*Nothing in this*
 10 *subsection may be construed to preclude or otherwise*
 11 *affect the emergency listing authority of the Secretary*
 12 *under subsection (b)(7).*

13 “(7) *DEFINITIONS.*—*In this subsection:*

14 “(A) *COVERED SPECIES.*—*The term ‘covered*
 15 *species’ means a species that is not included on*
 16 *a list published under subsection (c)—*

17 “(i) *for which a petition to add the*
 18 *species to such a list has been submitted*
 19 *under subsection (b)(3); or*

20 “(ii) *that is otherwise under consider-*
 21 *ation by the Secretary for addition to such*
 22 *a list.*

23 “(B) *WORK PLAN.*—*The term ‘work plan’*
 24 *means the national listing work plan submitted*
 25 *by the Secretary under paragraph (1).”.*

1 (b) *CONFORMING AMENDMENT.*—Section 4(b)(3)(B) of
 2 the *Endangered Species Act of 1973* (16 U.S.C.
 3 1533(b)(3)(B)) is amended by striking “Within 12 months”
 4 and inserting “In accordance with the national listing work
 5 plan submitted under subsection (j),”.

6 ***TITLE II—INCENTIVIZING WILD-***
 7 ***LIFE CONSERVATION ON PRI-***
 8 ***VATE LANDS***

9 ***SEC. 201. CONSERVATION BENEFIT AGREEMENTS.***

10 (a) *LISTING DETERMINATIONS.*—Section 4(b)(1) of the
 11 *Endangered Species Act of 1973* (16 U.S.C. 1533(b)(1)) is
 12 amended by adding at the end the following:

13 “(C) In making a determination under sub-
 14 section (a)(1) with respect to a species, the Secretary
 15 shall take into account and document the effect of any
 16 net conservation benefit (as that term is defined in
 17 section 10(k)) of any approved Conservation Benefit
 18 Agreement (as that term is defined in such section)
 19 relating to the species.”.

20 (b) *CONSERVATION BENEFIT AGREEMENTS.*—Section
 21 10 of the *Endangered Species Act of 1973* (16 U.S.C. 1539)
 22 is amended by adding at the end the following:

23 “(k) *CONSERVATION BENEFIT AGREEMENTS.*—

24 “(1) *PROPOSED AGREEMENT.*—

1 “(A) *IN GENERAL.*—A covered party may
2 submit a proposed Agreement to the Secretary.

3 “(B) *DETERMINATION OF COMPLETE-*
4 *NESS.*—Not later than 30 days after the date on
5 which the Secretary receives a proposed Agree-
6 ment, the Secretary shall—

7 “(i) determine whether the proposed
8 Agreement is complete; and

9 “(ii) if the Secretary determines the
10 proposed Agreement is incomplete under
11 clause (i), provide the covered party with a
12 written explanation of such determination,
13 including any specific adjustment required
14 for the Secretary to determine the proposed
15 Agreement is complete.

16 “(C) *APPROVAL; REJECTION.*—Not later
17 than 120 days after the date on which the Sec-
18 retary receives a proposed Agreement that the
19 Secretary determines under subparagraph (B)(i)
20 is complete, the Secretary shall—

21 “(i) approve the proposed Agreement if
22 the Secretary determines that the proposed
23 Agreement—

24 “(I) is in compliance with, as ap-
25 plicable, section 17.22(c)(1) or

1 *17.32(c)(1) of title 50, Code of Federal*
2 *Regulations (or a successor regulation);*
3 *and*

4 *“(II) provides assurances to the*
5 *covered party that, if the covered spe-*
6 *cies becomes listed after the effective*
7 *date of such Agreement—*

8 *“(aa) no additional con-*
9 *servation measures will be re-*
10 *quired; and*

11 *“(bb) additional land, water,*
12 *or resource use restrictions will*
13 *not be imposed on the covered*
14 *party;*

15 *“(ii) reject the proposed Agreement if*
16 *the Secretary determines that the proposed*
17 *Agreement does not meet the requirements*
18 *described in subclauses (I) and (II) of*
19 *clause (i); and*

20 *“(iii) if the Secretary rejects the pro-*
21 *posed Agreement under clause (ii), provide*
22 *the submitting covered party a written ex-*
23 *planation for such rejection, including any*
24 *specific adjustment required, as of the date*
25 *on which the Secretary rejects the proposed*

1 *Agreement, for the Secretary to approve the*
2 *proposed Agreement.*

3 “(2) *PROGRAMMATIC CONSERVATION BENEFIT*
4 *AGREEMENTS.—The Secretary may enter into a Con-*
5 *servation Benefit Agreement with a covered party*
6 *that authorizes such covered party—*

7 *“(A) to administer such Conservation Ben-*
8 *efit Agreement;*

9 *“(B) to hold any permit issued under this*
10 *section with regard to such Conservation Benefit*
11 *Agreement;*

12 *“(C) to enroll other covered parties within*
13 *the area covered by such Conservation Benefit*
14 *Agreement in such Conservation Benefit Agree-*
15 *ment; and*

16 *“(D) to convey any permit authorization*
17 *held by such covered party under clause (ii) to*
18 *each covered party enrolled under clause (iii).*

19 “(3) *TAKE AUTHORIZATION.—If a covered spe-*
20 *cies is listed as a threatened species or an endangered*
21 *species under section 4, the Secretary, consistent with*
22 *the applicable Agreement, shall issue to the relevant*
23 *covered party a permit under this section for the inci-*
24 *dental take of and modification to the habitat of such*
25 *covered species by such covered party.*

1 “(4) *TECHNICAL ASSISTANCE.*—*The Secretary*
 2 *shall, upon the request of a covered party, provide the*
 3 *covered party with technical assistance in developing*
 4 *a proposed Agreement.*

5 “(5) *APPLICABILITY TO FEDERAL LAND.*—*An*
 6 *Agreement may apply with respect to a covered party*
 7 *that conducts activities on land administered by any*
 8 *Federal agency pursuant to a permit or lease issued*
 9 *to the covered party by that Federal agency.*

10 “(6) *EXEMPTIONS.*—

11 “(A) *CONSULTATION.*—*Section 7(a)(2) does*
 12 *not apply to the approval by the Secretary of a*
 13 *proposed Agreement under this subsection.*

14 “(B) *DISCLOSURE.*—*Information submitted*
 15 *by a private party to the Secretary pursuant to*
 16 *this subsection shall be exempt from disclosure*
 17 *under section 552(b)(3)(B) of title 5, United*
 18 *States Code.*

19 “(C) *NATIONAL ENVIRONMENTAL POLICY*
 20 *ACT OF 1969.*—*The approval by the Secretary of*
 21 *a proposed Agreement under this subsection shall*
 22 *not be considered a major Federal action under*
 23 *section 102(2)(C) of the National Environmental*
 24 *Policy Act of 1969 (42 U.S.C. 4332(2)(C)).*

25 “(7) *DEFINITIONS.*—*In this subsection:*

1 “(A) *AFFECTED SPECIES*.—The term ‘af-
2 *ected species’ means a species—*

3 “(i) *designated by the Secretary as a*
4 *candidate species under this Act;*

5 “(ii) *proposed to be listed pursuant to*
6 *section 4; or*

7 “(iii) *that is declining and at risk of*
8 *being designated by the Secretary as a can-*
9 *didate species under this Act.*

10 “(B) *AGREEMENT*.—The term ‘Agreement’
11 *means—*

12 “(i) *a Conservation Benefit Agreement;*
13 *or*

14 “(ii) *a programmatic Conservation*
15 *Benefit Agreement.*

16 “(C) *CONSERVATION BENEFIT AGREE-*
17 *MENT*.—The term ‘Conservation Benefit Agree-
18 *ment’ means the supporting document required*
19 *for the issuance of a permit under subsection*
20 *(a)(1)(A) to enhance the propagation or survival*
21 *of an affected species, as described in the final*
22 *rule issued by the United States Fish and Wild-*
23 *life Service titled ‘Endangered and Threatened*
24 *Wildlife and Plants; Enhancement of Survival*

1 *and Incidental Take Permits*’ (89 Fed. Reg.
2 26070; published April 12, 2024).

3 “(D) COVERED PARTY.—The term ‘covered
4 party’ means a—

5 “(i) party that conducts activities on
6 land administered by a Federal agency pur-
7 suant to a permit or lease issued to the
8 party;

9 “(ii) private property owner;

10 “(iii) county;

11 “(iv) State or State agency; or

12 “(v) Tribal government.

13 “(E) COVERED SPECIES.—The term ‘cov-
14 ered species’ means, with respect to an Agree-
15 ment, the affected species that is the subject of
16 such Agreement.

17 “(F) NET CONSERVATION BENEFIT.—The
18 term ‘net conservation benefit’ means the net ef-
19 fect of an Agreement on the covered species, de-
20 termined by comparing the existing situation of
21 the covered species without the Agreement in ef-
22 fect and a situation in which the Agreement is
23 in effect, including the net effect on—

1 “(i) the effects of the factors described
2 in subparagraphs (A) through (E) of sub-
3 section (a)(1) on the covered species;

4 “(ii) the number of individuals of the
5 covered species; or

6 “(iii) the habitat of the covered species.

7 “(G) PROGRAMMATIC CONSERVATION BEN-
8 EFIT AGREEMENT.—The term ‘programmatic
9 Conservation Benefit Agreement’ means a Con-
10 servation Benefit Agreement described in para-
11 graph (4).”.

12 **SEC. 202. CONSERVATION PLANS.**

13 (a) *IN GENERAL*.—Section 10(a)(2) of the *Endangered*
14 *Species Act of 1973* (16 U.S.C. 1539(a)(2)) is amended—

15 (1) in subparagraph (B), by inserting “, and
16 shall include the terms and conditions of the related
17 conservation plan, which shall be legally binding on
18 all parties thereto” after “being complied with”; and

19 (2) by adding at the end the following:

20 “(D) Each Federal agency shall, as applicable and to
21 the maximum extent practicable, adopt the mitigation
22 measures contained in a permit issued under subparagraph
23 (B) in any authorization issued by such Federal agency
24 with respect to the action that is covered by such permit.

1 “(E) With respect to an action that is covered by a
 2 permit issued under subparagraph (B) and consistent with
 3 the implementation of the related conservation plan, the
 4 Secretary shall not seek any additional mitigation meas-
 5 ures through any other Federal or State or local process
 6 from the permittee.”.

7 (b) *EXEMPTION FROM CONSULTATION REQUIRE-*
 8 *MENT.*—Section 10(a) of the Endangered Species Act of
 9 1973 (16 U.S.C. 1539(a)) is amended by adding at the end
 10 the following:

11 “(3) Section 7(a)(2) does not apply to the issuance by
 12 the Secretary of a permit under this subsection.”.

13 **SEC. 203. NEPA EXEMPTION FOR INCIDENTAL TAKE PER-**
 14 **MITTS.**

15 Section 10(a) of the Endangered Species Act of 1973
 16 (16 U.S.C. 1539(a)) is amended by adding at the end the
 17 following:

18 “(4) The issuance of a permit under paragraph (2)
 19 shall not be considered a major Federal action under section
 20 102(2)(C) of the National Environmental Policy Act of
 21 1969 (42 U.S.C. 4332(2)(C)).”.

1 **TITLE III—PROVIDING FOR**
 2 **GREATER INCENTIVES TO RE-**
 3 **COVER LISTED SPECIES**

4 **SEC. 301. PROTECTIVE REGULATIONS UNDER ENDANGERED**
 5 **SPECIES ACT OF 1973.**

6 *Section 4 of the Endangered Species Act of 1973 (16*
 7 *U.S.C. 1533) is amended—*

8 *(1) in subsection (d), to read as follows:*

9 *“(d) PROTECTIVE REGULATIONS.—*

10 *“(1) ISSUANCE.—*

11 *“(A) IN GENERAL.—Whenever any species is*
 12 *listed as a threatened species pursuant to sub-*
 13 *section (c), the Secretary shall issue such regula-*
 14 *tions as are necessary and advisable to provide*
 15 *for the conservation of that species.*

16 *“(B) REQUIREMENT.—In issuing a regula-*
 17 *tion under subparagraph (A), the Secretary, con-*
 18 *sistent with the findings, purposes, and policy*
 19 *described in section 2 and based on the best sci-*
 20 *entific and commercial data available, shall con-*
 21 *sider the conservation and economic effects of*
 22 *such regulation.*

23 *“(2) RECOVERY GOALS.—*

24 *“(A) IN GENERAL.—If the Secretary issues*
 25 *a regulation under paragraph (1) that prohibits*

1 *an act described in section 9(a), the Secretary*
2 *shall, with respect to the species that is the sub-*
3 *ject of such regulation—*

4 *“(i) establish objective, incremental re-*
5 *covery goals;*

6 *“(ii) provide for the stringency of such*
7 *regulation to decrease as such recovery goals*
8 *are met; and*

9 *“(iii) provide for State management*
10 *within such State, if such State is willing*
11 *to take on such management, beginning on*
12 *the date on which the Secretary determines*
13 *that each such recovery goal is met and, if*
14 *each such recovery goal remains met, con-*
15 *tinuing until such species is removed from*
16 *the list of threatened species published pur-*
17 *suant to subsection (c).*

18 *“(B) STATUS REVIEW.—On the date on*
19 *which the Secretary determines that each recov-*
20 *ery goal established under subparagraph (A)(i)*
21 *for a species is met, the Secretary shall begin a*
22 *review of the species and subsequently determine,*
23 *on the basis of such review, whether the species*
24 *should be removed from the lists published pursu-*
25 *ant to subsection (c)(1).*

1 “(3) *COOPERATIVE AGREEMENT.*—A regulation
 2 issued under paragraph (1) that prohibits an act de-
 3 scribed in section 9(a) with respect to a resident spe-
 4 cies shall apply with respect to a State that has en-
 5 tered into a cooperative agreement with the Secretary
 6 pursuant to section 6(c) only to the extent that such
 7 regulation is adopted by such State.

8 “(4) *STATE RECOVERY STRATEGY.*—

9 “(A) *IN GENERAL.*—A State may develop a
 10 recovery strategy for a threatened species or a
 11 candidate species and submit to the Secretary a
 12 petition for the Secretary to use such recovery
 13 strategy as the basis for any regulation issued
 14 under paragraph (1) with respect to such species
 15 within such State.

16 “(B) *APPROVAL OR DENIAL OF PETITION.*—
 17 Not later than 120 days after the date on which
 18 the Secretary receives a petition submitted under
 19 subparagraph (A), the Secretary shall—

20 “(i) approve such petition if the Sec-
 21 retary determines the recovery strategy is
 22 reasonably certain to be implemented by the
 23 petitioning State and to be effective in con-
 24 serving the species that is the subject of such
 25 recovery strategy; or

1 “(ii) deny such petition if the require-
2 ments described in clause (i) are not met.

3 “(C) PUBLICATION.—Not later than 60 days
4 after the date on which the Secretary approves or
5 denies a petition under subparagraph (B), the
6 Secretary shall publish such approval or denial
7 on the website of the applicable department.

8 “(D) DENIAL OF PETITION.—

9 “(i) WRITTEN EXPLANATION.—If the
10 Secretary denies a petition under subpara-
11 graph (B), the Secretary shall include in
12 such denial a written explanation for such
13 denial, including a description of the
14 changes to such petition that are necessary
15 for the Secretary to approve such petition.

16 “(ii) RESUBMISSION OF DENIED PETI-
17 TION.—A State may resubmit a petition
18 that is denied under subparagraph (B).

19 “(E) USE IN PROTECTIVE REGULATIONS.—
20 If the Secretary approves a petition under sub-
21 paragraph (B), the Secretary shall—

22 “(i) issue a regulation under para-
23 graph (1) that adopts the recovery strategy
24 as such regulation with respect to the spe-

1 cies that is the subject of such recovery
2 strategy within the petitioning State; and

3 “(ii) establish objective criteria to
4 evaluate the effectiveness of such recovery
5 strategy in conserving such species within
6 such State.

7 “(F) *REVISION*.—If a recovery strategy that
8 is adopted as a regulation issued under para-
9 graph (1) is determined by the Secretary to be
10 ineffective in conserving the species that is the
11 subject of such recovery strategy in accordance
12 with the objective criteria established under sub-
13 paragraph (E)(ii) for such recovery strategy, the
14 Secretary shall revise such regulation and reissue
15 such regulation in accordance with paragraph
16 (1).”; and
17 (2) in subsection (f)(1)(B)—

18 (A) in clause (ii), by striking “and” at the
19 end;

20 (B) in clause (iii), by striking the period at
21 the end and inserting “; and”; and

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

23 “(iv) with respect to an endangered species,
24 objective, incremental recovery goals in accord-
25 ance with subsection (d)(2)(A) for use under that

1 *subsection if such endangered species is changed*
 2 *in status from an endangered species to a threat-*
 3 *ened species under subsection (c)(2)(B)(ii).”.*

4 **SEC. 302. 5-YEAR REVIEW DETERMINATIONS.**

5 *Section 4(c) of the Endangered Species Act of 1973 (16*
 6 *U.S.C. 1533(c)) is amended by adding at the end the fol-*
 7 *lowing:*

8 *“(3) Not later than 30 days after the date on which*
 9 *the Secretary makes a determination under paragraph*
 10 *(2)(B), the Secretary shall initiate a rulemaking to carry*
 11 *out such determination.”.*

12 **SEC. 303. JUDICIAL REVIEW DURING MONITORING PERIOD.**

13 *Section 4(g) of the Endangered Species Act of 1973*
 14 *(16 U.S.C. 1533(g)) is amended by adding at the end the*
 15 *following:*

16 *“(3) The removal of a species from a list published*
 17 *under subsection (c)(1) is not subject to judicial review dur-*
 18 *ing the period established under paragraph (1) with respect*
 19 *to the species.”.*

20 **SEC. 304. DESIGNATION OF CRITICAL HABITAT.**

21 *(a) NOT PRUDENT DETERMINATIONS.—Section*
 22 *4(a)(3)(A) of the Endangered Species Act of 1973 (16*
 23 *U.S.C. 1533(a)(3)(A)) is amended to read as follows:*

24 *“(A)(i) The Secretary, by regulation pro-*
 25 *mulgated in accordance with subsection (b) and*

1 to the maximum extent prudent and deter-
2 minable—

3 “(I) shall, concurrently with making a
4 determination under paragraph (1) that a
5 species is an endangered species or a threat-
6 ened species, designate any habitat of such
7 species which is then considered to be crit-
8 ical habitat; and

9 “(II) may, from time-to-time thereafter
10 as appropriate, revise such designation.

11 “(ii) The Secretary may determine, based
12 on the best scientific data available, that it is
13 not prudent to designate habitat as described in
14 clause (i)(I) for a species, including if the Sec-
15 retary determines—

16 “(I) the species is determined under
17 paragraph (1) to be a threatened species or
18 an endangered species because of take or
19 other human activity and such designation
20 will increase the degree of such take or other
21 human activity;

22 “(II) the species is determined under
23 paragraph (1) to be a threatened species or
24 an endangered species because of a factor—

1 “(aa) other than that described in
 2 subparagraph (A) of that paragraph;
 3 or

4 “(bb) that cannot be addressed
 5 through reasonable and prudent alter-
 6 natives resulting from consultations
 7 carried out pursuant to section 7(a)(2);
 8 or

9 “(III) the species primarily occurs in
 10 areas not under the jurisdiction of the
 11 United States and areas under the jurisdic-
 12 tion of the United States where the species
 13 occurs provide no more than a negligible
 14 conservation value to the species.

15 “(iii) Notwithstanding clause (i)(I), if the
 16 Secretary determines under clause (ii) that it is
 17 not prudent to designate habitat as described in
 18 clause (i)(I), the Secretary is not required to so
 19 designate habitat for the species.”.

20 (b) *PRIVATELY OWNED OR CONTROLLED LAND.*—Sec-
 21 tion 4(a)(3) of the Endangered Species Act of 1973 (16
 22 U.S.C. 1533(a)(3)) is amended by adding at the end the
 23 following:

24 “(C) The Secretary may not designate as critical habi-
 25 tat under subparagraph (A) any privately owned or con-

1 *trolled land or other geographical area that is subject to*
2 *a land management plan that—*

3 *“(i) the Secretary determines is similar in na-*
4 *ture to an integrated natural resources management*
5 *plan described in section 101 of the Sikes Act (16*
6 *U.S.C. 670a);*

7 *“(ii)(I) is prepared in cooperation with the Sec-*
8 *retary and the head of each applicable State fish and*
9 *wildlife agency of each State in which such land or*
10 *other geographical area is located; or*

11 *“(II) is submitted to the Secretary in a manner*
12 *that is similar to the manner in which an applicant*
13 *submits a conservation plan to the Secretary under*
14 *section 10(a)(2)(A);*

15 *“(iii) includes an activity or a limitation on an*
16 *activity that the Secretary determines will likely con-*
17 *serve the species concerned;*

18 *“(iv) the Secretary determines will result in—*

19 *“(I) an increase in the population of the*
20 *species concerned above the population of such*
21 *species on the date that such species is listed as*
22 *a threatened species or an endangered species; or*

23 *“(II) maintaining the same population of*
24 *such species on the land or other geographical*
25 *area as the population that would likely occur if*

1 such land or other geographical area is des-
2 ignated as critical habitat; and

3 “(v) to the maximum extent practicable, will
4 minimize and mitigate the impacts of any activity
5 that will likely result in an incidental taking of the
6 species concerned.”.

7 (c) *DESIGNATION CONSIDERATIONS*.—Section 4(b) of
8 the *Endangered Species Act of 1973* (16 U.S.C. 1533(b))
9 is amended—

10 (1) in paragraph (2)—

11 (A) by inserting “the impact on existing ef-
12 forts of private landowners to conserve the spe-
13 cies,” after “impact on national security,”;

14 (B) by striking “The Secretary” and insert-
15 ing “(A) The Secretary”; and

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

17 “(B) In addition to any area otherwise considered by
18 the Secretary for exclusion from critical habitat under sub-
19 paragraph (A), the Secretary shall consider for exclusion
20 from critical habitat any area—

21 “(i) submitted by a person through public com-
22 ment pursuant to paragraph (5) or (6); and

23 “(ii) for which such submission includes credible
24 information regarding a meaningful economic im-
25 pact, impact on national security, impact on existing

1 *efforts of private landowners to conserve the applica-*
 2 *ble species, or other relevant impact of specifying the*
 3 *area as critical habitat that supports the exclusion*
 4 *from critical habitat of that area.”;*

5 *(2) in paragraph (5)(A)(i), by striking “, and”*
 6 *and inserting the following: “, including, with respect*
 7 *to a proposed regulation to designate or revise critical*
 8 *habitat under subsection (a)(3)—*

9 *“(I) a draft economic analysis that*
 10 *identifies any impacts on national security*
 11 *and existing efforts of private landowners to*
 12 *conserve the applicable species and other*
 13 *relevant impacts of the designation or revi-*
 14 *sion that the Secretary determines are with-*
 15 *in the area proposed for designation or cov-*
 16 *ered by the revision; and*

17 *“(II) a draft exclusion analysis that*
 18 *identifies each area the Secretary has rea-*
 19 *son to consider for exclusion under para-*
 20 *graph (2) and why; and”;* and

21 *(3) in paragraph (6)(A)—*

22 *(A) in clause (i)(II), by striking “made,”*
 23 *and inserting the following: “made, including,*
 24 *with respect to such a final regulation—*

1 “(aa) a final economic analysis that
2 identifies any impacts on national security
3 and existing efforts of private landowners to
4 conserve the applicable species and other
5 relevant impacts of the revision that the
6 Secretary determines are within the area
7 covered by the revision; and

8 “(bb) a final exclusion analysis that
9 identifies each area the Secretary has deter-
10 mined under paragraph (2) to exclude from
11 such revision and why;”; and

12 (B) in clause (ii)(I), by striking “, or” and
13 inserting the following: “, including—

14 “(aa) a final economic analysis that
15 identifies any impacts on national security
16 and existing efforts of private landowners to
17 conserve the applicable species and other
18 relevant impacts of the designation that the
19 Secretary determines are within the area
20 proposed for designation; and

21 “(bb) a final exclusion analysis that
22 identifies each area the Secretary has deter-
23 mined under paragraph (2) to exclude from
24 such designation and why; or”.

1 **SEC. 305. TREATMENT OF STATE, TRIBAL, AND LOCAL GOV-**
 2 **ERNMENT DATA.**

3 *Section 4(b) of the Endangered Species Act of 1973*
 4 *(16 U.S.C. 1533(b)) is amended—*

5 *(1) in paragraph (1)(A), by inserting “data sub-*
 6 *mitted to the Secretary by a State, Tribal, or local*
 7 *government, and” after “account”; and*

8 *(2) in paragraph (2)(A), as so designated by sec-*
 9 *tion 304(c)(1)(B) of this Act, by inserting “data sub-*
 10 *mitted to the Secretary by a State, Tribal, or local*
 11 *government, as well as” after “consideration”.*

12 **SEC. 306. CLARIFYING SIGNIFICANT PORTION OF RANGE OF**
 13 **SPECIES.**

14 *Section 4(a) of the Endangered Species Act of 1973*
 15 *(16 U.S.C. 1533(a)) is amended by adding at the end the*
 16 *following:*

17 *“(4) If the Secretary determines under paragraph (1)*
 18 *that a species is a threatened species or an endangered spe-*
 19 *cies in only a significant portion of the range of the species,*
 20 *the Secretary may only list the species under subsection (c)*
 21 *as a threatened species or an endangered species with re-*
 22 *spect to that portion of the range of the species.”.*

23 **SEC. 307. DELISTING CRITERIA.**

24 *Section 4(c) of the Endangered Species Act of 1973 (16*
 25 *U.S.C. 1533(c)) is amended by adding at the end the fol-*
 26 *lowing:*

1 “(4) *The Secretary shall determine under paragraph*
 2 *(2)(B)(i) that a species described in paragraph (2)(A)*
 3 *should be removed from a list described in that paragraph*
 4 *and shall remove such species from such list only if the Sec-*
 5 *retary determines, pursuant to a review conducted under*
 6 *that paragraph and based on the best scientific and com-*
 7 *mercial data available, such species—*

8 “(A) *is extinct;*

9 “(B) *is not a threatened species or an endan-*
 10 *gered species; or*

11 “(C) *is not a species.”.*

12 ***TITLE IV—CREATING GREATER***
 13 ***TRANSPARENCY AND AC-***
 14 ***COUNTABILITY IN RECOV-***
 15 ***ERING LISTED SPECIES***

16 ***SEC. 401. REQUIREMENT TO PUBLISH BASIS FOR LISTINGS***
 17 ***AND CRITICAL HABITAT DESIGNATIONS ON-***
 18 ***LINE.***

19 *Section 4(b) of the Endangered Species Act of 1973*
 20 *(16 U.S.C. 1533(b)) is amended by adding at the end the*
 21 *following:*

22 “(9)(A) *The Secretary shall make publicly available*
 23 *on the website of the applicable department the best sci-*
 24 *entific and commercial data available that is used as the*
 25 *basis for each regulation, including each proposed regula-*

1 tion, promulgated under paragraphs (1) and (3) of sub-
2 section (a).

3 “(B) If a Governor, agency, or legislature of a State
4 determines that public disclosure of any best scientific and
5 commercial data available described in subparagraph (A)
6 is prohibited by a law or regulation of the State, including
7 such a law or regulation requiring the protection of per-
8 sonal information—

9 “(i) the Governor, agency, or legislature of the
10 State may submit to the Secretary a request to ex-
11 empt such best scientific and commercial data avail-
12 able from the application of subparagraph (A); and

13 “(ii) the Secretary shall so exempt such best sci-
14 entific and commercial data available.

15 “(C) Subparagraph (A) does not apply with respect
16 to global positioning system coordinates or other geographi-
17 cally specific species location information.

18 “(D) Not later than 30 days after the date of the enact-
19 ment of this paragraph, the Secretary shall execute an
20 agreement with the Secretary of War that prevents the dis-
21 closure under this paragraph of classified information per-
22 taining to Department of War personnel, facilities, lands,
23 or waters.”.

1 **SEC. 402. DECISIONAL TRANSPARENCY AND USE OF STATE,**
 2 **TRIBAL, AND LOCAL INFORMATION.**

3 *Section 6(a) of the Endangered Species Act of 1973*
 4 *(16 U.S.C. 1535(a)) is amended—*

5 *(1) by inserting “(1)” before the first sentence;*
 6 *and*

7 *(2) by striking “Such cooperation shall include”*
 8 *and inserting the following:*

9 *“(2) Such cooperation shall include—*

10 *“(A) before making a determination under sec-*
 11 *tion 4(a), providing to States affected by such deter-*
 12 *mination all data that is the basis of the determina-*
 13 *tion; and*

14 *“(B)”.*

15 **SEC. 403. DISCLOSURE OF EXPENDITURES UNDER ENDAN-**
 16 **GERED SPECIES ACT OF 1973.**

17 *(a) REQUIREMENT TO DISCLOSE.—Section 13 of the*
 18 *Endangered Species Act of 1973 (87 Stat. 902) is amended*
 19 *to read as follows:*

20 **“SEC. 13. DISCLOSURE OF EXPENDITURES.**

21 *“(a) REQUIREMENT.—The Chair of the Council on En-*
 22 *vironmental Quality, in consultation with the Secretary of*
 23 *the Interior and Secretary of Commerce, shall—*

24 *“(1) not later than 90 days after the end of each*
 25 *fiscal year, submit to the Committee on Natural Re-*
 26 *sources of the House of Representatives and the Com-*

1 *mittee on Environment and Public Works of the Sen-*
 2 *ate an annual report detailing Federal Government*
 3 *expenditures for covered suits during the preceding*
 4 *fiscal year; and*

5 *“(2) make publicly available through the Inter-*
 6 *net a searchable database, updated monthly, of the in-*
 7 *formation described in subsection (b).*

8 *“(b) INCLUDED INFORMATION.—Each report sub-*
 9 *mitted under subsection (a) shall include—*

10 *“(1) the case name and number of each covered*
 11 *suit, and, with respect to each covered suit, a*
 12 *hyperlink to each settlement decision, final decision,*
 13 *consent decree, stipulation of dismissal, release, in-*
 14 *terim decision, motion to dismiss, partial motion for*
 15 *summary judgement, or related final document;*

16 *“(2) a description of each claim or cause of ac-*
 17 *tion in each covered suit;*

18 *“(3) the name of each covered agency the actions*
 19 *of which give rise to any claim in a covered suit and*
 20 *each plaintiff in such covered suit;*

21 *“(4) funds expended by each covered agency*
 22 *(disaggregated by agency account) to receive and re-*
 23 *spond to notices referred to in section 11(g)(2) or to*
 24 *prepare for litigation of, litigate, negotiate a settle-*
 25 *ment agreement or consent decree in, or provide mate-*

1 *rial, technical, or other assistance in relation to, a*
2 *covered suit;*

3 *“(5) the number of full-time equivalent employ-*
4 *ees that participated in the activities described in*
5 *paragraph (4);*

6 *“(6) any information required to be published*
7 *under section 1304 of title 31, United States Code,*
8 *with respect to a covered suit; and*

9 *“(7) attorneys fees and other expenses*
10 *(disaggregated by agency account) awarded in covered*
11 *suits, including any consent decrees or settlement*
12 *agreements (regardless of whether a decree or settle-*
13 *ment agreement is sealed or otherwise subject to non-*
14 *disclosure provisions), including the basis for such*
15 *awards.*

16 *“(c) REQUIREMENT TO PROVIDE INFORMATION.—The*
17 *head of each covered agency shall provide to the Chair of*
18 *the Council on Environmental Quality in a timely manner*
19 *all information requested by the Chair to comply with the*
20 *requirements of this section.*

21 *“(d) LIMITATION ON DISCLOSURE.—Notwithstanding*
22 *any other provision of this section, this section shall not*
23 *affect any restriction in a consent decree or settlement*
24 *agreement on the disclosure of information that is not de-*
25 *scribed in subsection (b).*

1 “(e) *DEFINITIONS.*—*In this section:*

2 “(1) *COVERED AGENCY.*—*The term ‘covered*
3 *agency’ means any agency of the—*

4 “(A) *Department of the Interior;*

5 “(B) *Forest Service;*

6 “(C) *Environmental Protection Agency;*

7 “(D) *National Marine Fisheries Service;*

8 “(E) *Bonneville Power Administration;*

9 “(F) *Western Area Power Administration;*

10 “(G) *Southwestern Power Administration;*

11 *or*

12 “(H) *Southeastern Power Administration.*

13 “(2) *COVERED SUIT.*—*The term ‘covered suit’*
14 *means—*

15 “(A) *any civil action containing any claim*
16 *arising under this Act against the Federal Gov-*
17 *ernment and based on the action of a covered*
18 *agency; and*

19 “(B) *any administrative proceeding under*
20 *which the Federal Government awards fees and*
21 *other expenses to a third party under section 504*
22 *of title 5, United States Code.”.*

23 (b) *CLERICAL AMENDMENT.*—*The table of contents in*
24 *the first section of the Endangered Species Act of 1973 (16*

1 *U.S.C. 1531 note) is amended by striking the item relating*
 2 *to section 13 and inserting the following:*

“Sec. 13. Disclosure of expenditures.”.

3 **SEC. 404. AWARD OF LITIGATION COSTS TO PREVAILING**
 4 **PARTIES IN ACCORDANCE WITH EXISTING**
 5 **LAW.**

6 *Section 11(g)(4) of the Endangered Species Act of 1973*
 7 *(16 U.S.C. 1540(g)(4)) is amended to read as follows:*

8 *“(4)(A) The court, in issuing any final order in any*
 9 *suit brought pursuant to paragraph (1), may award costs*
 10 *of litigation (including reasonable attorney and expert wit-*
 11 *ness fees) to an eligible party, whenever the court determines*
 12 *such award is appropriate.*

13 *“(B) In awarding reasonable attorney and expert wit-*
 14 *ness fees under subparagraph (A) in a suit brought pursu-*
 15 *ant to paragraph (1), the court—*

16 *“(i) shall base such fees on the prevailing market*
 17 *rates for the kind and quality of services furnished;*
 18 *and*

19 *“(ii) may not award—*

20 *“(I) such fees at a rate that exceeds \$125*
 21 *per hour unless the court determines a higher*
 22 *rate is justified because of cost of living or a spe-*
 23 *cial factor, such as the limited availability of*
 24 *qualified attorneys for such suit; or*

1 “(II) more than \$200,000 total in such fees
2 in a single such suit.

3 “(C)(i) In this paragraph, the term ‘eligible party’—

4 “(I) means a party to a suit brought pursuant
5 to paragraph (1) that is, as of the date on which the
6 suit was initiated—

7 “(aa) an individual who has a net worth of
8 not more than \$2,000,000;

9 “(bb) an owner of an unincorporated busi-
10 ness or a partnership, corporation, association,
11 unit of local government, or organization, in-
12 cluding an organization that is described in sec-
13 tion 501(c)(3) of the Internal Revenue Code and
14 exempt from taxation under section 501(a) of
15 such Code, that has—

16 “(AA) a net worth of not more than
17 \$7,000,000, including both personal and
18 business interests; and

19 “(BB) not more than 500 employees;
20 or

21 “(cc) a cooperative association (as that term
22 is defined in section 15(a) of the Agriculture
23 Marketing Act (12 U.S.C. 1141j(a))); and

24 “(II) does not include a party to a suit brought pursu-
25 ant to paragraph (1) otherwise described in clause (i) of

1 *this subparagraph that has sought to recover attorney or*
 2 *expert witness fees under this subsection in 3 or more in-*
 3 *stances in the 12-month period preceding the date on which*
 4 *the final order in such suit is issued, including in such suit.*

5 “(ii) Where 2 or more parties to a suit brought pursu-
 6 ant to paragraph (1) are co-plaintiffs and each such party
 7 individually is an eligible party, clause (i)(I) shall be ap-
 8 plied to such parties collectively.”.

9 **SEC. 405. ANALYSIS OF IMPACTS AND BENEFITS OF DETER-**
 10 **MINATION OF ENDANGERED OR THREAT-**
 11 **ENED STATUS.**

12 Section 4(a) of the Endangered Species Act of 1973
 13 (16 U.S.C. 1533(a)) is amended by adding at the end the
 14 following:

15 “(5)(A) The Secretary shall, concurrently with deter-
 16 mining under paragraph (1) whether a species is a threat-
 17 ened species or an endangered species, prepare an analysis
 18 with respect to such determination of—

19 “(i) the economic effect;

20 “(ii) the effects on national security;

21 “(iii) the effects on human health and safety;

22 and

23 “(iv) any other relevant effect.

1 “(B) *The analysis is to be prepared in coordination*
 2 *with the States, local governments, and Tribes impacted by*
 3 *the determination.*

4 “(C) *Nothing in this paragraph shall delay a deter-*
 5 *mination made by the Secretary under paragraph (1) or*
 6 *change the criteria used by the Secretary to make such a*
 7 *determination.*”.

8 **SEC. 406. NOTIFICATION OF CONGRESS OF CERTAIN CRIT-**
 9 **ICAL HABITAT DESIGNATIONS.**

10 *Section 4(a)(3) of the Endangered Species Act of 1973*
 11 *(16 U.S.C. 1533(a)(3)) is amended by adding at the end*
 12 *the following:*

13 “(D)(i) *The Secretary shall submit to the Committee*
 14 *on Natural Resources of the House of Representatives and*
 15 *the Committee on Environment and Public Works of the*
 16 *Senate a notification of any proposed designation of critical*
 17 *habitat under subparagraph (A) of an area greater than*
 18 *50,000 acres.*

19 “(ii) *A notification submitted under clause (i) shall*
 20 *include—*

21 “(I) *a description of the area proposed to be des-*
 22 *ignated as critical habitat;*

23 “(II) *an inventory and evaluation of the natural*
 24 *resource uses and values of the area and adjacent*
 25 *public and nonpublic land and the economic impact*

1 of the proposed designation on individuals, local com-
2 munities, and the United States;

3 “(III) an identification of users of the area and
4 how such users will be affected by the proposed des-
5 ignation;

6 “(IV) an analysis of the manner in which exist-
7 ing and potential natural resource uses are incompat-
8 ible with or in conflict with the proposed designation
9 and a statement of the provisions to be made for con-
10 tinuation or termination of existing such uses, includ-
11 ing an economic analysis of such continuation or ter-
12 mination;

13 “(V) a statement of the consultation which has
14 been or will be had with other Federal departments
15 and agencies, regional, State, and local government
16 bodies, and other appropriate individuals and groups
17 with respect to the proposed designation; and

18 “(VI) a statement indicating the effect of the pro-
19 posed designation, if any, on State and local govern-
20 ment interests and the regional economy.”.

21 **SEC. 407. NOTIFICATION OF CONGRESS OF CERTAIN RE-**
22 **LEASES OF EXPERIMENTAL POPULATIONS.**

23 Section 10(j) of the Endangered Species Act of 1973
24 (16 U.S.C. 1539(j)) is amended by adding at the end the
25 following:

1 “(4)(A) *The Secretary shall submit to the Committee*
2 *on Natural Resources of the House of Representatives and*
3 *the Committee on Environment and Public Works of the*
4 *Senate a notification of any proposed release under this*
5 *subsection that covers an area greater than 50,000 acres.*

6 “(B) *A notification submitted under subparagraph (A)*
7 *shall include—*

8 “(i) *a description of the area covered by the pro-*
9 *posed release;*

10 “(ii) *an inventory and evaluation of the natural*
11 *resource uses and values of the area and adjacent*
12 *public and nonpublic land and the economic impact*
13 *of the proposed release on individuals, local commu-*
14 *nities, and the United States;*

15 “(iii) *an identification of users of the area, and*
16 *how such users will be affected by the proposed re-*
17 *lease;*

18 “(iv) *an analysis of the manner in which exist-*
19 *ing and potential natural resource uses are incompat-*
20 *ible with or in conflict with the proposed release and*
21 *a statement of the provisions to be made for continu-*
22 *ation or termination of existing such uses, including*
23 *an economic analysis of such continuation or termi-*
24 *nation;*

1 “(v) a statement of the consultation which has
 2 been or will be had with other Federal departments
 3 and agencies, regional, State, and local government
 4 bodies, and other appropriate individuals and groups
 5 with respect to the proposed release; and

6 “(vi) a statement indicating the effect of the pro-
 7 posed release, if any, on State and local government
 8 interests and the regional economy.”.

9 **SEC. 408. ANNUAL COST ANALYSIS BY THE FISH AND WILD-**
 10 **LIFE SERVICE.**

11 Section 18 of the Endangered Species Act of 1973 (16
 12 U.S.C. 1544) is amended—

13 (1) by inserting “, and make publicly available
 14 on the website data.gov,” after “to the Congress”; and

15 (2) in paragraph (1), by inserting “, including
 16 any such expenditures made with respect to an exper-
 17 imental population (as that term is defined in section
 18 10(j))” after “to this Act”.

19 **TITLE V—STREAMLINING**
 20 **PERMITTING PROCESS**

21 **SEC. 501. LIMITATION ON REASONABLE AND PRUDENT**
 22 **MEASURES.**

23 Section 7(b)(4) of the Endangered Species Act of 1973
 24 (16 U.S.C. 1536(b)(4)) is amended—

1 (1) in subparagraph (A), by adding “and” at the
2 end;

3 (2) in subparagraph (B), by striking “and” at
4 the end;

5 (3) by striking subparagraph (C);

6 (4) by striking “taking on the species,” and in-
7 serting “taking on the species, including, as nec-
8 essary, through the use of a substitute used to rep-
9 resent a listed species, habitat, or an ecological func-
10 tion to express the amount or extent of such inci-
11 dental taking;”;

12 (5) by striking “minimize such impact,” and in-
13 serting “minimize such impact and that do not pro-
14 pose, recommend, or require the Federal agency or the
15 applicant concerned, if any, to mitigate or offset such
16 impact; and”;

17 (6) by striking “measures specified under clauses
18 (ii) and (iii)” and inserting “measures specified
19 under clause (ii)”;

20 (7) by striking clause (iii); and

21 (8) by redesignating clause (iv) as clause (iii).

22 **SEC. 502. SUCCESSIVE CONSULTATIONS.**

23 Section 7(b) of the Endangered Species Act of 1973
24 (16 U.S.C. 1536(b)) is amended by adding at the end the
25 following:

1 “(5)(A) *With respect to an ongoing agency action for*
2 *which the applicable Federal agency has adopted a reason-*
3 *able and prudent alternative or a reasonable and prudent*
4 *measure to comply with subsection (a)(2), in any subse-*
5 *quent consultation for the agency action that occurs 10*
6 *years or more after the date on which the initial consulta-*
7 *tion for the agency action was completed, the Secretary*
8 *shall determine whether continuing to implement the rea-*
9 *sonable and prudent alternative or reasonable and prudent*
10 *measure will materially increase the likelihood of and re-*
11 *duce the time for recovery of the applicable threatened spe-*
12 *cies or endangered species.*

13 “(B) *If the Secretary determines under subparagraph*
14 *(A) that continued implementation of the reasonable and*
15 *prudent alternative or reasonable and prudent measure will*
16 *not materially increase the likelihood of and shorten the*
17 *time for the recovery of the applicable threatened species*
18 *or endangered species, the Federal agency shall discontinue*
19 *implementation of the reasonable and prudent alternative*
20 *or reasonable and prudent measure notwithstanding sub-*
21 *section (a)(2).”.*

22 **SEC. 503. CLARIFYING JEOPARDY.**

23 *Section 7(a) of the Endangered Species Act of 1973*
24 *(16 U.S.C. 1536(a)) is amended by adding at the end the*
25 *following:*

1 “(5)(A) *In carrying out a consultation under para-*
 2 *graph (2) or a conference under paragraph (4), the Sec-*
 3 *retary—*

4 “(i) *except as provided in clause (ii), may only con-*
 5 *sider the effects of the action that is the subject of such con-*
 6 *sultation or conference that the Secretary determines, based*
 7 *on clear and substantial information, using the best sci-*
 8 *entific and commercial data available, and in accordance*
 9 *with subparagraphs (B) and (C), respectively, are caused*
 10 *by the action itself and are reasonably certain to occur; and*

11 “(ii) *shall consider as a beneficial effect of the*
 12 *action that is the subject of such consultation or con-*
 13 *ference any avoidance, minimization, or mitigation*
 14 *measure proposed by the applicable Federal agency or*
 15 *the applicant, if any.*

16 “(B) *In determining whether an effect of an action de-*
 17 *scribed in subparagraph (A)(i) is caused by the action*
 18 *itself, the Secretary shall consider whether—*

19 “(i) *the effect is so remote in time from the ac-*
 20 *tion under consultation that it is not reasonably cer-*
 21 *tain to occur;*

22 “(ii) *the effect is so geographically remote from*
 23 *the immediate area involved in the action that it is*
 24 *not reasonably certain to occur;*

1 “(iii) the effect is only reached through a lengthy
2 causal chain such that the effect not reasonably cer-
3 tain to occur;

4 “(iv) the applicable Federal agency does not have
5 the ability to prevent the effect due to its limited stat-
6 utory authority; or

7 “(v) would occur regardless of whether the action
8 is carried out.

9 “(C) In determining whether an effect of an action de-
10 scribed in subparagraph (A)(i) is reasonably certain to
11 occur, the Secretary shall consider factors including the fol-
12 lowing:

13 “(i) Experiences with other such actions that are
14 similar in scope, nature, and magnitude to the appli-
15 cable such action.

16 “(ii) Plans for such action.

17 “(iii) Any economic, administrative, or legal re-
18 quirement necessary for the action to be carried out
19 that has not been fulfilled.

20 “(iv) Whether the effect has been observed pre-
21 viously and to what extent.

22 “(D) In carrying out a consultation under paragraph
23 (2) or a conference under paragraph (4), the Secretary may
24 not consider an effect of the action that is the subject of
25 such consultation or conference for which there is not clear

1 *and substantial information for the Secretary to base a de-*
 2 *termination on under subparagraph (A)(i) that the effect*
 3 *of the action is reasonably certain to occur.*

4 “(E) *In this paragraph, the terms ‘effect of the action’*
 5 *and ‘effects of the action’ mean a consequence or all con-*
 6 *sequences, respectively, to listed species or critical habitat*
 7 *that is or are caused by the proposed action.”.*

8 **SEC. 504. CLARIFYING ACTION AREA.**

9 *Section 7(b)(3)(A) of the Endangered Species Act of*
 10 *1973 (16 U.S.C. 1536(b)(3)(A)) is amended to read as fol-*
 11 *lows:*

12 “(A)(i) *Promptly after conclusion of consultation*
 13 *under paragraph (2) or (3) of subsection (a), the Secretary*
 14 *shall provide to the Federal agency and the applicant, if*
 15 *any, a written statement setting forth the Secretary’s opin-*
 16 *ion, and a summary of the information on which the opin-*
 17 *ion is based, detailing how the agency action affects the spe-*
 18 *cies or its critical habitat within the area directly affected*
 19 *by the agency action, which such area may not be specula-*
 20 *tive or remote in time or distance from the agency action.*
 21 *In so doing, the Secretary shall differentiate the effects of*
 22 *the agency action from the environmental baseline.*

23 “(ii) *If jeopardy or adverse modification is found, the*
 24 *Secretary, in cooperation and consultation with the Federal*
 25 *agency and applicant, if any, shall consider a range of rea-*

1 *sonable and prudent alternatives and suggest from among*
 2 *that range those reasonable and prudent alternatives which*
 3 *the Secretary believes—*

4 “(I) *would not violate subsection (a)(2);*

5 “(II) *can be taken by the Federal agency or ap-*
 6 *plicant, if any, in implementing the agency action;*

7 “(III) *are economically and technologically fea-*
 8 *sible for the Federal agency and applicant, if any, to*
 9 *implement; and*

10 “(IV) *impose the fewest economic and other rel-*
 11 *evant costs for the applicant, if any.”.*

12 **SEC. 505. JUDICIAL REVIEW.**

13 *Section 7(n) of the Endangered Species Act of 1973*
 14 *(16 U.S.C. 1536(n)) is amended—*

15 (1) *by striking “Any person, as defined by sec-*
 16 *tion 3(13) of this Act,” and inserting “(1) Any per-*
 17 *son”;*

18 (2) *in paragraph (1), as so designated, by redes-*
 19 *ignating paragraphs (1) and (2) as subparagraphs*
 20 *(A) and (B), respectively; and*

21 (3) *by adding at the end the following:*

22 “(2) *Any person may obtain judicial review, under*
 23 *chapter 7 of title 5 of the United States Code, of any opin-*
 24 *ion issued by the Secretary under subsection (b) of this sec-*
 25 *tion in the United States Court of Appeals for the District*

1 of Columbia by filing in such court not later than 150 days
 2 after the date on which the opinion is issued a written peti-
 3 tion for review.”.

4 **SEC. 506. EXPANSION OF EXEMPTION PROCESS AND ELIGI-**
 5 **BILITY UNDER SECTION 7 OF ENDANGERED**
 6 **SPECIES ACT OF 1973.**

7 Section 7 of the Endangered Species Act of 1973 (16
 8 U.S.C. 1536) is amended—

9 (1) in subsection (g)—

10 (A) in paragraph (1), to read as follows:

11 “(1)(A) A Federal agency, the Governor of the State
 12 in which an agency action will occur, if any, or a permit
 13 or license applicant may apply to the Secretary for an ex-
 14 emption for an agency action of such agency if, after con-
 15 sultation under subsection (a)(2), the Secretary’s opinion
 16 under subsection (b) indicates that—

17 “(i) the agency action would violate subsection
 18 (a)(2); or

19 “(ii) a reasonable and prudent alternative nec-
 20 essary for the agency action to comply with subsection
 21 (a)(2) may—

22 “(I) impair national security; or

23 “(II) result in significant adverse national
 24 or regional economic impacts.

1 “(B) *An application for an exemption shall be consid-*
 2 *ered initially by the Secretary in the manner provided for*
 3 *in this subsection, and shall be considered by the Committee*
 4 *for a final determination under subsection (h) after a report*
 5 *is made pursuant to paragraph (5).*

6 “(C) *The applicant for an exemption shall be referred*
 7 *to as the ‘exemption applicant’ in this section.’;*

8 *(B) in paragraph (3)—*

9 *(i) in subparagraph (A), to read as fol-*
 10 *lows:*

11 “(A) *determine—*

12 *“(i) that the Federal agency concerned and*
 13 *the exemption applicant have—*

14 *“(I) carried out the consultation re-*
 15 *sponsibilities described in subsection (a) in*
 16 *good faith and made a reasonable and re-*
 17 *sponsible effort to develop and fairly con-*
 18 *sider reasonable and prudent alternatives to*
 19 *the proposed agency action which would not*
 20 *violate subsection (a)(2);*

21 *“(II) conducted any biological assess-*
 22 *ment required by subsection (c); and*

23 *“(III) to the extent determinable with-*
 24 *in the time provided herein, refrained from*
 25 *making any irreversible or irretrievable*

1 *commitment of resources prohibited by sub-*
2 *section (d); and*

3 *“(ii) if the exemption applicant submitted*
4 *to the Secretary the application for exemption*
5 *pursuant to paragraph (1)(A)(ii), whether a rea-*
6 *sonable and prudent alternative necessary for the*
7 *proposed agency action to comply with sub-*
8 *section (a)(2) may—*

9 *“(I) impair national security; or*

10 *“(II) result in significant adverse na-*
11 *tional or regional economic impacts; or”;*
12 *and*

13 *(ii) in subparagraph (B), by striking*

14 *“(i), (ii), and (iii)”;*

15 *(C) in paragraph (4), by striking “(i), (ii)*

16 *and (iii)”;* *and*

17 *(D) in paragraph (5)—*

18 *(i) by redesignating subparagraphs (B)*

19 *through (D) as subparagraphs (C) through*

20 *(E), respectively; and*

21 *(ii) by inserting after subparagraph*

22 *(A) the following:*

23 *“(B) if the exemption applicant submitted to the*

24 *Secretary the application for exemption pursuant to*

25 *paragraph (1)(A)(ii), after consultation with the Na-*

1 *tional Security Council regarding potential impacts*
 2 *to national security and the Director of the National*
 3 *Economic Council regarding potential significant ad-*
 4 *verse national and regional economic impacts, any*
 5 *impairment to national security or significant ad-*
 6 *verse national or regional economic impacts that*
 7 *would result from a reasonable and prudent alter-*
 8 *native necessary for the agency action to comply with*
 9 *subsection (a)(2), including a description of the anal-*
 10 *ysis and conclusions produced by the National Secu-*
 11 *urity Council and the Director of the National Eco-*
 12 *nomics Council as a result of each such consultation;”;*
 13 *and*

14 *(2) in subsection (h)(1)(A)(i), to read as follows:*

15 *“(i)(I) there are no reasonable and prudent*
 16 *alternatives to the agency action; or*

17 *“(II) with respect to an agency action the*
 18 *application for exemption of which was sub-*
 19 *mitted to the Secretary pursuant to subsection*
 20 *(g)(1)(A)(ii), a reasonable and prudent alter-*
 21 *native necessary for the agency action to comply*
 22 *with subsection (a)(2) may—*

23 *“(aa) impair national security; or*

24 *“(bb) result in significant adverse na-*
 25 *tional or regional economic impacts;”.*

1 ***TITLE VI— ELIMINATING***
 2 ***BARRIERS TO CONSERVATION***

3 ***SEC. 601. PERMITS FOR CITES-LISTED SPECIES.***

4 *Section 9(c)(2) of Endangered Species Act of 1973 (16*
 5 *U.S.C. 1538(c)(2)) is amended to read as follows:*

6 “(2) *An export from or import into the United States*
 7 *of fish or wildlife listed as a threatened species or an endan-*
 8 *gered species pursuant to section 4 is lawful under this Act*
 9 *and not subject to permit requirements or other regulations*
 10 *issued by the Secretary with respect to exportation and im-*
 11 *portation pursuant to this Act if—*

12 “(A) *such fish or wildlife—*

13 “(i) *is a species that is not native to the*
 14 *United States; and*

15 “(ii) *is listed in Appendix I or II of the*
 16 *Convention; and*

17 “(B) *with respect to the export or import, each*
 18 *applicable requirement—*

19 “(i) *of the Convention is satisfied; and*

20 “(ii) *of subsections (d), (e), and (f) is satis-*
 21 *fied.”.*

22 ***SEC. 602. UTILIZE CONVENTION STANDARD FOR PERMITS***
 23 ***APPLICABLE TO NON-NATIVE SPECIES.***

24 *Section 10(a)(1) of the Endangered Species Act of 1973*
 25 *(16 U.S.C. 1539(a)(1)) is amended—*

1 (1) in subparagraph (A), to read as follows:

2 “(A)(i) with respect to a species that is native to
3 the United States, any act otherwise prohibited by
4 section 9 for scientific purposes or to enhance the
5 propagation or survival of the affected species, includ-
6 ing acts necessary for the establishment and mainte-
7 nance of experimental populations pursuant to sub-
8 section (j); and

9 “(ii) with respect to a species that is not native
10 to the United States, any act otherwise prohibited by
11 section 9 that the Secretary determines is not detri-
12 mental to the survival of the species, including—

13 “(I) the export or import, delivery, receipt,
14 carrying, transporting, or shipping in interstate
15 or foreign commerce; and

16 “(II) buying or selling or offering for sale
17 in interstate or foreign commerce; or”; and

18 (2) by adding at the end the following:

19 “(C) In this subsection, the term ‘is not detri-
20 mental to the survival of the species’ means—

21 “(i)(I) will not have a negative effect on the
22 status of the species in the wild;

23 “(II) is not a use or removal from the wild
24 that will result in the loss or destruction of crit-
25 ical habitat of the species; and

1 “(III) will not directly interfere with recov-
2 ery efforts with respect to the species; or

3 “(ii) is an activity—

4 “(I) involving wildlife described in sec-
5 tion 17.21(g)(1) of title 50, Code of Federal
6 Regulations; and

7 “(II) that satisfies the conditions for
8 registration under clauses (iii) through (v)
9 of that section.”.

10 **TITLE VII—RESTORING** 11 **CONGRESSIONAL INTENT**

12 **SEC. 701. LIMITING AGENCY REGULATIONS.**

13 Section 11(f) of the Endangered Species Act of 1973
14 (16 U.S.C. 1540(f)) is amended—

15 (1) by striking “The Secretary,” and inserting
16 the following:

17 “(1) *IN GENERAL.*—The Secretary,”;

18 (2) in paragraph (1), as so designated, by strik-
19 ing “to enforce this Act” and inserting “to enforce
20 this section and section 8A”; and

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

22 “(2) *RULE OF CONSTRUCTION.*—This subsection
23 may not be construed to be an independent source of
24 authority to promulgate regulations to enforce the

- 1 *provisions of this Act other than those included in*
- 2 *this section and section 8A.”.*

Union Calendar No. 489

119TH CONGRESS
2D Session

H. R. 1897

[Report No. 119-568]

A BILL

To amend the Endangered Species Act of 1973 to optimize conservation through resource prioritization, incentivize wildlife conservation on private lands, provide for greater incentives to recover listed species, create greater transparency and accountability in recovering listed species, streamline the permitting process, eliminate barriers to conservation, and restore congressional intent.

MARCH 24, 2026

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