

## Calendar No. 237

115TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
115-168

### THE HUNTING HERITAGE AND ENVIRONMENTAL LEGACY PRESERVATION FOR WILDLIFE ACT

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OCTOBER 5, 2017.—Ordered to be printed

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Mr. BARRASSO, from the Committee on Environment and Public  
Works, submitted the following

### R E P O R T

together with

### ADDITIONAL AND MINORITY VIEWS

[To accompany S. 1514]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 1514) to amend certain Acts to reauthorize those Acts and to increase protections for wildlife, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

### GENERAL STATEMENT AND BACKGROUND

The Hunting Heritage and Environmental Preservation for Wildlife Act is a comprehensive conservation bill. It promotes common sense environmental regulation and enhanced recreational hunting and sport fishing activities as important components for sustaining wildlife and wildlife habitat. Recreational activities associated with the great outdoors generate hundreds of billions of dollars annually for the nation's economy while simultaneously creating millions of jobs and substantial federal and state tax revenues. Further, sportsmen and women across the United States rank among the most avid environmentalists, contributing billions of dollars towards conservation efforts in the form of licensing fees, taxes, and voluntary contributions.

*Pittman-Robertson conservation grants for shooting ranges*

Under the Pittman-Robertson Act, excise taxes are collected on sporting equipment and ammunition. These revenues can be used to develop and maintain public shooting ranges, as well as provide wildlife conservation funding. The Committee received testimony that because of Pittman-Robertson excise tax payments, sportsmen and associated manufacturers are the largest financial supporters of wildlife conservation throughout the United States. Such groups have contributed more than \$12 billion to habitat conservation, recreational shooting, and wildlife management since the start of the program.

Despite such contributions and the growing popularity of recreational shooting, Pittman-Robertson funds have not always been used in a manner that encourages such opportunities. Public shooting ranges also provide hunter education opportunities, including safety training. If anything, there is a shortage of money and support for the building and expansion of public target ranges on national forest and Bureau of Land Management lands. Conversely, providing states with increased flexibility in the use of Pittman-Robertson funds for projects would increase opportunities for the country's growing population to embrace treasured public lands and their 2nd Amendment rights.

*Treatment of normal agricultural activities under the Migratory Bird Treaty Act*

Under the Migratory Bird Treaty Act (MBTA) the hunting of migrating birds by aid of baiting or on or over any baited area can result in fines up to \$15,000. This jeopardy stems in large part from the fact that the statute, which prohibits the hunting of migratory birds over bait and baited areas, does not define the terms "baiting" or "baited area." Corresponding regulations are also unclear regarding whether some normal agricultural practices that might leave crop residues in a field are considered to be "baiting" and thus prohibit hunting over these fields. Thus, many stakeholders following U.S. Department of Agriculture and state direction regarding what constitutes "normal agricultural practices" face potential liability over illegal baiting as a result of their normal practices. These necessary agricultural practices often result in excellent waterfowl habitat that can be used to generate substantial economic revenue through hunting. To alleviate this confusion, testimony received by the committee favored changes to the law to clarify the definition of normal agricultural practices. Testimony submitted to the committee suggests such clarification would lead to increased profits from hunting leases and enhanced agricultural production.

*North American Wetlands Conservation Act*

The North American Wetlands Conservation Act (NAWCA) is a program that provides grants to organizations and individuals who have developed partnerships to carry out wetlands conservation projects in the United States, Canada, and Mexico for the benefit of wetlands-associated migratory birds and other wildlife. According to testimony received by the Committee, while original wetlands across the United States are disappearing at an alarming rate, NAWCA has led to significant economic and natural benefits

because of its conservation of 33.4 million acres of wetlands across North America. Testimony also described the fiscally responsible nature of the program, as each federal dollar invested is matched by an average of \$3.20 from non-federal partners. The authorization of appropriations for this Act expired in 2012.

#### *National Fish and Wildlife Foundation*

Congress created the National Fish and Wildlife Foundation (NFWF) in 1984 to bridge the public and private sector to protect and restore the country's fish, wildlife, and plant habitats. NFWF is an independent 501(c)(3) nonprofit organization. Its Board of Directors is made up of 30 members who are appointed by the Secretary of the Interior. It supports programs in all 50 states and U.S. territories. The authorization of appropriations for the National Fish and Wildlife Foundation Establishment Act expired in 2010.

#### *Neotropical Migratory Bird Conservation Act*

The Neotropical Migratory Bird Treaty Act (the Act) provides grants to support conservation of the migratory bird population and fosters international cooperation for initiatives that will perpetuate healthy bird populations. Since 2002, the Act has provided more than \$58.5 million in grants to support 510 projects in 36 countries. The law originally enacted in 2000 authorized \$5 million per year. This language would extend authorization of \$6.5 million per year for five fiscal years. Additionally, a minimum of 75 percent of the funds must be used for projects outside the United States. The authorization of appropriations for this Act expired in 2010.

#### *Gray wolves*

On December 28, 2011, the U.S. Fish and Wildlife Service finalized a rule to remove the gray wolf in the Western Great Lakes (including Michigan, Minnesota, and Wisconsin) from the federal list of threatened or endangered species. However, on December 18, 2014, a federal judge overruled this decision, restoring federal protection for the species in that geographical area. The United States Court of Appeals for the District of Columbia Circuit affirmed this decision on August 1, 2017.

According to testimony received by the Committee, the gray wolf populations in Michigan, Minnesota, and Wisconsin have "clearly recovered, exceeding their original recovery targets by approximately ten times." According to USFWS estimates, there are over 600 wolves in Michigan, 850 in Wisconsin, and 2,000 in Minnesota. Testimony before this Committee further stated that, due to a combination of the history of the species and the ambiguity surrounding the Endangered Species Act ("ESA"), it is unlikely USFWS would be able to successfully remove gray wolves in the Western Great Lakes from the list absent intervention by Congress.

On August 31, 2012, USFWS announced its intention to publish a final rule removing gray wolves in Wyoming from the federal list of threatened or endangered species. Beginning on September 30, 2012, wolves in Wyoming were managed by the state under an approved management plan. However, on September 23, 2014, a fed-

eral judge overruled USFWS's decision, restoring federal protection for the species in Wyoming.

On March 3, 2017, the U.S. Court of Appeals for the District of Columbia upheld the USFWS's 2012 rule delisting the gray wolf in Wyoming in *Defenders of Wildlife v. Zinke*. The Court subsequently issued a mandate that culminated in the USFWS reinstating the 2012 rule on May 1, 2017. Nevertheless, while state management of the gray wolf has been reestablished in the state, the possibility of overturning the May 1, 2017, rule (as has happened on prior occasions) remains a possibility unless new law is enacted prohibiting further judicial review.

#### *TSCA regulation of sport fishing equipment*

In 2010 and 2012, some groups concerned about the health impacts of lead in the environment unsuccessfully sought to have the Obama administration's Environmental Protection Agency regulate recreational fishing tackle under the Toxic Substances Control Act (TSCA). The Committee received testimony related to these concerns, including questions about the science underpinning these claims and the potential economic impacts of banning lead from fishing tackle.

Specifically, the Committee received testimony from sportsmen's organizations that regulating tackle under TSCA would likely result in significant increases in higher fishing tackle prices for sportsmen due to the considerably higher raw materials and manufacturing costs associated with lead alternatives. The impact of these price increases, according to this testimony, would not only result in fewer recreational anglers, but also lead to significant job losses in the manufacturing sector of the U.S. economy.

#### *The Chesapeake Bay Program*

The Chesapeake Bay (the Bay) is the United States' largest estuary and the first such identified for protection and restoration. It encompasses six states and the District of Columbia, spans over 64,000 square miles, includes 3,600 species of plants and animals, and provides sustenance and recreation for millions of Americans. According to testimony, the estuary has recently undergone noteworthy ecological recovery in the wake of many years of degradation.

The Chesapeake Bay Program is a regional partnership dedicated to the Bay's restoration since 1983. Partners collaborating under the program to restore its health include federal and state agencies, local governments, nonprofit organizations and education institutions. The authorization of appropriations for this program expired in 2005.

#### *The Chesapeake Bay Gateways and Watertrails Program*

The Chesapeake Bay Gateways and Watertrails Program is comprised of two main components. The Chesapeake Bay Gateways and Watertrails Network consists of 170 sites dispersed throughout Virginia, Maryland, Delaware, Pennsylvania and Washington, D.C. The goal of these sites, which consist of a mixture of historic communities, museums, parks, and refuges, are to foster greater Bay-area appreciation. In addition, state, community, and other non-governmental entities are able to get technical and financial assist-

ance through the Chesapeake Bay Gateways Grants Assistance Program. The goal of these grants is to increase access to the Bay and its surrounding areas. The authorization of appropriations for these programs expires at the end of fiscal year 2017.

#### *Fish Habitat Conservation*

The National Fish Habitat Partnership is a program to conserve the nation's fish and aquatic communities through partnerships that foster fish habitat conservation. It was modeled after the success of NAWCA. It supports existing fish habitat partnerships and works to foster new efforts. Additionally, it is focused on setting national goals to improve aquatic systems and reverse the decline of healthy fish habitats. According to testimony received by the Committee, the Partnership has conserved millions of miles of coastal and riparian ecosystems and its \$63 million in federal funding has led to \$102 million in matching funds from a combination of state and local governments, private landowners, and other stakeholders.

#### *Importation of polar bear trophies legally harvested before May 15, 2008*

The Marine Mammal Protection Act (MMPA) was enacted in 1972 to prohibit, with certain exceptions, the "take" of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the U.S. MMPA protection extends to all marine mammals. One exception to the MMPA provides that the Secretary of the Interior may issue a permit for the importation of legally harvested polar bears taken in sport hunts in Canada (16 U.S.C. 1374(5)(a)).

However, on May 15, 2008, the United States Fish and Wildlife Service (USFWS) listed the polar bear as "threatened" under the Endangered Species Act (ESA). Under Section 9 "Prohibited Act", the USFWS prohibits the importation of any such species into the United States (16 U.S.C. 1538 (a)(1)(b)). Thus, any polar bear trophies that were legally harvested before May 15, 2008, but not imported into the United States, were not granted import permits. USFWS estimates 41 polar bears were legally harvested from approved populations in Canada before the polar bear was listed as threatened under the ESA. The Committee recognizes that the permitting process for sport hunts in another country can take a significant amount of time to complete. It also recognizes that polar bears were legally taken in Canada, for which the permitting process began before the USFWS considered the polar bear for listing.

#### *Land-grant institutions and Pittman-Robertson*

Pittman-Robertson funds can be used to benefit wildlife resources and to provide opportunities for hunter education. However, USFWS has determined that land previously purchased by land-grant institutions with federal dollars, or donated to them by the federal government, is ineligible to be used to fulfill the grant matching requirements of Pittman-Robertson because of its previous federal status.

#### *The Great Lakes Basin*

The Great Lakes, consisting of Lake Superior, Lake Huron, Lake Michigan, Lake Ontario, and Lake Erie comprise the largest body

of fresh water on the planet, with a surface area of 94,000 square miles. In addition, the basin is home to around 30 million Americans—about 10 percent of the U.S. population. According to the National Oceanic and Atmospheric Administration (NOAA), 1.5 million jobs are associated with the Great Lakes, along with \$62 billion in wages. It is home to approximately 3,500 different species of plants and animals.

These lakes support a diverse ecosystem upon which the region's fisheries industry depends. Currently, appropriations made to the U.S. Geological Survey under a variety of disparate statutory authorities fund research to support these fisheries. This disparate approach has challenged the region and prevented investments in the science and technology needed for sound and reliable fishery research that is needed in turn to support recreational sport fishing, commercial fisheries, tribal harvests, allocations decisions, and fish stocking activities.

#### OBJECTIVES OF THE LEGISLATION

The HELP for Wildlife Act contains a number of provisions that will extend programs vital to conservation efforts, correct inconsistencies in the law, and increase access to hunting and fishing.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This Act may be cited as the “Hunting Heritage and Environmental Legacy Preservation for Wildlife Act” or “HELP for Wildlife Act.”

##### *Section 2. Target practice and marksmanship*

Subsection (a) states that the purpose of this section is to facilitate the construction and expansion of public target ranges, including on Forest Service and Bureau of Land Management lands.

Subsection (b) defines the term “public target range” as a specific location that is identified by a governmental agency for recreational shooting, is open to the public, may be supervised, and may accommodate archery or rifle, pistol, or shotgun shooting.

Subsection (c) amends the Pittman-Robertson Wildlife Restoration Act to provide 5 years for obligation of funds, allowing projects to be funded over multiple budget cycles; to allow a state to pay up to 90 percent of the costs of acquiring land for, expanding, or constructing public target ranges (the current maximum is 75 percent); and to increase the federal cost-share for public ranges to up to 90 percent.

Subsection (d) states that it is the sense of Congress that federal land agencies should cooperate with state and local governments to maintain shooting ranges.

##### *Section 3. Baiting of migratory game birds*

This section amends the Migratory Bird Treaty Act by defining the terms “baited area,” “baiting,” and “normal agricultural practices” to ensure that practices carried out to produce a marketable crop that are recommended by the applicable state office of the U.S. Department of Agriculture’s Cooperative Extension System, and, if requested, with the concurrence of the head of the applica-

ble state fish and wildlife department, are not considered baiting under the Act.

*Section 4. North American Wetlands Conservation Act*

This section reauthorizes the North American Wetlands Conservation Act at \$50 million per year for fiscal years 2018 through 2022, and clarifies that property conveyed under this Act be maintained for conservation purposes.

*Section 5. National Fish and Wildlife Foundation Establishment Act*

This section requires the Secretary of the Interior, in consultation with the Secretary of Commerce and considering recommendations submitted by the Board of the National Fish and Wildlife Foundation (Foundation), to appoint 28 Directors for the Foundation to six-year terms. The Directors are to be knowledgeable in the conservation of fish, wildlife, or other natural resources, and represent a balance of expertise in ocean, coastal, freshwater, and terrestrial resource conservation. It also reauthorizes appropriations for the Foundation at \$25 million per year for fiscal years 2018 through 2022.

*Section 6. Reauthorization of Neotropical Migratory Bird Conservation Act*

This section reauthorizes the Neotropical Migratory Bird Conservation Act at \$6.5 million per year for fiscal years 2018 through 2022.

*Section 7. Reissuance of final rule regarding gray wolves in Western Great Lakes*

This section requires the Secretary of the Interior to reissue the final rule published on December 28, 2011, which would de-list the gray wolf in the Western Great Lakes from the Endangered Species Act. The reissuance is not subject to judicial review.

*Section 8. Reissuance of final rule regarding gray wolves in Wyoming*

This section states that the final rule published on September 10, 2012 (77 Fed. Reg. 55530) that was reinstated on March 3, 2017, by the decision of the U.S. Court of Appeals for the District of Columbia (No. 14–5300) and further republished on May 1, 2017 (82 Fed. Reg. 20284) that reinstates the removal of federal protections for the gray wolf in Wyoming under the Endangered Species Act of 1973, as amended, shall not be subject to judicial review.

*Section 9. Modification of definition of sport fishing equipment under Toxic Substances Control Act*

This section would make permanent the appropriations language that bans the Environmental Protection Agency from regulating sport fishing equipment (as such term is defined in section 4162(a) of the Internal Revenue Code of 1986) under the Toxic Substances Control Act.

*Section 10. Reauthorization of the Chesapeake Bay Program*

This section reauthorizes appropriations for the Chesapeake Bay Program at \$90 million per year for fiscal years 2018 through 2022.

*Section 11. Reauthorization of the Chesapeake Bay Initiative Act of 1998*

This section reauthorizes appropriations of \$3 million for the Chesapeake Bay Gateways and Watertrails Network and the Chesapeake Bay Gateways Grants Assistance Program for each fiscal year through 2023.

*Section 12. National fish habitat conservation through partnerships*

Subsection (a) states that the purpose is to encourage partnerships among public agencies and other interested parties to promote fish conservation.

Subsection (b) provides definitions of several terms used in the Act.

Subsection (c) establishes the National Fish Habitat Board to oversee and promote the implementation of the Act, to establish national goals and priorities, to recommend partnerships for Congressional designation, and to review and recommend aquatic habitat projects.

Subsection (d) establishes procedures for recommending Fish Habitat Partnerships for Congressional designation and outlines criteria for such a recommendation. It also requires that within five years of the HELP for Wildlife Act's enactment that any Fish Habitat Partnership existing at the time of enactment that is receiving federal funds be subject to a Congressional designation review. Those Fish Habitat Partnerships existing at the time of enactment that do not receive Congressional designation within the five-year period will be ineligible for federal funds.

Subsection (e) establishes procedures for consideration of fish habitat projects by the Board and criteria for the Board to use in evaluating and recommending projects for funding to the Secretaries of Interior and Commerce. The non-federal share of the cost of a fish habitat conservation project may not be derived from another federal grant program. Therefore, only state, local, or other non-federal entities may contribute to the non-Federal cost share.

Subsection (f) authorizes technical and scientific assistance from the Director of the USFWS, Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration and Director of the United States Geological Survey, to provide technical and scientific assistance to the Fish Habitat Partnerships.

Subsection (g) provides that the Secretary of the Interior shall provide a notice to the appropriate State or tribal agency within which an activity is planned to be carried out pursuant with this Act no later than 30 days before the planned activity is implemented.

Subsection (h) requires the Director, in cooperation with other agencies, to develop an interagency operational plan.

Subsection (i) requires the Board to submit reports to appropriate Congressional committees on the implementation of this section. This subsection also requires the Board to submit to the appropriate Congressional committees a report describing the status



of aquatic habitats in the United States by December 31, 2018, and each five years thereafter.

Subsection (j) states that nothing in this Act establishes a water right in the United States, affects any water right in existence, or affects state water law. This section further clarifies that nothing in the Act affects state rights to manage wildlife and fish, affects tribal rights, affects existing federal authorities for land or water acquisition, or enables the use of funds provided by the Act to acquire real property without the consent of the property owner. This section also states that nothing in this Act allows the use of funds for fish and wildlife mitigation under existing federal laws and court settlements.

Subsection (k) exempts the Board and Partnership from the Federal Advisory Committee Act.

Subsection (l) authorizes \$7.2 million per year for fiscal years 2018 through 2022 for the Secretary of the Interior to provide funds for approved fish habitat conservation projects, of which five percent shall be made available for each fiscal year for projects carried out by Indian tribes. This section authorizes five percent of the funds be used for administrative expenses and authorizes the Secretary to transfer \$500,000 to each of USFWS, NOAA, EPA and the U.S. Geological Survey for technical and scientific assistance.

Subsection (m) prohibits a Partnership established under this section from being used to implement any regulatory authority of any federal agency.

*Section 13. Permits for importation of polar bear trophies taken in sports hunts in Canada*

This section amends the Marine Mammal Protection Act to require the Secretary of the Interior to issue import permits for polar bear trophies legally taken in a sport hunt in Canada, as long as the individual seeking the permit submits proper documentation, including documentation that the trophy was taken before May 15, 2008. Under this section, the 41 legally harvested polar bears taken prior to the species' "threatened" listing that remain in Canada will be granted permits for importation if proper documentation is provided.

*Section 14. Great Lakes monitoring, assessment, science, and research*

This section authorizes \$15 million per year for fiscal years 2018 through 2022 for the USGS to conduct critical monitoring, scientific assessments, and research to support fisheries within the Great Lakes Basin. This authorization allows USGS to seek funding for these activities under a single legislative authority, instead of relying on multiple authorities, and places an authorization ceiling on these activities.

*Section 15. Use of value of land for cost sharing*

This section permits land-grant institutions to satisfy their matching portion under Pittman-Robertson with the value of any land they own as an in-kind match, regardless of whether the land was previously purchased with federal funds.

## LEGISLATIVE HISTORY

The HELP for Wildlife Act was introduced by Senators Barrasso, Cardin, Boozman, Klobuchar, Capito, and Baldwin on June 29, 2017. The bill was referred to the Committee on Environment and Public Works. The Committee ordered S. 1514 favorably reported with an amendment in the nature of a substitute on July 26, 2017.

## HEARINGS

On July 19, 2017, the Committee on Environment and Public Works held an oversight hearing entitled, “*Legislative Hearing on S.1514, the Hunting Heritage and Environmental Legacy Preservation (HELP) for Wildlife Act.*” Testimony was received from:

- Brian Nesvik, Chief Game Warden, Wyoming Game and Fish Department
- Jeff Crow, Director, Arkansas Game and Fish Commission
- Dale Hall, CEO, Ducks Unlimited and Former Director, U.S. Fish and Wildlife Service
- Kim Coble, Vice President, Environmental Protection & Restoration, The Chesapeake Bay Foundation
- John Vucetich, Ph.D., Associate Professor, School of Forest Resources and Environmental Science, Michigan Technological University

The Committee received written support from over 50 conservation and sportsmen’s groups.<sup>1</sup>

## ROLLCALL VOTES

On July 26, 2017, the Senate Committee on Environment and Public Works conducted a business meeting to consider S.1514. The bill was favorably reported out of Committee by a roll call vote of 14 ayes and 7 nays with an amendment in the nature of a substitute.

*Amendments approved*

Duckworth #1—An amendment authorizing \$15 million for each fiscal year between 2018 and 2022 for the U.S. Geological Survey to conduct monitoring, assessment, science, and research in support of fisheries within the Great Lakes Basin (adopted by voice vote).

Revised Inhofe #1—An amendment to include a provision relating to the use of the value of certain land by land-grant institutions for purposes of cost sharing under Pittman-Robertson (adopted by voice vote).

Sullivan #1—An amendment permitting the importation of polar bear trophies taken from legal hunts in Canada prior to the listing decision for the species, so long as proper proof the bear was legally harvested prior to the listing date was provided (adopted by a voice vote, with Senators Booker, Cardin, Duckworth, Gillibrand, Harris, Markey, and Merkley recorded as nay).

By unanimous consent, these amendments were incorporated into the bill as part of an amendment in the nature of a substitute.

<sup>1</sup> <https://www.epw.senate.gov/public/index.cfm/help-for-wildlife-act>.

*Amendments rejected*

Carper #1—An amendment to strike sections 7 and 8 regarding gray wolves in Wyoming and the Western Great Lakes from S. 1514 failed by a roll call vote of 10 ayes and 11 nays (Senators Booker, Cardin, Carper, Duckworth, Gillibrand, Harris, Markey, Merkley, Sanders, and Whitehouse voted aye. Senators Boozman, Capito, Ernst, Fischer, Inhofe, Moran, Rounds, Shelby, Sullivan, Wicker, and Barrasso voted nay).

*Final Committee vote to report*

S. 1514 was ordered favorably reported by a roll call vote of 14 ayes and 7 nays with an amendment in the nature of a substitute (Senators Barrasso, Boozman, Capito, Cardin, Carper, Duckworth, Ernst, Fischer, Inhofe, Moran, Rounds, Shelby, Sullivan, and Wicker voted aye. Senators Booker, Gillibrand, Harris, Markey, Merkley, Sanders, and Whitehouse voted nay).

## REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee finds that S. 1514 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

## MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the Committee notes that the Congressional Budget Office found that S. 1514 contains no intergovernmental mandates as defined in the UMRA and would impose no costs on state, local, or tribal governments.

## COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report, if available. That statement follows:

SEPTEMBER 8, 2017.

Hon. JOHN BARRASSO,  
*Chairman, Committee on Environment and Public Works,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1514, the HELP for Wildlife Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL.

Enclosure.

*S. 1514—HELP for Wildlife Act*

Summary: S. 1514 would amend and reauthorize various programs conducted by the U.S. Fish and Wildlife Service (USFWS) related to the conservation of wetlands, certain species, and fish

habitats. The bill also would reauthorize programs aimed at restoring the Chesapeake Bay and would establish a program to conduct research in the Great Lakes Basin. Finally, the bill would authorize funding for the National Fish and Wildlife Foundation, a non-profit corporation established by federal law to provide grants for activities related to conserving and managing fish, wildlife, plants, and other natural resources.

Based on information provided by the affected agencies, CBO estimates that implementing the legislation would cost \$741 million over the 2018–2022 period and \$257 million after 2022, assuming appropriation of the authorized amounts. Enacting S. 1514 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting the bill would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 1514 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, and tribal governments.

S. 1514 would impose a private-sector mandate as defined in UMRA by eliminating the ability of plaintiffs to seek judicial review of rules to remove gray wolves in some regions from the endangered species list. CBO estimates that the cost of the mandate would fall well below the annual threshold established in UMRA for private-sector mandates (\$156 million in 2017, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1514 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—						
	2017	2018	2019	2020	2021	2022	2017–2022
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Chesapeake Bay Programs:							
Authorization Level .....	0	93	93	93	93	93	465
Estimated Outlays .....	0	17	44	71	84	93	308
Wetlands Conservation:							
Authorization Level .....	0	50	50	50	50	50	250
Estimated Outlays .....	0	13	25	35	43	48	163
National Fish and Wildlife Foundation:							
Authorization Level .....	0	25	25	25	25	25	125
Estimated Outlays .....	0	25	25	25	25	25	125
Great Lakes Research:							
Authorization Level .....	0	15	15	15	15	15	75
Estimated Outlays .....	0	14	14	15	15	15	73
Fish Habitat Conservation:							
Authorization Level .....	0	10	10	10	10	10	48
Estimated Outlays .....	0	7	9	9	9	10	44
Neotropical Migratory Bird Conservation:							
Authorization Level .....	0	7	7	7	7	7	33
Estimated Outlays .....	0	4	6	7	7	7	29
Total Changes:							
Authorization Level .....	0	199	199	199	199	199	995
Estimated Outlays .....	0	79	122	161	182	197	741

Note: Amounts may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the end of 2017 and that the authorized

amounts will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for similar programs.

S. 1514 would authorize appropriations to carry out activities related to the conservation of wetlands, certain species, and fish habitats. The bill also would authorize funding for programs to restore the Chesapeake Bay and conduct research in the Great Lakes Basin. Finally, the bill would authorize appropriations to fund the National Fish and Wildlife Foundation. CBO estimates that implementing the legislation would cost \$741 million over the 2018–2022 period and \$257 million after 2022, assuming appropriation of the authorized amounts.

#### *Chesapeake Bay Programs*

Sections 10 and 11 would authorize appropriations totaling \$468 million through 2023 to fund programs aimed at restoring the Chesapeake Bay. The bill would authorize \$90 million a year through 2022 for the Environmental Protection Agency to continue its Chesapeake Bay Program. The agency received appropriations totaling \$73 million to carry out the program in 2017. The bill also would authorize \$3 million a year through 2023 for the National Park Service to carry out activities under the Chesapeake Bay Initiative Act of 1998. In 2017, the agency received appropriations totaling \$2 million to carry out the program. CBO estimates that carrying out sections 10 and 11 would cost \$308 million over the 2018–2022 period and \$160 million after 2022.

#### *Wetlands Conservation*

Section 4 would authorize the appropriation of \$50 million a year through 2022 to carry out the North American Wetlands Conservation Act (NAWCA). Under that act, the USFWS awards competitive grants for projects to conserve wetlands in the United States, Mexico, and Canada. In 2017, the agency received \$38 million to carry out activities related to NAWCA. CBO estimates that carrying out section 4 would cost \$163 million over the 2018–2022 period and \$87 million after 2022.

#### *National Fish and Wildlife Foundation*

Section 5 would authorize the appropriation of \$25 million a year through 2022 to fund activities of the National Fish and Wildlife Foundation. The foundation is a nonprofit corporation established by federal law to provide grants for activities related to conserving and managing fish, wildlife, plants, and other natural resources. In 2017, the USFWS received appropriations totaling \$7 million to fund the foundation. CBO estimates that implementing section 5 would cost \$125 million over the 2018–2022 period.

#### *Great Lakes Research*

Section 14 would authorize the appropriation of \$15 million a year through 2022 to establish a research program aimed at enhancing fishery management in the Great Lakes Basin. The program would be administered by the United States Geological Survey. CBO estimates that implementing section 14 would cost \$73 million over the 2018–2022 period and \$2 million after 2022.

### *Fish Habitat Conservation*

Section 12 would authorize the appropriation of \$9.56 million a year through 2022 to carry out projects to conserve fish habitat and to provide technical assistance to nonfederal entities. The program would be aimed at facilitating partnerships between the federal government and local governments, nonprofits, and private individuals. In 2017, the USFWS received appropriations totaling about \$7 million to carry out similar activities. CBO estimates that implementing section 12 would cost \$44 million over the 2018–2022 period and \$4 million after 2022.

### *Neotropical Migratory Bird Conservation*

Section 6 would authorize the appropriation of \$6.5 million a year through 2022 to carry out the Neotropical Migratory Bird Conservation Act. Under that act, the USFWS provides grants to support projects to conserve migratory birds throughout the Western Hemisphere. In 2017, the USFWS received appropriations totaling \$4 million to carry out that program. CBO estimates that carrying out section 6 would cost \$29 million over the 2018–2022 period and \$4 million after 2022.

Pay-As-You-Go considerations: None.

Increase in long term direct spending and deficits: CBO estimates that enacting S. 1514 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

Estimated impact on state, local, and tribal governments: S. 1514 contains no intergovernmental mandates as defined in UMRA and would benefit state agencies by lowering the matching requirement for federal grants that support public shooting ranges. The bill also would benefit state, local, and tribal agencies by authorizing federal grants for conservation programs and partnerships that protect wildlife habitat. Any costs incurred by those entities, including cost-sharing contributions, would result from participation in voluntary federal programs.

Estimated impact on the private sector: S. 1514 would impose a private-sector mandate as defined in UMRA on plaintiffs by eliminating the ability to seek judicial review of rules to remove gray wolves in the western Great Lakes region or in the state of Wyoming from the endangered species list. The cost of a mandate that eliminates a right of action is the forgone income and value of awards in such cases. Because such losses would generally not occur for the types of cases involved, CBO expects that the mandate would probably impose no costs. Consequently, CBO estimates that the cost of the mandate would fall well below the annual threshold established in UMRA for private-sector mandates (\$156 million in 2017, adjusted annually for inflation).

Estimate prepared by: Federal costs: Jeff LaFave; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

ADDITIONAL VIEWS OF SENATORS CARPER, CARDIN, AND  
DUCKWORTH

On balance, the HELP for Wildlife Act is a promising bill that can help yield important conservation outcomes, but no bill is perfect. We have strong concerns regarding the two provisions that remove Endangered Species Act protections for gray wolves and/or prohibit further judicial review of such provisions. While we appreciate the complexity and challenges of managing these charismatic animals, we do not support legislatively delisting species. The implementation of the Endangered Species Act is designed to be informed by the public and by the best available science. Allowing politics to drive decisions is a dangerous approach and one that should not become habit.

The provision on gray wolves in the Western Great Lakes would override a unanimous D.C. Circuit Court decision issued on August 1, 2017 and remove existing Endangered Species Act protections for gray wolves in Michigan, Minnesota and Wisconsin. This unanimous decision sent a clear signal that Congress should not delist the species legislatively.

The provision on gray wolves in Wyoming would codify a March 3, 2017 D.C. Circuit Court of Appeals decision to uphold a final rule to delist the gray wolf in Wyoming. The plaintiffs in the Wyoming case did not appeal the court's decision and wolves were returned to state management in late April. As such, we believe this provision in the HELP for Wildlife Act is an unnecessary overstep.

We understand our colleagues are frustrated with the lengthy process for delisting gray wolves and other species, but it is important to remember that the Endangered Species Act is a last backstop against extinction. It only applies when state management has previously failed. As a result, a lengthy delisting process is warranted, and the safeguards and rigors that exist through judicial review are a necessary part of that process.

The Endangered Species Act is one of our nation's most popular and effective environmental laws, garnering support from 90 percent of Americans. It has prevented the extinction of 99 percent of listed species. We remain fully committed to the Endangered Species Act and look forward to opportunities to work with our colleagues to strengthen its implementation and fully fund it.

THOMAS R. CARPER.  
BENJAMIN L. CARDIN.  
TAMMY DUCKWORTH.

## MINORITY VIEWS OF SENATORS GILLIBRAND, BOOKER, AND HARRIS

In addition to the concerns already outlined by Senators Carper, Cardin, and Duckworth in their additional views regarding the gray wolves provisions, the HELP for Wildlife Act contradicts its name throughout. While we strongly support the reauthorization of important conservation laws, those reauthorizations are not worth the cost of the provisions in this legislation that may harm wildlife and public health.

The exemption for sport fishing equipment from the Toxic Substances Control Act is a solution in search of a problem. The EPA is not currently regulating such equipment and after a lengthy process to enact much needed reforms to the Toxic Substances Control Act last Congress, we do not think it is smart policy to carve out unnecessary exemptions. While science may be limited on health and environmental risks associated specifically with the use of lead tackle, it is not conclusive, which means there may be impacts of which we are currently unaware but of which we could become aware in the future. We also do know that between 10 and 20 million birds and other animals die each year from lead poisoning. All of this makes a permanent exemption even more problematic, especially in the aftermath of what we learned from Flint, Michigan about how quickly lead-related health risks can escalate. Further, alternatives to lead are available for sport fishing equipment. The more these alternatives are used, the more affordable and widely accepted they will become.

The provision that allows importation of polar bear parts, albeit legally harvested ones, is also of great concern. Agencies and states often have decades of advance notice that species are going to be listed as threatened or endangered under the Endangered Species Act. Setting a precedent that threatened or endangered species can be imported, as long as the animals were killed before the enactment of a formal listing, is troubling. If this provision becomes law, it could further imperil declining species in the future, providing an incentive for hunters to get their trophies before a vulnerable species is listed.

The Migratory Bird Treaty Act is our nation's cornerstone law for protecting migratory birds, which are at great risk largely due to impacts of climate change. We oppose the MBTA provision in the HELP for Wildlife Act. This provision weakens baiting restrictions and may hamper the ability of the U.S. Fish and Wildlife Service to fully enforce the MBTA as it sees fit.

We recognize the important role that sportsmen play in conservation and in our local economies. There are many truly bipartisan policy proposals that could garner broad support in our Committee and in the environmental community, many of which are included in this bill. We are disappointed that the HELP for Wildlife Act in-



cludes these poison pill provisions. We stand ready to work with our colleagues to advance legislation that will benefit sportsmen and women while upholding our nation's landmark public health and environmental laws.

KIRSTEN E. GILLIBRAND.  
CORY A. BOOKER.  
KAMALA D. HARRIS.

## CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

\* \* \* \* \*

## PITTMAN-ROBERTSON WILDLIFE RESTORATION ACT

\* \* \* \* \*

## SEC. 2. [16 U.S.C. 669a] DEFINITIONS.

As used in this Act—

(1) \* \* \*

\* \* \* \* \*

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

*(A) is identified by a governmental agency for recreational shooting;*

*(B) is open to the public;*

*(C) may be supervised; and*

*(D) may accommodate archery or rifle, pistol, or shotgun shooting;*

\* \* \* \* \*

[(2)] (3) the term “Secretary” means the Secretary of the Interior;

[(3)] (4) the term “State fish and game department” or “State fish and wildlife department” means any department or division of department of another name, or commission, or official or officials, of a State empowered under its laws to exercise the functions ordinarily exercised by a State fish and game department or State fish and wildlife department.

[(4)] (5) the term “wildlife” means any species of wild, free-ranging fauna including fish, and also fauna in captive breeding programs the object of which is to reintroduce individuals of a depleted indigenous species into previously occupied range;

[(5)] (6) the term “wildlife-associated recreation” means projects intended to meet the demand for outdoor activities associated with wildlife including, but not limited to, hunting and fishing, wildlife observation and photography, such projects as construction or restoration of wildlife viewing areas, observation towers, blinds, platforms, land and water trails, water access, field trialing, trail heads, and access for such projects;

[(6)] (7) the term “wildlife conservation and restoration program” means a program developed by a State fish and wildlife department and approved by the Secretary under section 304(d), the projects that constitute such a program, which may be implemented in whole or part through grants and contracts by a State to other State, Federal, or local agencies (including those that gather, evaluate, and disseminate information on wildlife and their habitats), wildlife conservation organizations, and outdoor recreation and conservation education entities

from funds apportioned under this title, and maintenance of such projects;

[(7)] (8) the term “wildlife conservation education” means projects, including public outreach, intended to foster responsible natural resource stewardship; and

[(8)] (9) the term “wildlife-restoration project” includes the wildlife conservation and restoration program and means the selection, restoration, rehabilitation, and improvement of areas of land or water adaptable as feeding, resting, or breeding places for wildlife, including acquisition of such areas or estates or interests therein as are suitable or capable of being made suitable therefor, and the construction thereon or therein of such works as may be necessary to make them available for such purposes and also including such research into problems of wildlife management as may be necessary to efficient administration affecting wildlife resources, and such preliminary or incidental costs and expenses as may be incurred in and about such projects.

\* \* \* \* \*

#### SEC. 8. [16 U.S.C. 669g]

(a) \* \* \*

\* \* \* \* \*

[(b) Each State]

(b) EXPENDITURES FOR MANAGEMENT OF WILDLIFE AREAS AND RESOURCES.—

(1) IN GENERAL.—*Except as provided in paragraph (2), each State may use the funds apportioned to it under section 4(c) to pay up to 75 per centum of the costs of a hunter safety program and the [construction, operation,] operation and maintenance of public target ranges, as a part of such program. [The non-Federal share]*

(2) EXCEPTION.—*Notwithstanding the limitation described in paragraph (1), a State may pay up to 90 percent of the cost of acquiring land for, expanding, or constructing a public target range.*

(3) NON-FEDERAL SHARE.—*The non-Federal share; of such costs may be derived from license fees paid by hunters, but not from other Federal grant programs. [The Secretary]*

(4) REGULATIONS.—*The Secretary shall issue not later than the 120th day after the effective date of this subsection such regulations as he deems advisable relative to the criteria for the establishment of hunter safety programs and public target ranges under this subsection.*

\* \* \* \* \*

#### SEC. 10. [16 U.S.C. 669h-1] FIREARM AND BOW HUNTER EDUCATION AND SAFETY PROGRAM GRANTS.

(a) IN GENERAL.—

(1) \* \* \*

\* \* \* \* \*

(3) ALLOCATION OF ADDITIONAL AMOUNTS.—*Of the amount apportioned to a State for any fiscal year under section 4(b), the*

*State may elect to allocate not more than 10 percent, to be combined with the amount apportioned to the State under paragraph (1) for that fiscal year, for acquiring land for, expanding, or constructing a public target range.*

[(b) COST SHARING.—The Federal share of the cost of any activity carried out with a grant under this section shall not exceed 75 percent of the total cost of the activity.]

(b) COST SHARING.—

(1) IN GENERAL.—*Except as provided in paragraph (2), the Federal share of the cost of any activity carried out using a grant under this section shall not exceed 75 percent of the total cost of the activity.*

(2) PUBLIC TARGET RANGE CONSTRUCTION OR EXPANSION.—*The Federal share of the cost of acquiring land for, expanding, or constructing a public target range in a State on Federal or non-Federal land pursuant to this section or section 8(b) shall not exceed 90 percent of the cost of the activity.*

(c) PERIOD OF AVAILABILITY; REAPPORTIONMENT.—

(1) PERIOD OF AVAILABILITY.—[Amounts made]

(A) IN GENERAL.—*Except as provided in subparagraph (B), amounts made available and apportioned for grants under this section shall remain available only for the fiscal year for which the amounts are apportioned.*

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

\* \* \* \* \*

SEC. 12. [16 U.S.C. 669i] The Secretary of Agriculture is authorized to make rules and regulations for carrying out the provisions of this Act.

SEC. 13. VALUE OF LAND.

*Notwithstanding any other provision of law, any institution eligible to receive Federal funds under the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601 et seq.) shall be allowed to use the value of any land owned by the institution as an in-kind match to satisfy any cost sharing requirement under this Act.*

[SEC. 13.] SEC. 14. [16 U.S.C. 669 note] SHORT TITLE.

This Act may be cited as the “Pittman-Robertson Wildlife Restoration Act”.

\* \* \* \* \*

## MIGRATORY BIRD TREATY ACT

\* \* \* \* \*

SEC. 2. [16 U.S.C. 703] (a) IN GENERAL.— \* \* \*

\* \* \* \* \*

SEC. 3. [16 U.S.C. 704] (a) \* \* \*

\* \* \* \* \*

[(b) It shall be unlawful for any person to—

[(1) take any migratory game bird by the aid of baiting, or on or over any baited area, if the person knows or reasonably should know that the area is a baited area; or

[(2) place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting on or over the baited area.]

(b) PROHIBITION OF BAITING.—

(1) DEFINITIONS.—*In this subsection:*

(A) BAITED AREA.—

(i) IN GENERAL.—*The term ‘baited area’ means—*

(I) *any area on which salt, grain, or other feed has been placed, exposed, deposited, distributed, or scattered, if the salt, grain, or feed could lure or attract migratory game birds; and*

(II) *in the case of waterfowl, cranes (family Gruidae), and coots (family Rallidae), a standing, unharvested crop that has been manipulated through activities such as mowing, discing, or rolling, unless the activities are normal agricultural practices.*

(ii) EXCLUSIONS.—*An area shall not be considered to be a ‘baited area’ if the area—*

(I) *has been treated with a normal agricultural practice;*

(II) *has standing crops that have not been manipulated; or*

(III) *has standing crops that have been or are flooded.*

(B) BAITING.—*The term ‘baiting’ means the direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could lure or attract migratory game birds to, on, or over any areas on which a hunter is attempting to take migratory game birds.*

(C) MIGRATORY GAME BIRD.—*The term ‘migratory game bird’ means migratory bird species—*

(i) *that are within the taxonomic families of Anatidae, Columbidae, Gruidae, Rallidae, and Scolopacidae; and*

(ii) *for which open seasons are prescribed by the Secretary of the Interior.*

(D) NORMAL AGRICULTURAL PRACTICE.—

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

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

(II) *is recommended for the successful harvest of a given crop by the applicable State office of the Cooperative Extension System of the Department of Agriculture, in consultation with, and if requested, the concurrence of, the head of the applicable State department of fish and wildlife.*

## (ii) INCLUSIONS.—

(I) IN GENERAL.—*Subject to subclause (II), the term ‘normal agricultural practice’ includes the destruction of a crop in accordance with practices required by the Federal Crop Insurance Corporation for agricultural producers to obtain crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) on land on which a crop during the current or immediately preceding crop year was not harvestable due to a natural disaster (including any hurricane, storm, tornado, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, drought, fire, snowstorm, or other catastrophe that is declared a major disaster by the President in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170)).*

(II) LIMITATIONS.—*The term ‘normal agricultural practice’ only includes a crop described in subclause (I) that has been destroyed or manipulated through activities that include (but are not limited to) mowing, discing, or rolling if the Federal Crop Insurance Corporation certifies that flooding was not an acceptable method of destruction to obtain crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).*

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

(2) PROHIBITION.—*It shall be unlawful for any person—*

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

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

(3) REGULATIONS.—*The Secretary of the Interior may promulgate regulations to implement this subsection.*

(4) REPORTS.—*Annually, the Secretary of Agriculture shall submit to the Secretary of the Interior a report that describes any changes to normal agricultural practices across the range of crops grown by agricultural producers in each region of the United States in which the recommendations are provided to agricultural producers.*

\* \* \* \* \*

## NORTH AMERICAN WETLANDS CONSERVATION ACT

\* \* \* \* \*

### SECTION 1. [16 U.S.C. 4401 note] SHORT TITLE.

This Act may be cited as the “North American Wetlands Conservation Act”.

**SEC. 2. [16 U.S.C. 4401] FINDINGS AND STATEMENT OF PURPOSE.**

(a) FINDINGS.— \* \* \*

\* \* \* \* \*

**SEC. 4. [16 U.S.C. 4403] ESTABLISHMENT OF NORTH AMERICAN WETLANDS CONSERVATION COUNCIL.**

(a) COUNCIL MEMBERSHIP.—(1) There shall be established a North American Wetlands Conservation Council (hereinafter in this Act referred to as the “Council”) which shall consist of nine members who may not receive compensation as members of the Council. Of the Council members—

(A) \* \* \*

\* \* \* \* \*

(B) one shall be the [Secretary of the Board] *Executive Director of the Board* of the National Fish and Wildlife Foundation appointed pursuant to section 3(g)(2)(B) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702);

\* \* \* \* \*

**SEC. 6. [16 U.S.C. 4405] CONDITIONS RELATING TO WETLANDS CONSERVATION PROJECTS.**

(a) PROJECTS IN THE UNITED STATES.—(1)\* \* \*

\* \* \* \* \*

[(3) In lieu of]

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

(A) IN GENERAL.—*In lieu of* including in the National Wildlife Refuge System any lands or waters or interests therein acquired under this Act, the Secretary may, with the concurrence of the Migratory Bird Conservation Commission, grant or otherwise provide the Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act or convey any real property interest acquired in whole or in part with such funds without cost to a State or to another public agency or other entity upon a finding by the Secretary that the real property interests should not be included in the National Wildlife Refuge System: *Provided*, That any grant recipient shall have been so identified in the project description accompanying the recommendation from the Council and approved by the Migratory Bird Conservation Commission. [The Secretary shall]

(B) DETERMINATION.—*The Secretary shall*; not convey any such interest to a State, another public agency or other entity unless the Secretary determines that such State, agency or other entity is committed to undertake the management of the property being transferred in accordance with the objectives of this Act, and the deed or other instrument of transfer contains provisions for the reversion of title to the property to the United States if such State, agency or other entity fails to manage the property in accordance with the objectives of this Act.[Any real

property interest conveyed pursuant to this paragraph shall be subject to such terms and conditions that will ensure that the interest will be administered for the long-term conservation and management of the wetland ecosystem and the fish and wildlife dependent thereon.】

(C) REAL PROPERTY.—*Any real property interest conveyed under this paragraph shall be subject to terms and conditions that ensure that—*

*(i) the real property interest will be administered for the long-term conservation and management of the wetland ecosystem and the fish and wildlife dependent on that ecosystem;*

*(ii) the grantor of a real property interest has been provided with information relating to all available conservation options, including conservation options that involve the conveyance of a real property interest for a limited period of time; and*

*(iii) the provision of the information described in clause (ii) has been documented.*

\* \* \* \* \*

#### **SEC. 7. [16 U.S.C. 4406] AMOUNTS AVAILABLE TO CARRY OUT THIS ACT.**

(a) \* \* \*

\* \* \* \* \*

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts made available under subsections (a) and (b) of this section, there are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 8 of this Act not to exceed—

- (1) \$55,000,000 for fiscal year 2003;
- (2) \$60,000,000 for fiscal year 2004;
- (3) \$65,000,000 for fiscal year 2005;
- (4) \$70,000,000 for fiscal year 2006; [and]
- (5) \$75,000,000 for each of fiscal years 2008 through 2012[.]

; and

- (6) \$50,000,000 for each of fiscal years 2018 through 2022.

\* \* \* \* \*

### **NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT**

\* \* \* \* \*

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Fish and Wildlife Foundation Establishment Act”.

#### **SEC. 2. ESTABLISHMENT AND PURPOSES OF FOUNDATION.**

(a) ESTABLISHMENT.—There is established the National Fish and Wildlife Foundation (hereinafter in this Act referred to as the “Foundation”). The Foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States.



(b) PURPOSES.— \* \* \*

\* \* \* \* \*

### SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(b) APPOINTMENT AND TERMS.—

(1) AGENCY HEADS.—The Director of the United States Fish and Wildlife Service and the Under Secretary of Commerce for Oceans and Atmosphere shall be Directors of the Foundation.

[(2) APPOINTMENTS BY THE SECRETARY OF THE INTERIOR.—

[(A) IN GENERAL.—Subject to subparagraph (B), after consulting with the Secretary of Commerce and considering the recommendations submitted by the Board, the Secretary of the Interior shall appoint 23 Directors who meet the criteria established by subsection (a), of whom—

[(i) at least six shall be educated or experienced in fish, wildlife, or other natural resource conservation;

[(ii) at least four shall be educated or experienced in the principles of fish, wildlife, or other natural resource management; and

[(iii) at least four shall be educated or experienced in ocean and coastal resource conservation.

[(B) TRANSITION PROVISION.—

[(i) CONTINUATION OF TERMS.—The 15 Directors serving on the Board as of the date of the enactment of this paragraph shall continue to serve until the expiration of their terms.

[(ii) NEW DIRECTORS.—Subject to paragraph (3), the Secretary of the Interior shall appoint eight new Directors.]

(2) IN GENERAL.—*After consulting with the Secretary of Commerce and considering the recommendations submitted by the Board, the Secretary of the Interior shall appoint 28 Directors who, to the maximum extent practicable, shall—*

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

*(B) represent a balance of expertise in ocean, coastal, freshwater, and terrestrial resource conservation.*

[(3) TERMS.—

[(A) IN GENERAL.—Subject to subparagraph (B), each Director (other than a Director described in paragraph (1)) shall be appointed for a term of 6 years.

[(B) INITIAL APPOINTMENTS TO NEW MEMBER POSITIONS.—Of the Directors appointed by the Secretary of the Interior under paragraph (2)(B)(ii), the Secretary shall appoint, in fiscal year 2001, three Directors for a term of 6 years.

[(C) SUBSEQUENT APPOINTMENTS TO NEW MEMBER POSITIONS.—Of the Directors appointed by the Secretary of the Interior under paragraph (2)(B)(ii), the Secretary shall appoint, in fiscal year 2002—

- [(i) two Directors for a term of 2 years; and
- [(ii) three Directors for a term of 4 years.]]

(3) TERMS.—*Each Director (other than a Director described in paragraph (1)) shall be appointed for a term of 6 years.*

\* \* \* \* \*

(g) GENERAL POWERS.—

(1) \* \* \*

\* \* \* \* \*

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

[(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers]

(A) IN GENERAL.—*Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.*

[(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who—

[(i) shall serve, at the direction of the Board, as its chief operating officer; and

[(ii) shall be knowledgeable and experienced in matters relating to fish and wildlife conservation.]]

(B) EXECUTIVE DIRECTOR.—*The Foundation shall have an Executive Director who shall be—*

*(i) appointed by, and serve at the direction of, the Board as the chief executive officer of the Foundation; and*

*(ii) knowledgeable and experienced in matters relating to fish and wildlife conservation.*

**SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.**

(a) \* \* \*

\* \* \* \* \*

[(c) POWERS.—To carry out its purposes under]

(c) POWERS.—

(1) IN GENERAL.—*To carry out the purposes described in; section 2, the Foundation shall have, in addition to the powers otherwise given it under this Act, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—*

[(1)]

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

[(2)]

(B) to acquire by purchase or exchange any real or personal property or interest therein, subject to subsection (e);

[(3)]

(C) to invest any funds provided to the Foundation by the Federal Government in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States;

[(4)]

(D) to deposit any funds provided to the Foundation by the Federal Government into accounts [that are insured by an agency or instrumentality of the United States] *at 1 or more financial institutions that are members of the Federal Deposit Insurance Corporation or the Securities Investment Protection Corporation;*

[(5)]

(E) to make use of any interest or investment income that accrues as a consequence of actions taken under [paragraph (3) or (4)] *subparagraph (C) or (D) to carry out the purposes of the Foundation;*

[(6)]

(F) to use Federal funds to make payments under cooperative agreements entered into with willing private landowners to provide substantial long-term benefits for the restoration or enhancement of fish, wildlife, plants, and other natural resources on private land;

[(7)]

(G) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

[(8)]

(H) to borrow money and issue bonds, debentures, or other debt instruments;

[(9)]

(I) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Foundation shall not be personally liable, except for gross negligence;

[(10)]

(J) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; [and]

[(11)]

[(K) to do any and all acts necessary and proper to carry out the purposes of the Foundation.]

*(K) to receive and administer restitution and community service payments, amounts for mitigation of impacts to natural resources, and other amounts arising from legal, regulatory, or administrative proceedings, subject to the condition that the amounts are received or administered for purposes that further the conservation and management of fish, wildlife, plants, and other natural resources; and*

*(L) to do acts necessary to carry out the purposes of the Foundation.*

[For purposes of this Act, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and

for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.】

(2) TREATMENT OF REAL PROPERTY.—

(A) IN GENERAL.—*For purposes of this Act, an interest in real property shall be treated as including easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources.*

(B) ENCUMBERED REAL PROPERTY.—*A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.*

(3) SAVINGS CLAUSE.—*The acceptance and administration of amounts by the Foundation under paragraph (1)(K) does not alter, supersede, or limit any regulatory or statutory requirement associated with those amounts.*

\* \* \* \* \*

【(f)(1) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

【(2)(A) In a manner consistent with subsection (c)(1), the Foundation may—

【(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

【(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

【(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

【(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) as a civil penalty assessed by the Secretary under that section.

【(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment

fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

[(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

[(A) are the most endangered (including the northern right whale (*Eubaleana glacialis*)); or

[(B) most warrant, and are most likely to benefit from, research management, or educational activities that may be funded with amounts made available from the fund.

[(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.]

[(h)] (f) EXPENDITURES FOR PRINTING SERVICES OR CAPITAL EQUIPMENT.—The Foundation shall not make any expenditure of Federal funds in connection with any one transaction for printing services or capital equipment that is greater than \$10,000 unless the expenditure is approved by the Federal agency that administers the Federal program under which the funds were provided.

[(i)] (g) NOTICE TO MEMBERS OF CONGRESS.—The Foundation shall not make a grant of Federal funds in an amount greater than \$10,000 unless, by not later than 30 days before the grant is made, the Foundation provides notice of the grant to the Member of Congress for the congressional district in which the project to be funded with the grant will be carried out.

\* \* \* \* \*

#### SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

##### (a) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There are authorized to be appropriated to carry out this Act for each of fiscal years 2006 through 2010—

[(A) \$25,000,000 to the Department of the Interior; and

[(B) \$5,000,000 to the Department of Commerce.]

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

*(A) \$15,000,000 to the Secretary of the Interior;*

*(B) \$5,000,000 to the Secretary of Agriculture; and*

*(C) \$5,000,000 to the Secretary of Commerce.*

##### (b) ADDITIONAL AUTHORIZATION.—

[(1) IN GENERAL.—In addition to the amounts authorized to be appropriated under subsection (a), the Foundation may accept Federal funds from a Federal agency under any other Federal law for use by the Foundation to further the conservation and management of fish, wildlife, plants, and other natural resources in accordance with the requirements of this Act.]

##### (1) AMOUNTS FROM FEDERAL AGENCIES.—

*(A) IN GENERAL.—In addition to the amounts authorized to be appropriated under subsection (a), Federal departments, agencies, or instrumentalities are authorized to provide funds to the Foundation through Federal financial as-*

*sistance grants and cooperative agreements, subject to the condition that the amounts are used for purposes that further the conservation and management of fish, wildlife, plants, and other natural resources in accordance with this Act.*

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

(C) *MANAGEMENT FEES.—The Foundation may assess and collect fees for the management of amounts received under this paragraph.*

(2) *USE OF [funds] AMOUNTS* accepted from federal agencies.—Federal funds provided to the Foundation under paragraph (1) *[shall be used]* may be used by the Foundation for matching, in whole or in part, contributions (whether in currency, services, or property) made to the Foundation by private persons *[and State and local government agencies]*, *State and local government agencies, and other entities.*

(3) *ADMINISTRATION OF AMOUNTS.—*

(A) *IN GENERAL.—In entering into contracts, agreements, or other partnerships pursuant to this Act, a Federal department, agency, or instrumentality shall have discretion to waive any competitive process applicable to the department, agency, or instrumentality for entering into contracts, agreements, or partnerships with the Foundation if the purpose of the waiver is—*

*(i) to address an environmental emergency resulting from a natural or other disaster; or*

*(ii) as determined by the head of the applicable Federal department, agency, or instrumentality, to reduce administrative expenses and expedite the conservation and management of fish, wildlife, plants, and other natural resources.*

(B) *REPORTS.—The Foundation shall include in the annual report submitted under section 7(b) a description of any use of the authority under subparagraph (A) by a Federal department, agency, or instrumentality in that fiscal year.*

\* \* \* \* \*

(d) *USE OF GIFTS, DEVISES, OR BEQUESTS OF MONEY OR OTHER PROPERTY.—Any gifts, devises, or bequests of amounts or other property, or any other amounts or other property, transferred to, deposited with, or otherwise in the possession of the Foundation pursuant to this Act, may be made available by the Foundation to Federal departments, agencies, or instrumentalities and may be accepted and expended (or the disposition of the amounts or property directed), without further appropriation, by those Federal departments, agencies, or instrumentalities, subject to the condition that the amounts or property be used for purposes that further the conservation and management of fish, wildlife, plants, and other natural resources.*

**SEC. 11. LIMITATION ON AUTHORITY.**

Nothing in this Act authorizes the Foundation to perform any function the *exclusive* authority for which is provided to the National Park Foundation by subchapter II of chapter 1011 of title 54, United States Code.

\* \* \* \* \*

**NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT**

\* \* \* \* \*

**SECTION 1. [16 U.S.C. 6101 note] SHORT TITLE.**

This Act may be cited as the “Neotropical Migratory Bird Conservation Act”.

**SEC. 2. [16 U.S.C. 6101] FINDINGS.**

Congress finds that—

(1) \* \* \*

\* \* \* \* \*

**[SEC. 10. [16 U.S.C. 6109] AUTHORIZATION OF APPROPRIATIONS.**

[(a) IN GENERAL.—There is authorized to be appropriated to the Account to carry out this Act for each of fiscal years 2006 through 2010 the amount specified for that fiscal year in subsection (b), to remain available until expended, of which not less than 75 percent of the amounts made available for each fiscal year shall be expended for projects carried out outside the United States.

[(b) AUTHORIZED AMOUNT.—The amount referred to in subsection (a) is—

[(1) \$5,000,000 for each of fiscal years 2006 and 2007;

[(2) \$5,500,000 for fiscal year 2008;

[(3) \$6,000,000 for fiscal year 2009; and

[(4) \$6,500,000 for fiscal year 2010.

[(c) AVAILABILITY.—Amounts appropriated under this section may remain available until expended.

[(d) ALLOCATION.—Of amounts appropriated under this section for each fiscal year, not less than 75 percent shall be expended for projects carried out outside the United States.]

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—*There is authorized to be appropriated to carry out this Act \$6,500,000 for each of fiscal years 2018 through 2022.*

(b) USE OF FUNDS.—*Of the amounts made available under subsection (a) for each fiscal year, not less than 75 percent shall be expended for projects carried out at a location outside of the United States.*

\* \* \* \* \*

**TOXIC SUBSTANCES CONTROL ACT**

\* \* \* \* \*

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

This Act may be cited as the “Toxic Substances Control Act”.

**SEC. 2. FINDINGS, POLICY, AND INTENT.**

(a) FINDINGS.—The Congress finds that—

(1) \* \* \*

\* \* \* \* \*

### SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2)(A) Except as provided in subparagraph (B), the term “chemical substance” means any organic or inorganic substance of a particular molecular identity, including—

(i) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and

(ii) any element or uncombined radical.

(B) Such term does not include—

(i) \* \* \*

\* \* \* \* \*

(v) any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221 or any other provision of such Code) and any component of such an article (limited to shot shells, cartridges, and components of shot shells and cartridges), [and]

(vi) any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device[.]; and

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

\* \* \* \* \*

### FEDERAL WATER POLLUTION CONTROL ACT

\* \* \* \* \*

SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

(1) \* \* \*

\* \* \* \* \*

### SEC. 117. CHESAPEAKE BAY.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ADMINISTRATIVE COST.—

\* \* \* \* \*

[(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section 40,000,000 for each of fis-



cal years 2001 through 2005. Such sums shall remain available until expended.】

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

\* \* \* \* \*

### CHESAPEAKE BAY INITIATIVE ACT OF 1998

\* \* \* \* \*

#### SEC. 501. SHORT TITLE.

This title may be cited as the “Chesapeake Bay Initiative Act of 1998”.

#### SEC. 502. CHESAPEAKE BAY GATEWAYS AND WATERTRAILS.

(a) CHESAPEAKE BAY GATEWAYS AND WATERTRAILS NETWORK.—

(1) \* \* \*

\* \* \* \* \*

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section 3,000,000 for each of fiscal years 1999 through [2017] 2023.

\* \* \* \* \*

### MARINE MAMMAL PROTECTION ACT OF 1972

\* \* \* \* \*

#### SEC. 104. (a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

\* \* \* \* \*

(5)(A) \* \* \*

\* \* \* \* \*

【(D) The Secretary of the Interior shall, expeditiously after the expiration of the applicable 30 day period under subsection (d)(2), issue a permit for the importation of polar bear parts (other than internal organs) from polar bears taken in sport hunts in Canada before the date of enactment of the Marine Mammal Protection Act Amendments of 1994 each applicant who submits, with the permit application, proof that the polar bear was legally harvested in Canada by the applicant. The Secretary shall issue such permits without regard to the provisions of subparagraphs (A) and (C)(ii) of this paragraph, subsection (d)(3) of this section, and sections 101 and 102. This subparagraph shall not apply to polar bear parts that were imported before the effective date of this subparagraph.】

*(D)(i) The Secretary of the Interior shall, expeditiously after the expiration of the applicable 30-day period under subsection (d)(2), issue a permit for the importation of any polar bear part (other than an internal organ) from a polar bear taken in a sport hunt in Canada to any person—*

*(I) who submits, with the permit application, proof that the polar bear was legally harvested by the person before February 18, 1997; or*

*(II) who has submitted, in support of a permit application submitted before May 15, 2008, proof that the polar bear was legally harvested by the person before May 15, 2008, from a polar bear population from which a sport-hunted trophy could be imported before that date in accordance with section 18.30(i) of title 50, Code of Federal Regulations.*

*(ii) The Secretary shall issue permits under clause (i)(I) without regard to subparagraphs (A) and (C)(ii) of this paragraph, subsection (d)(3), and sections 101 and 102. Sections 101(a)(3)(B) and 102(b)(3) shall not apply to the importation of any polar bear part authorized by a permit issued under clause (i)(I). This clause shall not apply to polar bear parts that were imported before June 12, 1997.*

*(iii) The Secretary shall issue permits under clause (i)(II) without regard to subparagraph (C)(ii) of this paragraph or subsection (d)(3). Sections 101(a)(3)(B) and 102(b)(3) shall not apply to the importation of any polar bear part authorized by a permit issued under clause (i)(II). This clause shall not apply to polar bear parts that were imported before the date of enactment of the Hunting Heritage and Environmental Legacy Preservation for Wildlife Act.*

\* \* \* \* \*

