



To: Subcommittee on Water, Oceans and Wildlife Republican Members
From: Subcommittee on Water, Oceans and Wildlife Republican Staff; Kiel Weaver (Kiel.Weaver@mail.house.gov), Annick Miller (Annick.Miller@mail.house.gov), and Rob MacGregor (Robert.MacGregor@mail.house.gov)
Date: July 26, 2021
Subject: Hybrid Legislative Hearing on H.R. 273, H.R. 274, H.R. 1569, H.R. 1983, H.R. 2026, H.R. 2325, H.R. 2773, H.R. 2793, H.R. 2848, H.R. 2872, H.R. 3075, H.R. 3128, H.R. 3135, H.R. 3396, and H.R. 4458.

On **Thursday, July 29, 2021, at 10:00 a.m. EDT, in room 1324 Longworth Hearing Room and online via Cisco Webex**, the Subcommittee on Water, Oceans, and Wildlife will hold a hybrid legislative hearing on fifteen bills.

Member offices are requested to notify Annick Miller no later than Tuesday, July 27, at 4:30 p.m. EDT, if their Member intends to participate in person in the hearing room or remotely from his/her laptop from another location. Submissions for the hearing record must be submitted through the Committee's electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) or Everett Winnick (EverettWinnick@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- The Endangered Species Act (ESA) was enacted in 1973 and has not been meaningfully modernized since then. Today there are nearly 2,000 species listed under the ESA and less than one percent of listed species been removed from the list due to successful species recovery.
- While well-intentioned, many of these bills seek to resolve endangered species concerns through funding alone and ignore the need for regulatory reforms.
- Some of these costly bills override state fish and wildlife laws and ignore the need for prioritization based on science.

II. WITNESSES

Panel I: Congressional Panel

- NOTE - Testifying Members of Congress to be announced soon

Panel II: Administration Panel

- **Ms. Janet Coit**, Assistant Administrator, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Washington, D.C.
- **Mr. Stephen Guertin**, Deputy Director for Program Management and Policy, U.S. Fish and Wildlife Service (USFWS or the Service), Washington, D.C.

Panel III: Non-Federal Panel

- **Mr. Justin Jahnz**, Chief Executive Officer, East Central Energy, Braham, MN
[Republican Witness]
- **Mr. Nathan Rickard**, Trade Counsel, Southern Shrimp Alliance, Washington, D.C.
(H.R. 3075)
- **Dr. Erika Zavaleta**, Professor, CAMINO Faculty Director, Doris Duke Conservation Scholars Faculty Director, University of California, Santa Cruz, CA *(H.R. 1569, H.R. 1983, H.R. 2026, H.R. 2773, H.R. 2872, and H.R. 3396)*
- **Mr. Collin O'Mara**, President and Chief Executive Officer, The National Wildlife Federation, Reston, VA *(H.R. 1983, H.R. 2773, H.R. 2848, H.R. 2872, H.R. 3396, and H.R. 4458)*

III. BACKGROUND

[H.R. 273](#) (Rep. Don Young, R-AK), To prevent the escapement of genetically altered salmon in the United States, and for other purposes. *Prevention of Escapement of Genetically Altered Salmon in the United States Act.*

The bill makes it illegal for a person to engage in any commerce-related activity of a genetically altered covered fish. Such activity includes the sale, purchase, or transport of a covered fish. Under the bill, a “covered fish” means “any finfish, live or dead, including the gametes, fertilized eggs, offspring, and descendants thereof, that is modified or produced through the application of recombinant deoxyribonucleic acid (DNA) technologies, using DNA from an organism’s own genome or that of another species, that overcome natural physiological reproductive barriers and that are not techniques used in traditional breeding and selection.”¹ While the bill does not define the term “finfish,” under the National Oceanic and Atmospheric Administration’s (NOAA) fisheries glossary the term is used to differentiate fish species from shellfish.² The bill allows for certain exemptions, including scientific research, enforcement activities, activities which NOAA determines have a “finding of no significant impact” in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), or if NOAA determines that an application is consistent with an environmental impact statement that includes an environmental

¹ <https://www.congress.gov/bill/117th-congress/house-bill/273/text>

² Glossary of Fishing Terminology Revised Edition, June 2006 [NOAA TECHNICAL MEMORANDUM NMFS-F/SPO-69](#)

risk analysis. According to the bill sponsor’s staff, the reason for the bill is that there is a “major concern that genetically altered salmon could escape and breed with wild salmon, changing their genetics. This could have countless devastating impacts on the ocean ecosystem.” The bill has 2 Democrat cosponsors.

H.R. 274 (Rep. Don Young, R-AK), To prohibit the Secretary of the Interior and the Secretary of Commerce from authorizing commercial finfish aquaculture operations in the Exclusive Economic Zone except in accordance with a law authorizing such action. *Keep Finfish Free Act.*

The bill prohibits the Department of the Interior and the Department of Commerce from authorizing commercial finfish aquaculture operations in the U.S. Exclusive Economic Zone (EEZ). The EEZ is composed of the federal offshore waters that extend past coastal state waters (the first 3 nautical miles in most cases, with Texas, Puerto Rico, and the Gulf coast of Florida at 9 nautical miles) to 200 nautical miles off the U.S. coast.³

Aquaculture, as defined by the National Aquaculture Act of 1980 (Public Law 96-362), means “the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching.”⁴ These activities can take place in the ocean, or on land in tanks and ponds, however this bill would only apply to the EEZ. As mentioned above, the term “finfish” is used to differentiate fish species from shellfish.⁵ Finfish aquaculture produces several salmon species, steelhead/rainbow trout, white sea bass, and amberjack.⁶ While not all of these species are produced for commercial use, some are produced for restoration activities or enhancing recreational fishing opportunities, or a combination of all three uses. Using the Trump Administration’s Executive Order 13921, “Promoting American Seafood Competitiveness and Economic Growth” (May 7, 2020), NOAA identified “Aquaculture Opportunity Areas” in federal waters off of southern California and the Gulf of Mexico last year to help find suitable aquaculture projects. To date, nothing specific in these areas has been identified under this authority.⁷

According the sponsor’s office the primary reason for the legislation “is that there is a strong concern that fish could escape from commercial finfish aquaculture operations and breed with wild fish changing their genetics, and other significant changes that could be devastating to an ocean ecosystem.” The bill has 6 Democrat cosponsors.

H.R. 1569 (Rep. Jared Huffman, D-CA), To assist in the conservation of critically endangered species in foreign countries, and for other purposes. *Critically Endangered Animals Conservation Act of 2021.*

This bill creates a Critically Endangered Animals Conservation Fund (Fund) within the existing Multinational Species Conservation Fund administered by the U.S. Fish and Wildlife Service.

³ *Id.*

⁴ Public Law 96-362, 94 Stat. 1198, 16 U.S.C. 2801, et seq.

⁵ Glossary of Fishing Terminology Revised Edition, June 2006 [NOAA TECHNICAL MEMORANDUM NMFS-F/SPO-69](#)

⁶ <https://www.fisheries.noaa.gov/west-coast/aquaculture/commercial-finfish-aquaculture-west-coast>

⁷ <https://www.fisheries.noaa.gov/national/aquaculture/aquaculture-opportunity-areas>

The Fund would be comprised of donations, interest from amounts invested, as well as a \$5 million annual authorization of appropriations for five years. The funds would be used by the Secretary of the Interior to create a competitive grant program to provide financial assistance for the conservation of critically endangered species in foreign countries.

The eligible applicants for these grants include wildlife management authorities from other countries as well as any person or group with “the demonstrated expertise and capacity required for the conservation” of a species, which is not defined. All grant proposals would be required to show evidence of support from government entities in the host country including indigenous peoples and local communities, information on matching funds, and evidence of compliance with applicable laws.

The Interior Secretary may approve grants that would recover species populations that are wholly or partially outside of the U.S., develop research on the species, help create management plans for species, provide for enforcement to protect species and prevent illegal trade, train local law enforcement, or increase community outreach. The Interior Secretary has 180 days to approve or deny proposals and must respond to all applications in writing. The bill includes a broad definition of “critically endangered species” that could include more than 41,046 species.⁸

A hearing on an earlier version of this bill was held in the 116th Congress,⁹ when the USFWS testified that it supported the “intent of this legislation, but has concerns that it could prevent the Service from prioritizing its work on the species with the greatest conservation need through science driven decisions.”¹⁰ The bill has 23 Democrat and 3 Republican cosponsors.

H.R. 1983 (Rep. Jimmy Panetta, D-CA), To encourage and facilitate efforts by States and other stakeholders to conserve and sustain the western population of monarch butterflies, and for other purposes. *MONARCH Act of 2021.*

This bill attempts to help the western population of monarch butterflies by creating the Western Monarch Butterfly Rescue Fund. In December 2020, the Trump administration’s FWS issued a rule claiming that listing of the monarch butterfly is warranted but precluded by higher priority actions.¹¹ The western population, located primarily in California, saw a more precipitous decline, from about 1.2 million in 1997 to fewer than 30,000 in 2019.¹²

The fund created in the bill is authorized for \$12.5 million in appropriations per year for five fiscal years. Funding would be used to provide grants for projects to increase conservation for western monarch butterflies. The entities eligible for these grants include tribes, research institutions, nonprofit organizations, and other entities “with the expertise required” which is not

⁸ The International Union Conservation of Nature Red List of Threatened Species, Critically endangered, Endangered, Data Deficient, <https://www.iucnredlist.org/search?searchType=species>.

⁹ <https://www.congress.gov/bill/116th-congress/house-bill/4341>

¹⁰ <https://www.congress.gov/116/meeting/house/109994/witnesses/HHRG-116-II13-Wstate-GuertinS-20190924.pdf>, at 7

¹¹ The United States Fish and Wildlife Service, *U.S. Fish and Wildlife Service Finds Endangered Species Act Listing for Monarch Butterfly Warranted but Precluded*, 12/15/2020, <https://www.fws.gov/news/ShowNews.cfm?ref=u.s.-fish-and-wildlife-service-finds-endangered-species-act-listing-for-& ID=36817>

¹² *Id.*

defined. Notably, the bill restricts states from being the lead entities for a grant request. Additionally, the bill requires the Interior Secretary to enter into an agreement with the National Fish and Wildlife Foundation to facilitate implementation of the Western Monarch Butterfly Conservation Plan prepared by the Western Association of Fish and Wildlife Agencies (WAFWA). The bill authorizes another \$12.5 million annually for five fiscal years to carry out this section.

A previous version of this bill was introduced in the 116th Congress, but did not receive a hearing in the Water, Oceans and Wildlife Subcommittee. The bill has 20 cosponsors, including 1 Republican.

H.R. 2026 (Rep. Hakeem Jeffries, D-NY), To assist in the conservation of highly endangered amphibian species in foreign countries, and for other purposes. *Global Amphibian Protection Act of 2021.*

The bill aims to conserve amphibian species categorized on the International Union for Conservation of Nature’s Red List of Threatened Species as either “Endangered” or “Critically Endangered”. This would include roughly 2,907 amphibians across the world.¹³

Section 3 of the bill directs the Secretary of the Interior to carry out a competitive grant program to support endangered amphibian species. The eligible applicants would be foreign wildlife management authorities or any other person or group with the “demonstrated expertise and capacity required for the conservation of a highly endangered amphibian species,” according to the bill. It requires that project proposals include support from the government of the country where the project is located, consent from affected indigenous peoples, and evidence of sensitivity to local historic and cultural resources. Section 3 also stipulates that only projects that are “in whole or in part, outside of the United States” may be selected.

To receive approval, the proposals must protect or restore habitat, enhance research or monitoring of the species, help develop a management plan for the species, assist in enforcement or protection of the species, provide training for local law enforcement, resolve human/species conflict, increase community outreach, or strengthen the ability for local communities to implement a conservation plan. The Interior Secretary is required to give preference to long-term efforts and proposals with matching funds and has 180 days to approve and disapprove proposals.

Section 4 creates the “Highly Endangered Amphibian Species Conservation Fund” within the Multinational Species Conservation Fund which consists of funding from donations, interest from amounts invested, as well as a \$5 million annual authorization for five fiscal years. Section 6 requires a report within 1 year of enactment and every 2 years thereafter on the results and effectiveness of the program carried out under the bill.

¹³ The International Union Conservation of Nature Red List of Threatened Species, Critically-endangered and Endangered amphibia, <https://www.iucnredlist.org/search?taxonomies=100050&searchType=species>.

A hearing was held on an earlier version of the bill in the 116th Congress,¹⁴ when the USFWS testified that it supported the “intent of this legislation, but has concerns that it could hinder the Service’s ability to continue to prioritize its work on the species with the greatest conservation need through science driven decisions.”¹⁵ The bill has 1 Democrat and 2 Republican cosponsors.

H.R. 2325 (Rep. Ted Lieu, D-CA), To conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes. *Bear Protection Act of 2021.*

H.R. 2325 aims to ensure the long-term conservation of Asian black bear, brown bear, polar bear, American black bear, spectacled bear, giant panda, sun bear, and sloth bear populations by prohibiting interstate and international trade in bear viscera and encouraging multinational efforts to eliminate trade in bear viscera. The United States is already a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) where all 8 species of bear (Asian black bear, brown bear, polar bear, American black bear, spectacled bear, giant panda, sun bear, and sloth bear) are listed on appendix I or II of the Convention,¹⁶ which limits international trade in the species.

According to the bill, bear viscera include the body fluids or internal organs, including the gallbladder and its contents but not the blood or brains of a species of bear. This bill prohibits the import or export of bear viscera as well as the purchase, sale, or possession of bear viscera but it provides an exception for wildlife law enforcement personnel. The bill includes penalties, including fines of not more than \$25,000 for each violation and imprisonment of up to 1 year. The bill does very little to stop the practice outside of the U.S. as it only requires the Interior Secretary to “continue discussions” with other countries on the matter.

According to testimony presented in the 116th Congress, bear gall bladders and bile are used as a traditional medicine, and are highly valued amongst some ethnic groups.¹⁷ As of 2015, American black bear numbers had increased in terms of population, totaling roughly 900,000 in North America.¹⁸ Hunting is allowed by 31 states and 12 Canadian provinces, with an annual sustainable hunting harvest of between 40,000-50,000 black bears.¹⁹

A bill similar to this legislation received a hearing in the 116th Congress,²⁰ when the USFWS testified that the bill was not “necessary” and “Because state programs have generally

¹⁴ <https://www.congress.gov/bill/116th-congress/house-bill/4340?q=%7B%22search%22%3A%5B%22HR+4340%22%5D%7D&s=2&r=3>

¹⁵ <https://www.congress.gov/116/meeting/house/109994/witnesses/HHRG-116-II13-Wstate-GuertinS-20190924.pdf>, at 6

¹⁶ 16 U.S. Code § 6302.

¹⁷ Northeast Association of Fish & Wildlife Agencies, Inc., *Testimony of Gordon R. Batcheller*, Legislative Hearing on H.R. 2264, the Bear Protection Act of 2019, and H.R. 1776, the Captive Primate Protection Act, before the Subcommittee on Waters, Oceans, and Wildlife Committee on Natural Resources, June 25, 2020, p.2, https://naturalresources.house.gov/imo/media/doc/AFWA%20testimony_H.R.%202264_Bear%20Protection%20Act%20of%202019_6-23-20_final.pdf.

¹⁸ National Park Service, American Black Bear, <https://www.nps.gov/shen/learn/nature/black-bear.htm>.

¹⁹ Northeast Association of Fish & Wildlife Agencies, p.4.

²⁰ <https://www.congress.gov/bill/116th-congress/house-bill/2264>

maintained healthy bear populations in the United States, the Department defers to state management programs.”²¹ While another witness testified that “State laws do not adequately protect bears from international trade,”²² a witness representing the Association of State and Wildlife Agencies testified that the bill overrides state laws and would “create unintended consequences for the conservation of bear species in North America.”²³ The bill has 10 Democrat and 5 Republican cosponsors.

H.R. 2773 (Rep. Debbie Dingell, D-MI), To amend the Pittman Robertson Wildlife Restoration Act to make supplemental funds available for management of fish and wildlife species of greatest conservation need as determined by State fish and wildlife agencies, and for other purposes. *Recovering America’s Wildlife Act of 2021.*

The bill amends the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669) by establishing a new “Wildlife Conservation and Restoration Subaccount.” The subaccount would permanently receive \$1.3 billion from the Treasury general fund each year to supplement existing funds for states to implement their State Wildlife Action Plans with a focus on the need to save species from the threat of imminent extinction. The bill requires the Secretary of the Interior to distribute 10 percent of the funds in the subaccount to state and territory fish and wildlife agencies through a competitive grant program for the development of tools and strategies that will accelerate or expand recovery efforts for species of greatest conservation need.

The remainder the funds from the subaccount could be used for various purposes, including:

- to implement, develop, or revise the Wildlife Conservation Strategy of a State, territory, or the District of Columbia;
- to assist in the recovery of endangered species, threatened species, candidate species, or species petitioned to be listed;
- to increase wildlife conservation education and wildlife-associated recreation projects (includes new language to give preference to “historically underserved communities”);
- to manage a species of greatest conservation need whose range is shared with another state, territory, Indian tribe, or foreign government;
- to manage, control, and prevent invasive species, disease, and other risks to species of greatest conservation need; and
- to help law enforcement activities that are directly related to the protection and conservation of a species of greatest conservation need.

The bill requires that not less than 15 percent of the funding over a 5-year period be used to assist in the recovery of endangered species, threatened species, candidate species, or species petitioned to be listed. The bill includes a new definition of “partnerships” that was not in the version from the 116th Congress. The bill also changes the definition of “Species of Greatest Conservation Need.” This change seemingly takes discretion away from states in determining species of greatest conservation need within their borders. The bill adds new language that

²¹ <https://www.doi.gov/ocl/pending-legislation-13>

²² <https://www.congress.gov/116/meeting/house/110825/witnesses/HHRG-116-III3-Wstate-SuttonM-20200625.pdf>

²³ https://naturalresources.house.gov/imo/media/doc/AFWA%20testimony_H.R.%2022264_Bear%20Protection%20Act%20of%202019_6-23-20_final.pdf, at 4.

prohibits apportionment of unobligated amounts of less than 1 percent or over 5 percent to any state. It also limits the amounts apportioned to states for wildlife conservation education and wildlife-associated recreation and inserts new language which calls for \$55 million to be reserved for “states and territories that include plants among their species of greatest conservation need.” The bill requires states to submit a 3-year workplan every 3 years to Congress describing their results.

Title II of the bill creates a “Tribal Wildlife Conservation and Restoration Account” that would receive \$97.5 million annually in permanent funding from the Treasury. These funds would be awarded to tribes through a noncompetitive application process and would be used for similar purposes as the funding provided by Title I. The bill also specifies that projects under this account would not require a funding match.

In the 116th Congress, the Natural Resources Committee passed a similar bill (H.R. 3742) by a vote of 26-6. The bill had bipartisan support, but in the Committee Report there were “additional views” included that raised concerns about mandatory spending and other issues.²⁴ H.R. 2773 is supported by state game and fish agencies and hunting and fishing organizations, and has 91 cosponsors, including 20 Republicans.

H.R. 2793 (Rep. Sean Patrick Maloney, D-NY), To reauthorize the Highlands Conservation Act, to authorize States to use funds from that act for administrative purposes, and for other purposes. *Highlands Conservation Reauthorization Act of 2021.*

The Highlands Conservation Act (P.L. 108-421) includes parts²⁵ of Connecticut, New Jersey, Pennsylvania, and New York in its definition of “Highlands State.”²⁶ The stated purpose of the law is “to recognize the importance of the water, forest, agricultural, wildlife, recreational, and cultural resources of the Highlands region, and the national significance of the Highlands region to the United States.”²⁷ The law requires the Governors of each state to identify conservation partnership projects in the region and submit a list annually to the Secretary of the Interior, who is tasked with working with the Secretary of Agriculture in submitting a final list to Congress for approval and funding.

The bill requires non-federal entities (states and agencies or departments of a state) to enter into an agreement with the Interior Secretary to be eligible for funding. In the agreement, the entity must identify who will hold or manage the land and the source of funds that would be used to match federal funds while describing the management objectives for the land to ensure permanent protection. If any of the projects awarded are disposed of or discontinued, the non-federal entity would be required to pay the government back. The cost share for projects under the Act would be 50/50, unless the state or state entity opted to contribute more. The law authorized \$10 million a year, and included a savings clause that stipulates that nothing in the

²⁴ <https://www.congress.gov/congressional-report/116th-congress/house-report/685>

²⁵ https://ftp.granit.unh.edu/d-luther/Highlands/highlands_wallPoster2010_4States.pdf

²⁶ Public Law 108–421, 108th Congress, <https://www.govinfo.gov/content/pkg/PLAW-108publ421/pdf/PLAW-108publ421.pdf>.

²⁷ *Id.*

Act would require a private property owner to permit public access to land or participate in land conservation programs created under the Act.²⁸

H.R. 2793 reauthorizes and amends the law by expanding the “Highlands Region” to all municipalities included in the Highlands Region as of the date of enactment and any municipality in any of the four states upon the request of the state and concurrence from the U.S. Fish and Wildlife Service. The bill allows political subdivisions of a state to apply for projects and would increase the authorization from \$10 million to \$20 million per year for fiscal years 2022 through 2028. The bill adds a section to allow a Highlands State to petition the Interior Secretary to consider an “alternate appraisal methodology” if there is a conflict between a Department of the Interior appraisal methodology and state law.

The bill has 20 Democrat and 2 Republican cosponsors.

[H.R. 2848](#) (Rep. Stephanie Murphy, D-FL), To amend the Marine Mammal Protection Act of 1972 to reauthorize and modify the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes. *Marine Mammal Research and Response Act of 2021.*

The bill amends and reauthorizes Title IV (Marine Mammal Health and Stranding Response) of the Marine Mammal Protection Act of 1972 (Public Law 92-522, MMPA) to increase funding for the renamed John H. Prescott Marine Mammal Rescue and Response Grant Program (Grant Program) and the Unusual Mortality Event Fund.

The Grant Program provides grants or cooperative agreements for the recovery and treatment of stranded or entangled marine mammals, data collection from living or dead stranded or entangled marine mammals, and the facility upgrades, operation costs, and staffing needs directly related to the recovery and treatment of stranded or entangled marine mammals. This bill reauthorizes a total of \$35 million through FY 2026 for this program.

In addition, the bill gives NOAA the authority to deposit into the Marine Mammal Unusual Mortality Event Fund up to \$250,000 per year from fines collected for violating the MMPA. Under current law, those fines can be spent without further appropriation to protect certain marine mammals. This fund is used to reimburse non-federal partners for their efforts to treat stranded or entangled marine mammals.

The bill also creates a “Marine Mammal Health Monitoring and Analysis Platform” to collect and report data regarding marine mammal deaths, and directs the National Academies of Sciences, Engineering, and Medicine to study marine mammal mortality events.

The bill has 4 Democrat and 4 Republican cosponsors.

²⁸ *Id.*

H.R. 2872 (Rep. Matt Cartwright, D-PA), To establish an integrated national approach to respond to ongoing and expected effects of extreme weather and climate change by protecting, managing, and conserving the fish, wildlife, and plants of the United States, and to maximize Government efficiency and reduce costs, in cooperation with State, local, and Tribal Governments and other entities, and for other purposes. *Climate SAFE Act.*

The bill revives a 2013 Obama-era [*National Fish Wildlife and Plants Climate Adaptation Strategy*](#) (National Strategy) by establishing a 16 federal agency National Fish, Wildlife, and Plants Climate Adaptation Strategy Joint Implementation Working Group (Working Group) that is tasked with its implementation. The National Strategy outlines seven goals aimed at climate change adaptation.²⁹ In addition, the Working Group must periodically update the National Strategy to incorporate requirements that “identify fish, wildlife, and plants likely to have the greatest need for protection, restoration, and conservation due to the ongoing and expanding effects of extreme weather and climate change” and “identify Federal policies and actions that may reduce resilience and increase the vulnerability of fish, wildlife, and plants to extreme weather and climate change.”

The bill also requires the Secretary of the Interior to establish a National Climate Change and Wildlife Science Center to develop scientific information and strategies to address climate change. The Interior Secretary has the ability to enter into contracts, grants, or cooperative agreements with stakeholders to further these goals. While the bill does not authorize any funding, it does exempt these awards from competition and advertising requirements, as well as advance payment limitations.

H.R. 2872 conditions states’ eligibility for funding under the State & Wildlife Grants program, the Coastal Zone Management Act grants program, and two other grant programs for states on the Secretary’s approval of a state’s adaptation plan. These adaptation plans must include the adaptation provisions of any state comprehensive wildlife conservation strategy that has been submitted, approved, or is pending approval from the Director of the U.S. Fish and Wildlife Service. Last Congress, the Trump Administration expressed concerns over this bill. Mr. Stephen Guertin, a USFWS representative who will again be testifying on this bill, stated that “This bill appears to be duplicative of many on-going efforts related to adaptation strategies for fish, wildlife, and plants.”³⁰

In the 116th Congress, an identical bill was reported out of committee by a 22–15 vote, with no Republican support.³¹ This Congress’ bill has 19 Democrat cosponsors.

H.R. 3075 (Rep. Jared Huffman, D-CA), To address seafood slavery and combat illegal, unreported, or unregulated fishing, and for other purposes. *Illegal Fishing and Forced Labor Prevention Act.*

Entities that engage in illegal, unreported, and unregulated (IUU) fishing circumvent conservation and management measures and avoid the operational costs associated with

²⁹ https://toolkit.climate.gov/sites/default/files/NFWPCAS-Final_0.pdf

³⁰ <https://docs.house.gov/meetings/II/II13/20190924/109994/HHRG-116-II13-Wstate-GuertinS-20190924.pdf>

³¹ <https://www.congress.gov/congressional-report/116th-congress/house-report/481/1?overview=closed>

sustainable fishing practices. According to NOAA, the United States imports more than 85 percent of its seafood.³² One of the tools utilized to prevent IUU seafood imports from entering the U.S. market is the Seafood Import Monitoring Program (SIMP).

NOAA launched SIMP in 2018 as a risk-based traceability program. Currently, SIMP applies to thirteen priority species: Abalone, Atlantic cod, Blue crab (Atlantic), Dolphinfin (Mahi Mahi), Grouper, King crab (red), Pacific cod, Red snapper, Sea cucumber, Sharks, Shrimp, Swordfish, and Tuna (Albacore, Bigeye, Skipjack, Yellowfin, and Bluefin).³³

Seafood importers are required to obtain a NOAA Fisheries International Fisheries Trade Permit (IFTP). At the time of entry, the importer is required to report to the U.S. Customs and Border Protection (CBP) essential information pertaining to the initial harvest and the initial offload of the fish. This includes vessel name, vessel country (flag state), location of harvest, method of harvest (gear type), place of first off-load, and the responsible entity receiving the fish, as well as other information.³⁴ In April 2021, NOAA released its report on the implementation of SIMP. The report found that the majority of audits were found to be in compliance with federal laws and only a small number warranted enforcement actions.³⁵

H.R. 3075 expands SIMP to all imported seafood species. The bill authorizes \$200 million overall for fiscal years 2021 through 2025 for the CBP to expand enforcement of the program. One of the justifications for this expansion was [a report](#) by the U.S. International Trade Commission that estimated that nearly 11% of total seafood imports in 2019, worth \$2.4 billion, were products of illegal or unreported fishing.

In addition, the bill establishes seafood traceability and labelling requirements, expands U.S. authority to revoke port privileges for fishing vessels associated with IUU fishing and expands IUU determination criteria to include human trafficking, forced labor, and other labor rights violations. The bill expands the Automatic Identification Systems (AIS) Class A requirement to fishing processors, tenders, and vessels of more than 50 feet in length. AIS is a shipboard broadcast system that provides vessel information, including the vessel's identity, type, position, course, speed, navigational status, and other information. Currently, fishing industry vessels (i.e., fishing processors, tenders, and vessels) may use lower-cost AIS Class B units in lieu of Class A devices.

The Natural Resources Committee recently received a letter from leading U.S. seafood producers on SIMP, expressing concerns that the program increases the burden of compliance on industry and its application to U.S.-harvested fish that are processed overseas and brought back to the United States.³⁶

The bill is cosponsored by Reps. Garret Graves (R-LA), Steven Palazzo (R-MS) and Ed Case (D-HI).

³² <https://media.fisheries.noaa.gov/2021-05/SIMP%20Implementation%20Report%202021.pdf?null>

³³ <https://www.fisheries.noaa.gov/international/seafood-import-monitoring-program>

³⁴ <https://media.fisheries.noaa.gov/2021-05/SIMP%20Implementation%20Report%202021.pdf?null>

³⁵ <https://media.fisheries.noaa.gov/2021-05/SIMP%20Implementation%20Report%202021.pdf?null>

³⁶ https://republicans-naturalresources.house.gov/uploadedfiles/u.s._seafood_producer_house_simp_letter.pdf

H.R. 3128 (Rep. Don Young, R-AK), To establish the American Fisheries Advisory Committee to assist in the awarding of fisheries research and development grants, and for other purposes. *American Fisheries Advisory Committee Act of 2021.*

The Saltonstall-Kennedy (S-K) Act of 1954 (15 U.S.C. §713c-3) established a grant program funded by customs receipts for duties on U.S. seafood imports. These grants are distributed to entities to promote U.S. seafood. The S-K grant projects were originally chosen by a committee consisting of an array of stakeholders from the fishing industry that advised on commercial fishing issues. The committee was eliminated under the Federal Advisory Committee Act in 1972 and the responsibility of project selection fell to the National Marine Fisheries Service. This bill reinstates the board of experts, with members chosen regionally and across all sectors of the fishing industry, to identify the research needs and priorities of the commercial fishing industry. Reestablishing the American Fisheries Advisory Committee allows for industry input into the process of identifying needs and funding priorities.

In the last Congress, this bill was favorably reported out of the Natural Resources Committee by unanimous consent.³⁷ The bill is cosponsored by Rep. Amata Radewagen (R-AS).

H.R. 3135 (Rep. Earl Blumenauer, D-OR), To amend the Lacey Act Amendments of 1981 to prohibit importation, exportation, transportation, sale, receipt, acquisition, and purchase in interstate or foreign commerce, or in a manner substantially affecting interstate or foreign commerce, or possession, of any live animal of any prohibited primate species. *Captive Primate Safety Act.*

Enforced by the USFWS, the Lacey Act of 1900 (16 U.S.C. 3371-3378) was the first federal law protecting plants, fish, and wildlife. Under this law, the term “fish or wildlife” extends to “any wild animal, whether alive or dead, including without limitation any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity, and includes any part, product, egg, or offspring thereof.”³⁸

The Lacey Act makes it illegal to import, export, sell, receive, acquire, or purchase any fish, wildlife or plants that are taken, possessed, transported, or sold through interstate or foreign commerce in violation of any law, treaty, or regulation of the United States or any Indian tribal law, or to attempt to commit any of these violations. There are certain exemptions for persons licensed and registered by the U.S. Department of Agriculture’s Animal and Plant Health Inspection Service (APHIS), state colleges, universities, or agencies, state-licensed wildlife rehabilitators or veterinarians, and accredited wildlife sanctuaries.

H.R. 3135 amends the Lacey Act by adding a new “prohibited primate species” definition which includes any live species of non-human primate or any hybrid species of non-human primates. The Endangered Species Act (16 U.S.C. 1531 et seq.) also prohibits the interstate sale and international trade of many listed non-human primate species. In addition, the bill tightens the

³⁷ <https://www.congress.gov/congressional-report/116th-congress/house-report/428>

³⁸ 16 USC 3371(a)

exemptions for activities related to “prohibited primate species” to apply to persons who are licensed and registered by APHIS or other relevant federal agencies, by requiring that such persons do not allow direct physical contact between these species and members of the public. The legislation also eliminates the exemption for state-licensed wildlife rehabilitators and modifies the exemption for wildlife sanctuaries to no longer require that they be “accredited.”

The Natural Resources Committee heard testimony on a similar bill in the 116th Congress (H.R. 1776), when the USFWS submitted written comments stating: “This legislation would emphasize and expand Service enforcement responsibilities into an area that has historically been the responsibility of state agencies and the U.S. Department of Agriculture, and which we do not consider to be a wildlife conservation issue. By including all non-human primates in the list of prohibited wildlife species, this bill would also extend the Service’s enforcement mandate to policing currently legal activities involving interstate and foreign commerce of captive non-human primates. Many of these species may be lawfully used for research and other purposes under the Animal Welfare Act.”³⁹

This bill has 1 Republican and 45 Democrat cosponsors.

[H.R.3396](#) (Rep. Raúl Grijalva, D-AZ), To create dedicated funds to conserve butterflies in North America, plants in the Pacific Islands, freshwater mussels in the United States, and desert fish in the Southwest United States, and for other purposes. *Extinction Prevention Act of 2021.*

The bill aims to aid in the conservation of butterflies in North America, plants in the Pacific Islands, freshwater mussels in the United States, and desert fish in the Southwest United States by establishing new federal funding accounts for four narrow conservation initiatives. The bill authorizes \$100 million over a five-year authorization period.

Title I of the bill establishes a “North America Butterfly Conservation Fund” to provide financial assistance for projects for the conservation of butterflies. Conservation under the bill would include protection, restoration, and management of habitat, research, monitoring, development of management plans, enforcement of conservation laws, and community outreach. This bill allows grants to states, tribes, research institutions, nonprofits, or any other individual or entity that has the “demonstrated expertise required for the conservation of butterflies in North America.” The bill does not provide a definition or standard for “demonstrated expertise required.” It stipulates that all projects must be implemented in accordance with relevant wildlife agencies and with the consent of indigenous communities where the project will be conducted. The Secretary of the Interior is given 30 days to provide the proposal to other federal agencies and 180 days to provide written notification of the approval or disapproval to the person who submitted the project. The bill directs the Interior Secretary to give priority to projects for threatened or endangered species. The fund would be authorized \$5 million for each of fiscal years 2022-2027. The Secretary is required to submit a report to Congress on the fund and the status of butterflies in North America, including an evaluation of the status of threatened and endangered butterfly populations in North America.

³⁹ <https://www.doi.gov/ocl/pending-legislation-13>

Title II provides financial resources for projects to conserve plant species in the Hawaiian Islands and the Pacific Island Territories (Guam, American Samoa, and the Northern Mariana Islands). It does so by requiring the Interior Secretary to provide multi-year grants for projects for the conservation of plant species. The bill allows states, territories, or tribes to apply for a project and includes similar language to Title I to allow individuals with “the expertise required” to also apply. It includes similar requirements for applications, including a stipulation that projects must contribute to the conservation of threatened and endangered plant species. The Title requires the Interior Secretary to give preference to projects that contain matching funds. The bill creates the “Pacific Islands Plant Conservation Fund.” This fund would consist of donations and is authorized for \$5 million for each of fiscal years 2022-2027. Like Title I, this Title would also require a yearly report from the Secretary of the Interior to Congress.

Title III provides financial resources to conserve threatened and endangered freshwater mussel species and their habitats in the United States. Title III largely follows the same blueprint as Titles I and II in that it calls for multi-year grants, opens applicability to states, tribes, and individuals “with the expertise required,” and contains almost identical requirements for proposals and criteria for approval. It also creates a “Freshwater Mussels Conservation Fund,” which is comprised of donations and is authorized for \$5 million for each of fiscal years 2022-2027, and requires a yearly report from the Secretary of the Interior to Congress.

Title IV provides financial resources to conserve threatened and endangered desert fish species and their habitats in Arizona, California, Colorado, Nevada, New Mexico, and Utah. Title IV follows the same template as the other Titles and creates the “Southwest Desert Fish Conservation Fund,” which is comprised of donations and is authorized for \$5 million for each of fiscal years 2022-2027, and requires a yearly report on the projects carried out and the status of desert fish in the Southwest.

A previous version of this bill received a hearing in the 116th Congress (H.R. 2918). The USFWS testified, “While we agree that some of the species identified in this legislation are in urgent need of conservation, we are concerned that this legislation could hinder the Service’s ability to prioritize its work on the species with the greatest conservation need.”⁴⁰ The current bill has 11 Democrat cosponsors.

[H.R. 4458](#) (Rep. Jared Huffman, D-CA), To establish a grant program within the National Oceanic and Atmospheric Administration to award grants to eligible entities for the purpose of carrying out projects on the conservation, restoration, or management of kelp forest ecosystems. *KELP Act*.

The bill creates a new grant program under NOAA for the “conservation, restoration, or management of kelp forest ecosystems.” The bill authorizes a total of \$250 million for fiscal years 2022 through 2026 and requires a 15 percent match fund that can be waived at the discretion of the NOAA Administrator.

⁴⁰ <https://www.congress.gov/116/meeting/house/109994/witnesses/HHRG-116-II13-Wstate-GuertinS-20190924.pdf>

Kelp forests grow predominantly along the Pacific Coast, from Alaska and Canada to the waters of Baja, California.⁴¹ According to NOAA, kelp forests are generally found in four national marine sanctuaries: Monterey Bay National Marine Sanctuary, the Greater Farallones National Marine Sanctuary, the Channel Islands National Marine Sanctuary in California, and the Olympic Coast National Marine Sanctuary in Washington.⁴² Kelp forest restoration work is already being done. For example, the Greater Farallones National Marine Sanctuary is implementing a kelp recovery program with funding from the National Marine Sanctuary Foundation and in collaboration with The Nature Conservancy.⁴³

Sponsored by Rep. Jared Huffman (D-CA), the bill has 9 Democrat cosponsors.

IV. MAJOR PROVISIONS & ANALYSIS

H.R. 273 (Rep. Don Young, R-AK)

- Bans genetically altered finfish.
- Provides some exemptions to the ban.

H.R. 274 (Rep. Don Young, R-AK)

- Prohibits the Departments of the Interior and Commerce from authorizing commercial finfish aquaculture operations in the U.S. Exclusive Economic Zone (EEZ).

H.R. 1569 (Rep. Jared Huffman, D-CA)

- Creates a Critically Endangered Animals Conservation Fund inside of the existing Multinational Species Conservation Fund comprised of donations, interest from amounts invested, as well as a \$5 million annual authorization.
- Includes a broad definition of “critically endangered species” that could include more than 37,400 species.

H.R. 1983 (Rep. Jimmy Panetta, D-CA)

- Creates the Western Monarch Butterfly Rescue Fund authorized at \$12.5 million per year and would be used to provide grants for projects to increase conservation for western monarch butterflies.
- The bill restricts states from being the lead entities for a grant request.
- Requires the Interior Secretary to enter into an agreement with the National Fish and Wildlife Foundation to facilitate implementation of the Western Monarch Butterfly Conservation Plan prepared by the Western Association of Fish and Wildlife Agencies.

⁴¹ <https://www.fisheries.noaa.gov/west-coast/habitat-conservation/kelp-forest-habitat-west-coast>

⁴² <https://sanctuaries.noaa.gov/visit/ecosystems/kelpdisc.html>

⁴³ <https://marinesanctuary.org/blog/kelp-forest-restoration-farallones-national-marine-sanctuary/>

H.R. 2026 (Rep. Hakeem Jeffries, D-NY)

- Creates a Highly Endangered Amphibian Species Conservation Fund within the Multinational Species Conservation Fund to conserve amphibian species wholly or partially outside of the U.S.
- The Fund would receive a \$5 million annual authorization for five fiscal years.

H.R. 2325 (Rep. Ted Lieu, D-CA)

- Explicitly bans the import of export bear viscera as well as the purchase, sale, or possession bear viscera.
- Identical to a bill from last Congress, H.R. 2264, which had a hearing and was opposed by the Association of Fish and Wildlife Agencies.

H.R. 2773 (Rep. Debbie Dingell, D-MI)

- Amends the Pittman-Robertson Wildlife Restoration Act by establishing a new subaccount that would permanently receive \$1.3 billion annually in funding for states to implement their State Wildlife Action Plans.
- Creates a “Tribal Wildlife Conservation and Restoration Account” that would receive \$97.5 million annually in permanent funding for similar purposes.

H.R. 2793 (Rep. Sean Patrick Maloney, D-NY)

- Reauthorizes and amends Public Law 108-421 by expanding the “Highlands Region” to allow municipalities in the region eligible for grants under the law.
- Would increase the authorization from \$10 million per year to \$20 million a year for fiscal years 2022 through 2028.

H.R. 2848 (Rep. Stephanie Murphy, D-FL)

- Reauthorizes Title IV (Marine Mammal Health and Stranding Response) of the Marine Mammal Protection Act of 1972 to increase funding for the John H. Prescott Marine Mammal Rescue and Response Grant Program (Grant Program) and the Unusual Mortality Event Fund.

H.R. 2872 (Rep. Matt Cartwright, D-PA)

- Implements the Obama-era National Fish Wildlife and Plants Climate Adaptation Strategy.
- Conditions funding eligibility under several federal grant programs on the Secretary of the Interior’s approval of a state’s adaptation plan.

H.R. 3075 (Rep. Jared Huffman, D-CA)

- Expands the Seafood Import Monitoring Program (SIMP) to all imported seafood species.

- Establishes seafood traceability and labeling requirements.
- Expands U.S. authority to revoke port privileges for fishing vessels associated with IUU fishing.
- Expands the Automatic Identification Systems (AIS) Class A requirement to fishing processors, tenders, and vessels of more than 50 feet in length.

[H.R. 3128](#) (Rep. Don Young, R-AK)

- Reestablishes the American Fisheries Advisory Committee, which selected the recipients of the Saltonstall-Kennedy (S-K) grants until 1972.

[H.R. 3135](#) (Rep. Earl Blumenauer, D-OR)

- Makes the possession and breeding of non-human primates an illegal activity.
- Allows for limited exemptions.

[H.R.3396](#) (Rep. Raúl Grijalva, D-AZ)

- The bill authorizes funding for the conservation of butterflies in North America, plants in the Pacific Islands, freshwater mussels in the United States, and desert fish in the Southwest United States by authorizing \$5 million annually for six years for each species.
- The bill allows any individual or entity that has the “demonstrated expertise required for the conservation of butterflies in North America” to apply for these grants. The bill does not provide a definition or standard for “demonstrated expertise required.”

[H.R. 4458](#) (Rep. Jared Huffman, D-CA)

- Creates a new \$250 million grant program for kelp forest ecosystem restoration.

V. COST

The bills have not received a Congressional Budget Office cost analysis.

VI. ADMINISTRATION POSITION

Unknown at this time. The Administration will not be testifying on H.R. 273, H.R. 274, and H.R. 3128.

VII. EFFECT ON CURRENT LAW (RAMSEYER)

[H.R. 2773](#) (Rep. Debbie Dingell, D-MI)

[H.R. 2793](#) (Rep. Sean Patrick Maloney, D-NY)

[H.R. 2848](#) (Rep. Stephanie Murphy, D-FL)

[H.R. 3075 \(Rep. Jared Huffman, D-CA\)](#)

[H.R. 3128 \(Rep. Don Young, R-AK\)](#)