

**The Endangered Species Act Amendments of 2020
Section-by-Section**

TITLE I—TECHNICAL CORRECTIONS

Section 101. Technical corrections

This section makes technical corrections with regard to references to the Secretary throughout the Endangered Species Act (ESA) in keeping with current bill drafting norms.

TITLE II—ENHANCING THE FEDERAL-STATE CONSERVATION PARTNERSHIP

Section 201. Definitions.

This section provides definitions under the ESA for “affected party,” “appropriately qualified scientist or other qualified person,” “covered settlement,” “eligible state agency,” “impacted state,” “party with a direct interest in the land in which the relevant species is believed to occur,” “recovery plan,” and “recovery team.”

This section includes a sense of Congress that any comment submitted to the Secretary of the Interior or the Secretary of Commerce (“the Secretary,” as defined in current ESA statute) by a state should be afforded “full and fair consideration” by the Secretary. The sense of Congress further provides that the Secretary should consult with states “to the maximum extent possible,” which is a higher standard of consultation than the “maximum extent practicable” standard of consultation under current statute.

This section requires the Secretary to initiate a rulemaking to define the terms “full and fair consideration,” “maximum extent possible,” “appropriately qualified scientist or other qualified person,” “eligible state agency,” and “party with a direct interest in the land in which the relevant species is believed to occur.”

Section 202. State-Federal consultation relating to conservation and recovery of wildlife.

This section amends findings, purposes, and policies relating to the ESA to emphasize the partnership between federal and state governments in implementing the statute.

This section requires that within 15 days of receipt of a listing petition, the Secretary shall provide a copy of the petition to the governor and the state agency of each impacted state, and to each tribe with jurisdiction over land covered by the petition, and make a copy of the petition publicly available on the internet. The Secretary shall solicit comments from the governor, state agency, and tribe, who shall submit comments to the Secretary within 60 days of receipt of the copy of the petition from the Secretary. The Secretary must give their comments “full and fair consideration.”

This section requires that the Secretary provide the complete text of a proposed regulation determining that a species is threatened or endangered, or designating habitat of such species as

critical habitat, to the governor and state agency of each impacted state and to each tribe with jurisdiction over land in which the species is believed to occur (in addition to the state agency of each impacted state, as provided for under current ESA statute). If the Secretary issues a final regulation in conflict with comments submitted by the governor or the tribe (in addition to the state agency, as provided for under current ESA statute), or if the Secretary fails to adopt a regulation pursuant to a listing action petitioned by the governor or the tribe (in addition to the state agency, as provided for under current ESA statute), the Secretary shall submit a written justification to the relevant party.

Section 203. Recovery of threatened and endangered species.

Status review

This section requires the Secretary to initiate a status review to determine whether to delist or downlist, as applicable, a threatened or endangered species if the species achieves the recovery goals described in the recovery plan for the species, which shall include criteria established by the Secretary, in consultation with impacted states. The recovery goals shall be based on the best scientific and commercial data available, and shall, to the maximum extent practicable, be expressed using objective and measureable biological criteria.

Recovery goals

This section authorizes a recovery team to propose to the Secretary a modification of a recovery goal based on developments that materially change the underlying best scientific and commercial data available on which the goal was established. A vote of at least 3/4 of the representatives of state agencies from each impacted state participating as members of the recovery team is required for the recovery team to make, and for the Secretary to accept, such a proposal. Within 90 days of receipt of such a proposal, the Secretary shall approve the modification, or reject it, in which case he or she shall provide a written explanation to the recovery team, the state agency of each impacted state, and Congress.

This section authorizes the Secretary to modify a recovery goal based on developments that materially change the underlying best scientific and commercial data available on which the goal, habitat objective, or other criterion was established. However, prior to making such a modification, the Secretary must provide a detailed, comprehensive, written explanation of the proposal to a species' recovery team, each state agency of an impacted state, and Congress. The Secretary shall not make any such modification within 30 days after the date on which the Secretary provides the explanation to the recovery team, each state agency of an impacted state, and Congress. The Secretary may also modify a recovery goal when no recovery team exists based on developments that materially change the underlying best scientific and commercial data available on which the goal was established. Nothing in this subsection requires a recovery goal to be achieved in order for the Secretary to delist or downlist a threatened species or endangered species.

Recovery plans, implementation plans, and implementation

This section requires the Secretary to ensure the development of recovery plans, unless the Secretary finds that such a plan will not promote the conservation of the species. A recovery plan shall be developed by appropriately qualified scientists and other qualified people, including representatives of: the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS), as applicable; other relevant federal land and wildlife management agencies; the state agency from each impacted state; and other relevant state and local land, natural resources, water, and wildlife management agencies that have management authority over land in which the relevant species is believed to occur. Development of a recovery plan may also be informed by feedback from parties with a direct interest in the land in which the relevant species is believed to occur, specifically regarding any practical consideration affecting implementation of a recovery plan.

This section requires the Secretary to ensure the development of implementation plans for the purpose of implementing recovery plans, unless the Secretary finds that such an implementation plan will not promote the conservation of the species. An implementation plan shall be developed by parties with a direct interest in the land in which the relevant species is believed to occur, including appropriately qualified scientists and other qualified people who conduct the development of a recovery plan, and, as applicable, representatives of private and public landowners, agricultural production, energy production, natural resource commodity groups and user industries, homebuilders, water resources groups, outdoor recreation groups, environmental groups, and land, habitat, and wildlife conservation groups.

This section requires the Secretary to ensure the timely implementation of, as applicable, a recovery plan or an implementation plan.

This section requires the Secretary to provide to each impacted state the opportunity: to lead recovery planning, implementation planning, and implementation; to expedite threatened or endangered species recovery by supporting state-level initiatives and partnerships; and to increase flexibility and feasibility for the applicability of recovery plans and implementation plans. In addition, the Secretary shall: consult, to the maximum extent possible, with impacted states, including governors, state agencies, and local land, natural resources, water, and wildlife management agencies of impacted states; and give full and fair consideration to any comments or recommendations received from an impacted state.

This section requires the Secretary, in consultation with the states, to promulgate regulations governing a process by which, in a case in which a recovery team or implementation team is not established, the Secretary shall provide to an eligible state agency of an impacted state the opportunity to develop a recovery plan or implementation plan, and to implement that recovery plan or implementation plan.

This section requires that, in a case in which a recovery team or implementation team is established, the Secretary shall provide to each impacted state the opportunity to lead the recovery team or implementation team. An impacted state that leads a recovery team or implementation team shall be responsible for developing a recovery plan or implementation plan,

and implementing a recovery plan or implementation plan.

This section requires the Secretary, in consultation with the states, to promulgate as part of a rulemaking to list a species as a threatened species or an endangered species a schedule that contains a date by which a recovery plan or implementation plan for the species shall be established, which shall be not later than five years after the date on which the final rule listing the species is published in the Federal Register.

Recovery teams and implementation teams

This section allows an impacted state to request that the Secretary establish a recovery team if a species is included on the list of threatened or endangered species. The Secretary shall establish a science-based recovery team: if an impacted state, acting alone or in conjunction with another impacted state, submits to the Secretary a request to establish a recovery team; or in the case of a species with respect to which more than one impacted state exists, the Secretary determines that establishing a recovery team would promote the conservation and recovery of the species.

This section requires that members of a recovery team shall be appointed by the Secretary, and shall be composed solely of appropriately qualified scientists and other qualified people. Members of a recovery team shall include representatives of: USFWS or NMFS, as applicable; other relevant federal land and wildlife management agencies; the state agency from each impacted state, unless the impacted state elects not to participate in the recovery team; other relevant state and local land, natural resources, water, and wildlife management agencies from each impacted state, nominated by the governor of the impacted state, unless the impacted state elects not to participate in the recovery team; and relevant Indian tribes, or tribal land, natural resources, and wildlife management agencies that have management authority over the land in which the relevant species is believed to occur, unless the Indian tribe elects not to participate in the recovery team.

This section requires the Secretary, in consultation with the states, to promulgate regulations governing the composition and leadership of the recovery team, including a process by which each impacted state is provided with an opportunity to lead the recovery team. A recovery team shall: lead the development of a recovery plan; issue a final recovery plan; if an implementation team is not established, implement the final recovery plan; if an implementation team is established; lead the implementation team, including in the implementation of the final recovery plan; propose modifications to the recovery plan; recommend delisting or downlisting once the established recovery plan criteria for the species have been satisfied; or recommend uplisting, as applicable.

This section allows an impacted state to request that the Secretary establish an implementation team if a species is included on the list of threatened or endangered species. The Secretary shall establish an implementation team at the same time the Secretary establishes a recovery team if an impacted state, acting alone or in conjunction with another impacted state, submits to the Secretary a request to establish an implementation team, or in the case of a species with respect to which more than one impacted state exists, the Secretary determines that establishing an implementation team would promote the conservation and recovery of the species.

This section requires that members of an implementation team shall be appointed by the Secretary, and shall be composed solely of parties with a direct interest in the land in which the species is believed to occur. Members of an implementation team shall include each member of a recovery team and, as applicable, representatives of: private and public landowners; agricultural production; energy production; natural resource commodity groups and user industries; homebuilders; water resources groups; outdoor recreation groups; environmental groups; and land, habitat, and wildlife conservation groups.

This section requires the Secretary, in consultation with the states, to promulgate regulations governing the composition of an implementation team, including criteria that the Secretary shall follow when determining the number of members of an implementation team, including the number of representatives of each of the landowners, regulated industries, environmental groups, wildlife conservation groups, and other parties with a direct interest in the land in which the species is believed to occur, which shall be reasonably balanced. An implementation team shall provide feedback solicited by the recovery team in order to aid the recovery team in fulfilling the duties of the recovery team, including developing and implementing a recovery plan and associated recovery goals, specifically with regard to any practical considerations affecting the implementation of a recovery plan. An implementation team shall also: lead the development of an implementation plan; at the same time that a recovery team issues a final recovery plan, issue a final implementation plan; amend or modify the implementation plan; lead the implementation of the implementation plan, including the implementation of the final recovery plan.

This section authorizes any member of a recovery team or an implementation team to participate in a meeting of the recovery team or implementation team through teleconferencing or any other remote business telecommunications method that allows each participating member to simultaneously hear each other participating member during the meeting.

This section requires the Secretary, in consultation with the states, to promulgate as part of a rulemaking to list a species as a threatened species or an endangered species a schedule that contains a date by which a recovery team or implementation team for the species shall be established, which shall be not later than two years after the date on which the final rule listing the species is published in the Federal Register.

Section 204. Delisting, downlisting, and uplisting.

This section requires the Secretary to conduct a status review of a threatened or endangered species for purposes of delisting, downlisting, or uplisting, as applicable. The Secretary shall initiate a status review, as applicable, within 30 days after the earlier of the date on which: (1) the Secretary determines that the applicable recovery goals are achieved for the species; (2) the Secretary receives from the recovery team for the species a report that describes the means by which the recovery goals have been achieved with respect to the species, and that recommends the delisting or downlisting of the species; and (3) the Secretary receives from the recovery team for the species a report that recommends the uplisting of the species.

This section provides that nothing in this subsection affects the ability of a person to submit to the Secretary a petition to delist, downlist, or uplist a threatened or endangered species.

This section provides that the Secretary may still, on the Secretary's own initiative and in addition to the required status review under this subsection, delist, downlist, or uplist a threatened or endangered species. If the Secretary initiates a review to delist or downlist a threatened or endangered species on the Secretary's own initiative, the determination shall be based on the factors under section 4(a)(1) of the ESA, irrespective of whether the recovery goals for the species have been achieved.

This section requires that the Secretary make a determination to delist, downlist, or uplist a threatened or endangered species within 90 days after the date of initiation of a status review pursuant to this subsection. On determining to delist, downlist, or uplist, the Secretary shall publish a final regulation to delist, downlist, or uplist the species within one year after the date of the determination. On determining not to delist, downlist, or uplist, the Secretary shall publish in the Federal Register by not later than 90 days after the date of the determination a detailed, comprehensive, written explanation of the determination.

This section provides that if the Secretary delists a threatened or endangered species as described in this subparagraph, the post-delisting monitoring period required under section 4(g) of the ESA shall begin on the date on which a final regulation to delist the species is published in the Federal Register.

This section provides that until the post-delisting monitoring period required under section 4(g) of the ESA expires, a determination to delist a threatened or endangered species pursuant to this subsection shall not be considered a final agency action for purposes of judicial review, and judicial review of the determination shall not commence.

Section 205. Cooperation with States and Indian Tribes.

This section requires the Secretary to cooperate to the maximum extent possible (a higher standard than the maximum extent practicable standard of consultation under the current ESA statute) with states when implementing the ESA. The Secretary's consultation with states shall be based on the best scientific and commercial data available, and shall include each impacted state. The Secretary shall acknowledge and respect the primary authority of state agencies to manage fish and wildlife within state borders, except as otherwise provided in the ESA with respect to an exercise by the Secretary of specific authority to manage a species.

This section authorizes the Secretary to enter into a cooperative agreement in accordance with section 6 of the ESA with a tribe (in addition to a state, as provided for under current ESA statute) that establishes and maintains an adequate and active program for the conservation of threatened and endangered species. The Secretary is required to affirmatively "offer" to enter into such an agreement. Under such an agreement, the Secretary may provide financial and other assistance to a state or tribe in the implementation of its conservation program.

This section authorizes the Secretary to promulgate regulations relating to fulfilling the obligation of the Secretary to carry out the ESA in consultation with states (in addition to providing financial assistance to states, as provided for under current ESA statute).

Section 206. State consultation regarding experimental populations.

This section requires the Secretary to negotiate a management authority agreement regarding an experimental population of a species in good faith with each state agency of each impacted state in which an experimental population is authorized to be released. Such an agreement must include: the boundaries of the area in which the experimental population is authorized to be released; the ideal population size of the experimental population; the processes related to supplemental introductions of the experimental population; the circumstances in which takings of the experimental population are authorized; the role of the experimental population with respect to the continued existence of a threatened or endangered species; the conditions under which the Secretary would authorize the removal of an experimental population from the impacted state; controls to mitigate against losses generated by the population, such as the relocation, translocation, removal, or taking of a member of the population that depredates on livestock; and federal compensation for losses generated by the population, such as when a member of the population depredates livestock.

This section provides that if the Secretary cannot, after good faith negotiations, reach a management authority agreement with a state agency, the Secretary shall develop a plan regarding the management authority of the experimental population. The management plan shall include the same information that would be required in a management authority agreement entered into with a state agency. In developing such a management plan, the Secretary shall solicit input from the applicable state agency and give full and fair consideration to that input.

This section requires the Secretary to have a separate management authority agreement or management plan for each impacted state in which the experimental population is authorized to be released.

Section 207. State participation in settlements.

This section requires the Secretary to provide notice to, consult with, and otherwise take appropriate actions to include each impacted state when preparing or entering into a settlement for an alleged failure by the Secretary to perform any non-discretionary act or duty under section 4 of the ESA. This section specifies that the ability of any other party to participate in a settlement is not limited by this section.

TITLE III—ENCOURAGING CONSERVATION ACTIVITIES THROUGH REGULATORY CERTAINTY

Section 301. Sense of Congress regarding conservation agreements and activities.

This section establishes the sense of Congress that: (1) voluntary conservation agreements benefit species and their habitats; (2) states, tribes, units of local government, landowners, and other stakeholders should be encouraged to participate in voluntary conservation agreements; and (3) the Secretary should consider the enrollment in, and performance of, conservation agreements and the investment in, and implementation of, general conservation activities by states, tribes, local government, landowners, and other stakeholders, in ESA determinations.

Section 302. Conservation agreements as factors in listing decisions.

This section requires the Secretary to consider a conservation agreement entered into or endorsed by the Secretary under any of the factors under section 4(a)(1) of the ESA for purposes of determining whether to include or maintain a species on the list of threatened or endangered species. A conservation agreement includes: a wildlife conservation agreement; a candidate conservation agreement with assurances; a candidate conservation agreement; a safe harbor agreement; a habitat conservation plan; an interagency agreement approved by the Secretary; and a plan that relates to the conservation of a species, affects the viability of the species, and is implemented, or proposed to be implemented, by a state or local government.

Section 303. Conservation efforts as regulatory mechanisms.

This section requires the Secretary to establish a framework for the consideration of conservation efforts by states, tribes, local governments, private landowners, lessees, and third-party organizations as regulatory mechanisms under section 4(a)(1) of the ESA. The Secretary shall evaluate conservation efforts through this framework. If the Secretary determines that a conservation effort meets the applicable criteria under that framework, the Secretary shall consider a conservation effort to be a regulatory mechanism for purposes of determining whether a species is threatened or endangered.

Section 304. Candidate conservation agreements with assurances.

This section requires the Secretary, when entering into, or carrying out, a candidate conservation agreement with assurances (CCAA), to adhere to the terms of each CCAA entered into before March 21, 2017. The Secretary shall issue regulations to expedite the process for entering into a CCAA and to protect sensitive personal and business-related information of a party to the agreement. The Secretary shall take into consideration whether the implementation of the CCAA is reasonably expected to contribute to a net conservation benefit for a species covered by the agreement. The Secretary shall not preclude a party to a CCAA from enrolling applicable land, or otherwise participating, in any other federal conservation program.

Section 305. Safe harbor agreements.

This section authorizes the Secretary to enter into a safe harbor agreement (SHA) that shall provide for the taking of any threatened species or endangered species consistent with the announcement of final policy entitled “Announcement of Final Safe Harbor Policy” (64 Fed. Reg. 32717 (June 17, 1999)); and that may provide for the taking of any threatened species or endangered species that occupies an adjacent property due to the improved conditions on the property enrolled under the agreement.

Section 306. Conservation agreement templates.

This section requires the Secretary to facilitate the execution of conservation agreements,, including: wildlife conservation agreements; candidate conservation agreements with assurances; candidate conservation agreements; safe harbor agreements; habitat conservation plans; and

plans that relate to the conservation of a species, affect the viability of a species, and are implemented, or proposed to be implemented, by a state or locality.

Specifically, the Secretary shall, to the maximum extent practicable: implement standard procedures, and encourage widespread use of templates in developing the agreements; simplify the application and approval processes relating to the agreements; reduce the burdens associated with reporting and monitoring under the agreements; and provide for the protection of sensitive personal and business-related information of any party to the agreements.

TITLE IV—STRENGTHENING CONSERVATION DECISIONMAKING THROUGH INCREASED TRANSPARENCY

Section 401. Transparency of information.

This section requires that the Secretary make publicly available on the internet the best scientific and commercial data available that are the basis for each proposed or final regulation promulgated under section 4 of the ESA. The Secretary shall not make available: (1) by request of the governor of an impacted state, any information the public disclosure of which is prohibited by applicable state law, as determined by the impacted state; or (2) any information that may be withheld under the Freedom of Information Act. If copyrighted material is included, the Secretary shall, to the maximum extent practicable, obtain consent from the copyright holder to publish the information, and publish the information if consent is granted.

This section provides that when the Secretary is considering proposing to list a species as threatened or endangered and has not received a petition to list the species from an interested person under section 4(b)(3)(A) of the ESA, the Secretary shall: (1) provide the governor and the state agency of each impacted state, and each tribe in which the species is believed to occur, a notification of the consideration, which shall be made publicly available on the internet; (2) solicit comments from each governor, state agency, and tribe to be submitted to the Secretary within 60 days after receipt of the notification; and (3) give the comments full and fair consideration prior to the publication of a proposed regulation to list the species.

This section requires the Secretary to provide each impacted state and tribe in which a species is believed to occur all information upon which a listing determination was made under section 4(a) of the ESA, and make that information publicly available on the internet.

This section requires the Secretary to take into consideration, give full and fair consideration to, and use state data, analyses, and comments in all decision-making under the ESA.

This section prohibits the Secretary from disclosing to states and tribes: (1) by request of the governor of an impacted state, any information the public disclosure of which is prohibited by applicable state law, as determined by the impacted state; or (2) any information that may be withheld under the Freedom of Information Act. If copyrighted material is included, the Secretary shall to the maximum extent practicable, obtain consent from the copyright holder to publish the information, and publish the information if consent is granted.

Section 402. Transparency in litigation.

This section requires the Secretary to make publicly available on the internet a complaint in an action brought for an alleged failure by the Secretary to perform any non-discretionary act or duty under section 4 of the ESA. Each affected party shall be given a reasonable opportunity to move to intervene in the action prior to a filing of a motion for a consent decree or to dismiss the case pursuant to a settlement agreement. The term “affected party” is defined in section 201 of the Endangered Species Act Amendments of 2020 as any unit of state, tribal, or local government the rights of which may be affected by a determination made under section 4(a) of the ESA pursuant to such an action. A rebuttable presumption is established that the interests of the affected party moving to intervene would not be adequately represented by the parties to the action. Any settlement discussions relating to the action shall include each intervenor that is an affected party. Nothing in this section limits the ability of any other party to move to intervene.

This section requires that the Secretary shall provide each impacted state and tribe in which a species is believed to occur notice of a proposed covered settlement.

This section requires the head of any federal agency that pays any person an amount for attorney fees in connection with a citizen suit under section 11(g)(1)(C) of the ESA regarding a listing determination under section 4(a) of the ESA to disclose that amount to the Attorney General for publication. The Attorney General shall publish an annual report in the Federal Register that describes the amounts paid in the action to any litigant, law firm, or expert witness. This includes amounts paid for attorney fees, the hourly rate charged by the legal services entity on which attorney fees are based, any other amounts awarded by a judge, and amounts paid pursuant to a covered settlement.

TITLE V—OPTIMIZING CONSERVATION THROUGH RESOURCE PRIORITIZATION

Section 501. Prioritization of listing petitions, reviews, and determinations.

This section requires that the Secretary submit to Congress a national listing work plan each fiscal year with the President’s budget request for the Secretary’s department. Each work plan, which covers the 7-year fiscal year period beginning October 1 of the first fiscal year after the date of submission of the work plan, must prioritize: (1) status reviews of petitions for listing the species under the ESA; (2) status reviews relating to the species listings initiated by the Secretary; (3) proposed and final determinations regarding listing the species under section 4 of the ESA; and (4) proposed and final critical habitat designations under section 4(a)(3) of the ESA relating to the species.

This section requires the Secretary to assign to species covered by the work plan a priority classification of Priority 1 through Priority 5, as determined by the Secretary. Priority 1 represents species of the highest priority, to be designated as critically imperiled and in need of immediate action. Priority 2 represents species with respect to which the best scientific and commercial data available already support a clear decision regarding the status of the species. Priority 3 represents species with respect to which studies regarding the status of the species are

being carried out. Priority 4 represents species for which proactive conservation efforts likely to reduce threats to the species are being developed or carried out within a reasonable timeframe and in an organized manner by federal agencies, states, landowners, and other stakeholders. Priority 5 represents species for which there exists little information regarding threats to the species or the status of the species for purposes of the ESA, or that the Secretary determines would receive limited conservation benefit in the foreseeable future by listing the species.

This section requires the Secretary to establish and assign priority classifications in accordance with the notice of the Director of the USFWS entitled “Methodology for Prioritizing Status Reviews and Accompanying 12-Month Findings on Petitions for Listing Under the Endangered Species Act” at 81 Fed. Reg. 49249 (July 27, 2016). With respect to Priority 5 classifications only, the Secretary shall consider whether there would be limited conservation benefit in the foreseeable future by listing the species.

This section authorizes the Secretary to revise the assignment to a priority classification of a species included in the work plan at any time during the fiscal year to which the work plan applies. The assignment to a priority classification of a species included in the work plan shall not be a final agency action.

This section requires the Secretary to act on the relevant action relating to the species in the work plan to which the species was first assigned not later than the last day of the 7-fiscal year period of that work plan. In certain circumstances, the Secretary may extend by up to five years the initial 7-fiscal year deadline to review a petition for a species with priority classifications 3 through 5.

This section requires that the Secretary include a species in the work plan on a finding by the Secretary that a petition to add a species to the list of threatened species or endangered species may be warranted.

This section strikes the current requirement that the Secretary review within twelve months a petition to add a species to the list of threatened species or endangered species that may be warranted. Instead, it requires the Secretary to review in accordance with the national listing work plan a petition to add a species to the list of threatened species or endangered species that may be warranted.

This section authorizes the Secretary to promulgate regulations to carry out the work plan.

TITLE VI—STUDIES TO IMPROVE CONSERVATION

Section 601. Definition of Secretaries.

This section defines the term “Secretaries” for purposes of title VI of this Act as the Secretaries of Interior, Commerce, and Agriculture.

Section 602. Study to review conservation factors.

This section requires the Secretaries to make publicly available and submit a report to Congress that assesses factors affecting successful conservation activities under the ESA. The report shall include a review of: factors that threaten or endanger a species for which a listing under the ESA would not contribute to the conservation of the species; barriers to the delivery of funds for conservation activities or the implementation of conservation agreements, plans, or other cooperative agreements; and factors that impact the ability of the federal government to successfully implement the ESA. The report shall develop recommendations regarding methods to address barriers to the delivery of funds for conservation activities or the implementation of conservation agreements, plans, or other cooperative agreements. The report shall review determinations under the ESA in which a species is determined to be recovered by the Secretary of the Interior or the Secretary of Commerce, as applicable, but remains listed as threatened or endangered, including an explanation of factors preventing delisting or downlisting and recommendations regarding methods to address those factors. Finally, the report shall review determinations under the ESA in which a species has been identified as needing listing or uplisting under the ESA but remains unlisted or listed as a threatened species, respectively, including an explanation of the factors preventing a listing or uplisting and recommendations regarding methods to address those factors.

Section 603. Study and report on expenditures.

This section requires the head of each federal department and agency to submit to the Comptroller General of the United States (Comptroller General) data and other relevant information that describes the amounts expended by the department or agency as a direct result of any provision of the ESA during: with respect to the first report, the three fiscal years preceding the date of submission of the report; and with respect to the second report, the two fiscal years preceding the date of submission of the report. Each report shall describe: (1) the programmatic office of the department or agency on behalf of which each amount was expended; (2) the associated provision of the ESA pursuant to which each amount was expended; and (3) the project or activity carried out using each amount, in detail sufficient to reflect the breadth, scope, and purpose of the project or activity.

This section requires that not later than two years and four years after the date of enactment of the Endangered Species Act Amendments of 2020, the Comptroller General shall submit to Congress a report that describes: (1) the aggregate amount expended by all federal departments and agencies as a direct result of any provision of the ESA during: with respect to the first report, the three fiscal years preceding the date of submission of the report; and with respect to the second report, the two fiscal years preceding the date of submission of the report; (2) the provision of the ESA pursuant to which such amounts were expended; and (3) the total amount expended by each department or agency, as well as a description of the programmatic office of the department or agency on behalf of which each amount was expended, the provision of the ESA pursuant to which each amount was expended, and the project or activity carried out using each amount in detail sufficient to reflect the breadth, scope, and purpose of the project or activity.

This section requires the head of each federal department and agency to submit to the Comptroller General data and other relevant information describing the conservation activities by the federal department or agency as a direct result of any provision of the ESA during: with respect to the first report, three fiscal years preceding the date of submission of the report; and with respect to the second report, two fiscal years preceding the date of submission of the report.

This section requires that not later than three years and four years after the date of enactment of the Endangered Species Act Amendments of 2020, the Comptroller General shall submit to Congress a report that: (1) describes the conservation activities by all federal departments and agencies for species listed as threatened or endangered under the ESA during: with respect to the first report, the three fiscal years preceding the date of submission of the report; and with respect to the second report, the two fiscal years preceding the date of submission of the report; (2) is organized into categories with respect to whether a recovery plan for a species has been established; (3) includes conservation outcomes associated with the conservation activities; and (4) as applicable, describes the conservation activities that required interaction between federal agencies and between federal agencies and state and tribal agencies and units of local government pursuant to the ESA.

Section 604. Study to quantify litigation expenses.

This section requires that the Comptroller General of the United States conduct a study and submit a report to Congress quantifying the amount of federal funds expended prior to enactment of the Endangered Species Act Amendments of 2020 in connection with any litigation relating to a determination made under section 4(a) of the ESA.

TITLE VII—REAUTHORIZATION

Section 701. Reauthorization.

This section reauthorizes the ESA for the first time since its funding authorization expired in 1992.

This section authorizes appropriations for:

- the Department of the Interior not to exceed \$160 million for fiscal year (FY) 2021; \$165 million for FY 2022; \$170 million for FY 2023; \$175 million for FY 2024; and \$180 million for FY 2025;
- the Department of Commerce for each of FY 2021 through 2025 not to exceed ten percent of the total amount appropriated for the fiscal year for the Department of the Interior, Department of Agriculture, and recovery implementation;
- the Department of Agriculture for each of FY 2021 through 2025 not to exceed \$4 million.

This section authorizes appropriations to the Secretary to assist in the implementation of recovery plans \$214 million for each of FY 2021 through 2025.

Of the total amount appropriated for the fiscal year for the Department of the Interior, Department of Commerce, Department of Agriculture, and recovery implementation, the Secretary shall use not less than 15 percent to support proactive, voluntary conservation activities, including those undertaken by private landowners, pursuant to: (1) a conservation agreement described in section 4(f)(9) of the ESA (as amended by section 302 of the Endangered Species Act Amendments of 2020); (2) a conservation effort that meets the requirements of the framework established in section 4(f)(10) of the ESA (as amended by section 303 of the Endangered Species Act Amendments of 2020); (3) a cooperative agreement entered into under section 6; and (4) any other federal program that supports the conservation of species in the United States that are listed as threatened species or endangered species, candidate species, or at-risk species.

TITLE VIII—MISCELLANEOUS

Section 801. Effect.

This section establishes that nothing in the Endangered Species Act Amendments of 2020 limits the legal rights under the ESA or any other law of: (1) any regulated entity, including an industry, agricultural producer, or landowner; (2) any nongovernmental organization, including an environmental, conservation, or landowner group; or (3) any county or equivalent jurisdiction.

This section establishes that nothing in the Endangered Species Act Amendments of 2020 diminishes the value or credibility of information or comments provided under the ESA by any regulated entity, nongovernmental organization, and county or equivalent jurisdiction as compared to information or comments provided by any other source of information or comments based solely on the source.

Section 802. Sense of the Senate.

This section establishes the sense of the Senate that each state is encouraged to: (1) collaborate with county or equivalent jurisdictions and local governments in the state in carrying out state responsibilities and authorities under the ESA; (2) give full and fair consideration to the input of county or equivalent jurisdictions and local governments in the state when exercising state obligations under the ESA; and (3) provide notice, when practicable, to county or equivalent jurisdictions and local governments in the state of issues affecting those governments under the ESA.