

116TH CONGRESS
1ST SESSION

S. 494

To establish the American Fisheries Advisory Committee to assist in the awarding of fisheries research and development grants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2019

Mr. SULLIVAN (for himself, Ms. MURKOWSKI, Ms. WARREN, Ms. CANTWELL, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish the American Fisheries Advisory Committee to assist in the awarding of fisheries research and development grants, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Fisheries
5 Advisory Committee Act”.

6 **SEC. 2. AMERICAN FISHERIES ADVISORY COMMITTEE.**

7 (a) ESTABLISHMENT.—Section 2 of the Act of Au-
8 gust 11, 1939 (15 U.S.C. 713c–3), is amended—

1 (1) by redesignating subsection (e) as sub-
2 section (f); and

3 (2) by inserting after subsection (d) the fol-
4 lowing:

5 “(e) AMERICAN FISHERIES ADVISORY COM-
6 MITTEE.—

7 “(1) DEFINITIONS.—In this subsection:

8 “(A) COMMITTEE.—The term ‘Committee’
9 means the American Fisheries Advisory Com-
10 mittee established under paragraph (2).

11 “(B) FISHING COMMUNITY.—The term
12 ‘fishing community’ means harvesters, market-
13 ers, growers, processors, recreational fishermen,
14 charter fishermen, and persons providing them
15 with goods and services.

16 “(C) MARKETING AND PROMOTION.—The
17 term ‘marketing and promotion’ means an ac-
18 tivity aimed at encouraging the consumption of
19 seafood or expanding or maintaining commer-
20 cial markets for seafood.

21 “(D) PROCESSOR.—The term ‘processor’
22 means any person in the business of preparing
23 or packaging seafood (including seafood of the
24 processor’s own harvesting) for sale.

1 “(E) SEAFOOD.—The term ‘seafood’
2 means farm-raised and wild-caught fish, shell-
3 fish, or marine algae harvested in the United
4 States or by a United States flagged vessel for
5 human consumption.

6 “(2) ESTABLISHMENT.—Not later than 90 days
7 after the date of the enactment of the American
8 Fisheries Advisory Committee Act, the Secretary
9 shall establish 6 regions within the American Fish-
10 eries Advisory Committee as follows:

11 “(A) Region 1 shall consist of Alaska, Ha-
12 waii, the Commonwealth of the Northern Mar-
13 iana Islands, and the Territories of Guam and
14 American Samoa.

15 “(B) Region 2 shall consist of Maine, New
16 Hampshire, Massachusetts, Rhode Island, and
17 Connecticut.

18 “(C) Region 3 shall consist of Texas, Ala-
19 bama, Louisiana, Mississippi, Florida, Arkan-
20 sas, Puerto Rico, and the Territory of the Vir-
21 gin Islands of the United States.

22 “(D) Region 4 shall consist of California,
23 Washington, Oregon, and Idaho.

1 “(E) Region 5 shall consist of New Jersey,
 2 New York, Delaware, Maryland, Virginia,
 3 North Carolina, South Carolina, and Georgia.

4 “(F) Region 6 shall consist of Michigan,
 5 Minnesota, Wisconsin, Illinois, Indiana, Ohio,
 6 and Pennsylvania.

7 “(3) MEMBERSHIP.—The Committee shall be
 8 composed of the following members:

9 “(A) REGIONAL REPRESENTATION.—Each
 10 of the regions listed in subparagraphs (A)
 11 through (F) of paragraph (2) shall be rep-
 12 resented on the Committee by 3 members—

13 “(i) who are appointed by the Sec-
 14 retary;

15 “(ii) who reside in a State or territory
 16 in the region that the member will rep-
 17 resent;

18 “(iii) of which—

19 “(I) one shall have experience as
 20 a seafood harvester or processor;

21 “(II) one shall have experience as
 22 recreational or commercial fisher or
 23 have experience growing seafood; and

24 “(III) one shall be an individual
 25 who represents the fisheries science

1 community or the relevant Regional
2 Fishery Management Council; and

3 “(iv) that are selected so that the
4 members of the Committee have experience
5 or expertise with as many seafood species
6 as practicable.

7 “(B) AT-LARGE MEMBERS.—The Secretary
8 shall appoint to the Committee at-large mem-
9 bers as follows:

10 “(i) One individual with experience in
11 food distribution, marketing, retail, or food
12 service.

13 “(ii) One individual with experience in
14 the recreational fishing industry supply
15 chain, such as fishermen, manufacturers,
16 retailers, and distributors.

17 “(iii) One individual with experience
18 in the commercial fishing industry supply
19 chain, such as fishermen, manufacturers,
20 retailers, and distributors.

21 “(iv) One individual who is an em-
22 ployee of the National Marine Fisheries
23 Service with expertise in fisheries research.

24 “(C) BALANCED REPRESENTATION.—In
25 selecting the members described in subpara-

1 graphs (A) and (B), the Secretary shall seek to
 2 maximize on the Committee, to the extent prac-
 3 ticable, a balanced representation of expertise
 4 in United States fisheries, seafood production,
 5 and science.

6 “(4) MEMBER TERMS.—The term for a member
 7 of the Committee shall be 3 years, except that the
 8 Secretary shall designate staggered terms for the
 9 members initially appointed to the Committee.

10 “(5) RESPONSIBILITIES.—The Committee shall
 11 be responsible for—

12 “(A) identifying needs of the fishing com-
 13 munity that may be addressed by a project
 14 funded with a grant under subsection (c);

15 “(B) developing the request for proposals
 16 for such grants;

17 “(C) reviewing applications for such
 18 grants; and

19 “(D) selecting applications for approval
 20 under subsection (c)(2)(B).

21 “(6) CHAIR.—The Committee shall elect a chair
 22 by a majority of those voting, if a quorum is
 23 present.

1 “(7) QUORUM.—A simple majority of members
2 of the Committee shall constitute a quorum, but a
3 lesser number may hold hearings.

4 “(8) MEETINGS.—

5 “(A) FREQUENCY.—The Committee shall
6 meet not more than 2 times each year.

7 “(B) LOCATION.—The meetings of the
8 Committee shall rotate between the geographic
9 regions described under paragraph (2).

10 “(C) MINIMIZING COSTS.—The Committee
11 shall seek to minimize the operational costs as-
12 sociated with meetings, hearings, or other busi-
13 ness of the Committee, including through the
14 use of video or teleconference.

15 “(9) DESIGNATION OF STAFF MEMBER.—The
16 Secretary shall designate a staff member to coordi-
17 nate the activities of the Committee and to assist
18 with administrative and other functions as requested
19 by the Committee.

20 “(10) PER DIEM AND EXPENSES AND FUND-
21 ING.—

22 “(A) IN GENERAL.—A member of the
23 Committee shall serve without compensation,
24 but shall be reimbursed in accordance with sec-
25 tion 5703 of title 5, United States Code, for

1 reasonable travel costs and expenses incurred in
2 performing duties as a member of the Com-
3 mittee.

4 “(B) FUNDING.—The costs of reimburse-
5 ments under subparagraph (A) and the other
6 costs associated with the Committee shall be
7 paid from funds made available to carry out
8 this section (which may include funds described
9 in subsection (f)(1)(B)), except that no funds
10 allocated for grants under subsection (f)(1)(A)
11 shall be expended for any purpose under this
12 subsection.

13 “(11) CONFLICT OF INTEREST.—The conflict of
14 interest and recusal provisions set out in section
15 302(j) of the Magnuson-Stevens Fishery Conserva-
16 tion and Management Act (16 U.S.C. 1852(j)) shall
17 apply to any decision by the Committee and to all
18 members of the Committee as if each member of the
19 Committee is an affected individual within the mean-
20 ing of such section 302(j), except that in addition to
21 the disclosure requirements of section 302(j)(2)(C)
22 of such Act (16 U.S.C. 1852(j)(2)(C)), each member
23 of the Committee shall disclose any financial interest
24 or relationship in an organization or with an indi-
25 vidual that is applying for a grant under subsection

1 (c) held by the member of the Committee, including
2 an interest as an officer, director, trustee, partner,
3 employee, contractor, agent, or other representative.

4 “(12) TECHNICAL REVIEW OF APPLICATIONS.—

5 “(A) IN GENERAL.—Prior to review of an
6 application for a grant under subsection (c) by
7 the Committee, the Secretary shall obtain an
8 independent written technical evaluation from 3
9 or more appropriate Federal, private, or public
10 sector experts (such as industry, academia, or
11 governmental experts) who—

12 “(i) have subject matter expertise to
13 determine the technical merit of the pro-
14 posal in the application;

15 “(ii) shall independently evaluate each
16 such proposal; and

17 “(iii) shall certify that the expert does
18 not have a conflict of interest concerning
19 the application that the expert is review-
20 ing.

21 “(B) GUIDANCE.—Not later than 180 days
22 after the date of enactment of the American
23 Fisheries Advisory Committee Act, the Sec-
24 retary shall issue guidance related to carrying
25 out the technical evaluations under subpara-

1 graph (A). Such guidance shall include criteria
 2 for the elimination by the National Oceanic and
 3 Atmospheric Administration of applications that
 4 fail to meet a minimum level of technical merit
 5 as determined by the review described in sub-
 6 paragraph (A).”.

7 (b) ROLE IN APPROVAL OF GRANTS.—Section
 8 2(c)(3) of the Act of August 11, 1939 (15 U.S.C. 713c–
 9 3(c)(3)), is amended to read as follows:

10 “(3)(A) No application for a grant under this sub-
 11 section may be approved unless the Secretary—

12 “(i) is satisfied that the applicant has the req-
 13 uisite technical and financial capability to carry out
 14 the project; and

15 “(ii) based on the recommendations of the
 16 American Fisheries Advisory Committee established
 17 in subsection (e), evaluates the proposed project as
 18 to—

19 “(I) soundness of design;

20 “(II) the possibilities of securing produc-
 21 tive results;

22 “(III) minimization of duplication with
 23 other fisheries research and development
 24 projects;

1 “(IV) the organization and management of
2 the project;

3 “(V) methods proposed for monitoring and
4 evaluating the success or failure of the project;
5 and

6 “(VI) such other criteria as the Secretary
7 may require.

8 “(B) If the Secretary fails to provide funds to a grant
9 selected by the American Fisheries Advisory Committee,
10 the Secretary shall provide a written document to the
11 Committee justifying the decision.”.

12 **SEC. 3. EXPANSION OF SPECIFIED PURPOSES OF FISH-**
13 **ERIES RESEARCH AND DEVELOPMENT**
14 **PROJECTS GRANTS PROGRAM TO INCLUDE**
15 **FISHERIES RESEARCH AND DEVELOPMENT**
16 **PROJECTS.**

17 Section 2(c)(1) of the Act of August 11, 1939 (15
18 U.S.C. 713c-3(c)(1)) is amended by inserting “fisheries
19 science, recreational fishing,” before “harvesting,”.

20 **SEC. 4. PUBLIC AVAILABILITY OF GRANTS PROPOSALS.**

21 Section 2(c) of the Act of August 11, 1939 (15
22 U.S.C. 713c-3(c)), is amended by adding at the end the
23 following:

24 “(6) Any person awarded a grant under this
25 subsection shall make publicly available a title and

1 abstract of the project to be carried out by the grant
2 funds that serves as the public justification for fund-
3 ing the project that includes a statement describing
4 how the project serves to enhance United States
5 fisheries, including harvesting, processing, mar-
6 keting, and associated infrastructures, if applica-
7 ble.”.

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