

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4419

To amend the Endangered Species Act of 1973 to require periodic review of listings of endangered species and threatened species under that Act, to support protection and conservation measures for endangered or threatened species under that Act and to alleviate the need to list a species as an endangered or threatened species, to convey small parcels of National Forest System land and Department of the Interior land to generate revenues for such protection and conservation measures, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2014

Mr. AMODEI introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Agriculture and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Endangered Species Act of 1973 to require periodic review of listings of endangered species and threatened species under that Act, to support protection and conservation measures for endangered or threatened species under that Act and to alleviate the need to list a species as an endangered or threatened species, to convey small parcels of National Forest System land and Department of the Interior land to generate revenues for such protection and conservation measures, 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; TABLE OF CONTENTS.**

4        (a) **SHORT TITLE.**—This Act may be cited as the  
 5 “Sage-Grouse and Endangered Species Conservation and  
 6 Protection Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

**TITLE I—LISTING OF ENDANGERED SPECIES AND THREATENED SPECIES**

Sec. 101. Best scientific and commercial data available.

Sec. 102. Consideration of petitions to list species.

Sec. 103. Limitation on treatment of species as endangered or threatened in States where majority of lands are Federal.

**TITLE II—SPECIES PROTECTION AND CONSERVATION MEASURES**

Sec. 201. Definitions.

Sec. 202. Protection and conservation measures to alleviate threats to endangered or threatened species and to prevent additional listings.

Sec. 203. Federal/State Endangered Species Councils.

Sec. 204. Funding requirements.

Sec. 205. Categorical exclusion and other exceptions.

**TITLE III—SMALL LANDS TRACTS CONVEYANCES TO SUPPORT SPECIES PROTECTION AND CONSERVATION MEASURES**

Sec. 301. Purpose.

Sec. 302. Definitions.

Sec. 303. Selection of parcels for conveyance.

Sec. 304. Conveyance process.

Sec. 305. Consideration.

Sec. 306. Distribution of proceeds.

Sec. 307. Payment of costs of conveyance.

Sec. 308. Time for conveyance.

Sec. 309. Categorical exclusion.

Sec. 310. Additional authority.

**TITLE IV—REVIEWS OF STATUS OF LISTED SPECIES**

Sec. 401. Periodic 5-year status reviews of listed species.

**TITLE V—PRIVATE PROPERTY AND FIFTH AMENDMENT TAKINGS**

Sec. 501. Designation of critical habitat deemed a taking for which compensation is required.

Sec. 502. Relation to Payments in Lieu of Taxes (PILT) program.

#### TITLE VI—REPORTING REQUIREMENTS

Sec. 601. Annual report.

### 1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The West has experienced record fire activ-  
4 ity over the past 15 years, in terms of size, fre-  
5 quency, and intensity. In 1999, nearly 1.7 million  
6 acres of the Great Basin burned in just a week. In  
7 2006, ten million acres across the West burned. In  
8 2007, more than nine million acres burned.

9 (2) Much of this fire activity occurred outside  
10 of the forested areas in the dry sagebrush plains  
11 parched by years of drought and dominated by high-  
12 ly flammable, invasive cheatgrass. Often driven by  
13 fierce winds, these rangeland fires raced across the  
14 low-growing vegetation, burning hundreds of thou-  
15 sands of square miles before the fires could be con-  
16 tained.

17 (3) Historically, sagebrush survived less intense  
18 wildfires that occurred infrequently, and the native  
19 grasses re-sprouted. But fire cycles have intensified  
20 and native plant communities cannot compete with  
21 cheatgrass, which spreads rapidly after a wildfire.

1           (4) The United States Fish and Wildlife Service  
2           considers wildland fire one of the most serious  
3           threats to sage-grouse habitat, and the Bureau of  
4           Land Management states wildfires are a leading  
5           cause of sagebrush habitat loss.

6           (5) In 2005, the United States Fish and Wild-  
7           life Service identified and charted the threats to the  
8           greater sage-grouse and their habitat in the West.  
9           According to its review, wildfire has a relative rank  
10          of 84 percent of the threat, and invasive species has  
11          a relative rank of 91 percent of the threat.

12          (6) In 2012, 1.2 percent of the Greater Sage-  
13          Grouse’s preliminary general habitat and 2.7 percent  
14          of the species’ preliminary priority habitat was  
15          burned. Over 84 percent of sage-grouse habitat in  
16          Nevada is located on federally-managed land.”

17          (7) The United States Fish and Wildlife has  
18          determined that overgrazing by wild horses and bur-  
19          ros is a threat to sage-grouse habitat.

20          (8) The Sage-Grouse National Technical Team  
21          report produced December 21, 2011, states that wild  
22          horses and burros have the potential to impact habi-  
23          tats used by sage-grouse by reducing grass, shrub,  
24          and forb cover and increasing unpalatable forbs and  
25          exotic plants including cheatgrass. Effects of wild

1 equids on habitats may be especially pronounced  
2 during periods of drought or vegetation stress. Wild  
3 equids have different grazing patterns than domestic  
4 livestock, thus increasing the magnitude of grazing  
5 across the entire landscape.

6 (9) On February 28, 2013, the Bureau of Land  
7 Management estimated there were 20,195 wild free-  
8 roaming horses and burros in Nevada. Nevada has  
9 more wild free-roaming horses than the States of  
10 Arizona, California, Colorado, Idaho, Montana, New  
11 Mexico, Oregon, Utah, and Wyoming combined.

12 (10) The Bureau of Land Management has de-  
13 termined that the appropriate management level for  
14 wild horses and burros in Nevada for fiscal year  
15 2013 was 12,789, but, because wild horses and bur-  
16 ros have virtually no predators, their herd sizes can  
17 double approximately every four years.

18 **TITLE I—LISTING OF ENDAN-**  
19 **GERED SPECIES AND**  
20 **THREATENED SPECIES**

21 **SEC. 101. BEST SCIENTIFIC AND COMMERCIAL DATA AVAIL-**  
22 **ABLE.**

23 (a) DEFINITION.—Section 3 of the Endangered Spe-  
24 cies Act of 1973 (16 U.S.C. 1532) is amended by inserting  
25 after paragraph (1) the following:

1           “(1a) The term ‘best scientific and economic  
2           data available’—

3                   “(A) means such data as available at the  
4                   time the data is used; and

5                   “(B) includes an analysis of the costs and  
6                   benefits of the matter under consideration.”.

7           (b) **PUBLIC AVAILABILITY.**—Section 13 of the En-  
8           dangered Species Act of 1973 (relating to amendments to  
9           current law that have executed) is amended to read as fol-  
10          lows:

11       **“SEC. 13. AVAILABILITY OF BEST SCIENTIFIC AND ECO-  
12                                   NOMIC DATA.**

13           “In each case in which the Secretary is required by  
14           this Act to use the best scientific and economic data avail-  
15           able, the Secretary shall make such data available to the  
16           public.”.

17       **SEC. 102. CONSIDERATION OF PETITIONS TO LIST SPECIES.**

18           (a) **EXTENSION OF TIME PERIODS FOR CONSIDER-  
19           ATION.**—Section 4(b)(3) of the Endangered Species Act  
20           of 1973 (16 U.S.C. 1533(b)(3)) is amended—

21                   (1) in subparagraph (A), by striking “90 days”  
22                   and inserting “5 years”; and

23                   (2) in subparagraph (B), by striking “12  
24                   months after receiving a petition that is found under  
25                   subparagraph (A) to present” and inserting “5 years

1 after finding under subparagraph (A) that a petition  
2 presents”.

3 (b) ACTION AFTER FINDING ON PETITION.—Section  
4 4(b) of the Endangered Species Act of 1973 (16 U.S.C.  
5 1533(b)) is amended—

6 (1) in paragraph (3)—

7 (A) in subparagraph (B)(ii), by inserting  
8 “(except as provided in paragraph (5)(F))”  
9 after “promptly”; and

10 (B) by adding at the end the following:

11 “(E)(i) If the Secretary finds under subparagraph  
12 (B)(i) that adding a species to a list published under sub-  
13 section (c) is not warranted, the Secretary shall not con-  
14 sider any petition to add the species to either of the lists  
15 published under subsection (c) before the end of the 10-  
16 year period beginning on the date of the date of such find-  
17 ing.

18 “(ii) If the Secretary finds under subparagraph  
19 (B)(iii) that adding a species to a list published under sub-  
20 section (c) is warranted, the Secretary shall make publicly  
21 available an analysis of the costs and benefits of listing  
22 the species.”; and

23 (2) in paragraph (5)—

24 (A) by adding “and” after the semicolon at  
25 the end of subparagraph (D), and by striking

1 the period at the end of subparagraph (E) and  
2 inserting “; and”; and

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

4 “(F) in the case of a finding under para-  
5 graph (3)(B)(ii) that adding a species to a list  
6 published under subsection (c) is warranted, the  
7 Secretary—

8 “(i) shall make such finding, sepa-  
9 rately, with respect to each State in which  
10 the species is believed to occur, taking into  
11 consideration—

12 “(I) regional variation in habitat  
13 and ecosystems; and

14 “(II) that State’s conservation  
15 plan for the species;

16 “(ii) notwithstanding paragraph  
17 (3)(B)(ii)—

18 “(I) shall promptly publish such  
19 finding; and

20 “(II) shall promptly publish gen-  
21 eral notice and the complete text of  
22 the analysis of costs and benefits re-  
23 quired by this Act for the action and  
24 of a proposed regulation to implement



1           such action by not later than 10 years  
2           after publication of such finding;

3           “(iii) shall provide a period of 12  
4           months for the submission of public com-  
5           ments on the findings of the proposed reg-  
6           ulation and the analysis of costs and bene-  
7           fits required by this Act;

8           “(iv) shall promptly provide notice of  
9           the findings of the proposed regulation, of  
10          the identity of the person that submitted  
11          the petition, and of the period for the sub-  
12          mission of public comments under clause  
13          (iii), to—

14                 “(I) each person that owns land  
15                 or water on which the species is be-  
16                 lieved to occur; and

17                 “(II) the Governor and wildlife  
18                 department of each State, the legisla-  
19                 tive body of each county, the chair-  
20                 person of each Indian tribe with tribal  
21                 lands, the mayors or city manager of  
22                 each city, and the holder of each per-  
23                 mit for the conduct of activity on Fed-  
24                 eral land, in or on which the species  
25                 is believed to occur; and

1           “(v) if the proposed regulation is  
2           withdrawn, may not consider any petition  
3           to add the species to such a list before the  
4           end of the 10-year period beginning on the  
5           date of such withdrawal.”.

6 **SEC. 103. LIMITATION ON TREATMENT OF SPECIES AS EN-**  
7           **DANGERED OR THREATENED IN STATES**  
8           **WHERE MAJORITY OF LANDS ARE FEDERAL.**

9           Section 4(c) of the Endangered Species Act of 1973  
10          (16 U.S.C. 1533(b)) is amended by adding at the end the  
11          following:

12           “(3) Notwithstanding any other provision of this Act,  
13          the Secretary may not add to a list under this subsection  
14          a population of a species in a State in which the majority  
15          of lands are managed by the Federal Government, unless  
16          the head of each Federal agency with administrative juris-  
17          diction over any of such lands provides to the State—

18                   “(A) detailed information regarding land man-  
19                   agement and conservation initiatives of the agency in  
20                   the State to protect the habitat and the critical habi-  
21                   tat of the species, including—

22                           “(i) the amounts that have been expended,  
23                           are planned to be expended, and are available  
24                           for expenditure for each such initiative;

1           “(ii) the location and a summary of each  
2 such initiative; and

3           “(iii) information regarding such initiatives  
4 to address the threats to such species, including  
5 threats from wildfire, invasive species encroach-  
6 ment, and other predator species;

7           “(B) a copy of the agency’s appropriations re-  
8 quest and justification of appropriations request for  
9 each of the preceding 5 fiscal years, specifically as  
10 it relates to efforts to address threats to such spe-  
11 cies;

12           “(C) a proposed plan for conservation of habi-  
13 tat of such species, with a clearly stated goals,  
14 that—

15           “(i) includes adequate regulatory mecha-  
16 nisms, and identifies sufficient resources, to ac-  
17 complish habitat conservation;

18           “(ii) a robust monitoring strategy to en-  
19 sure the proposed plan is successfully con-  
20 serving the species and its habitat;

21           “(iii) incorporates a strong adaptive man-  
22 agement component to deal with uncertainties  
23 and unforeseen circumstances that may require  
24 action;

1           “(iv) clearly articulates how the Federal  
2           conservation planning efforts mesh with the  
3           State’s conservation actions and best directs  
4           such efforts; and

5           “(v) describes in detail on how threats to  
6           the species from other species will be reduced;  
7           and

8           “(D) detailed information regarding—

9           “(i) how previous action of the Federal  
10          Government is reducing such threats from other  
11          species in habitat and critical habitat areas, in-  
12          cluding threats from predators, feral horses,  
13          burros, and ravens; and

14          “(ii) the removal of such other species  
15          from habitat and critical habitat areas and herd  
16          management areas.”.

17   **TITLE II—SPECIES PROTECTION**  
18   **AND CONSERVATION MEASURES**

19   **SEC. 201. DEFINITIONS.**

20       In this title:

21           (1) COUNCIL.—The term “Council” means the  
22           Federal/State Endangered Species Council estab-  
23           lished for a State.

24           (2) NATIONAL FOREST SYSTEM LAND.—The  
25           term “National Forest System lands” refers to the

1       federally owned lands within the National Forest  
2       System, as described in section 11(a) of the Forest  
3       and Rangeland Renewable Resources Planning Act  
4       of 1974 (16 U.S.C. 1609(a)).

5               (3) PUBLIC LAND.—The term “public lands”  
6       has the meaning given that term in section 103(e)  
7       of the Federal Land Policy and Management Act of  
8       1976 (43 U.S.C. 1702(e)).

9               (4) SECRETARY CONCERNED.—The term “Sec-  
10      retary concerned” means—

11                       (A) the Secretary of Agriculture, with re-  
12                      spect to National Forest System lands; and

13                       (B) the Secretary of the Interior, with re-  
14                      spect to public lands.

15               (5) THREAT.—The term “threat” means those  
16       threats to an endangered or threatened species or a  
17       species being considered for listing as an endangered  
18       or threatened species under the Endangered Species  
19       Act of 1973 (16 U.S.C. 1531 et seq.) arising from  
20       wildfire, inadequate post-fire restoration, displace-  
21       ment of habitat by invasive plant species, other habi-  
22       tat encroachments, over-grazing by wild horses and  
23       burros, and predation (including by predators pro-  
24       tected by the Migratory Bird Treaty Act (16 U.S.C.  
25       703 et seq.)).

1 **SEC. 202. PROTECTION AND CONSERVATION MEASURES TO**  
2 **ALLEVIATE THREATS TO ENDANGERED OR**  
3 **THREATENED SPECIES AND TO PREVENT AD-**  
4 **DITIONAL LISTINGS.**

5 (a) **EFFORTS ON PUBLIC LANDS AND NATIONAL**  
6 **FOREST SYSTEM LANDS.**—The Secretary concerned shall  
7 conduct management activities, conservation programs,  
8 and pilot projects for public lands and National Forest  
9 System lands to address threats to—

10 (1) the habitat and viability of endangered or  
11 threatened species under the Endangered Species  
12 Act of 1973 (16 U.S.C. 1531 et seq.); and

13 (2) the habitat and viability of other species to  
14 alleviate the need to list a species as an endangered  
15 or threatened species under the Endangered Species  
16 Act of 1973.

17 (b) **EFFORTS ON OTHER LANDS.**—The Secretary  
18 concerned may also support efforts by another Federal  
19 agency, a State, a political subdivision of a State, an In-  
20 dian tribe, or a private entity to address threats to an en-  
21 dangered or threatened species or to protect and conserve  
22 another species to alleviate the need to list a species as  
23 an endangered or threatened species.

24 (c) **AUTHORIZED ACTIVITIES.**—Authorized manage-  
25 ment activities, conservation programs, and pilot projects

1 conducted under this section may involve any of the fol-  
2 lowing:

3 (1) Fire suppression, pre-treatment, fuels man-  
4 agement, and fuel breaks.

5 (2) Invasive species control and response to en-  
6 croachment of endangered or threatened species or  
7 species considered for listing by other native species,  
8 including experimental biochemical controls for  
9 invasive species.

10 (3) Habitat restoration.

11 (4) Wild horses and burros fertility control,  
12 adoption, and other non-slaughter management.

13 (5) Predator control.

14 (6) Rapid eco-regional assessment.

15 (7) Controlled burns.

16 (8) Re-seeding and native seed purchasing and  
17 storage.

18 (9) Green stripping.

19 (10) Targeted grazing to reduce fuels and  
20 invasive species, including targeted grazing of  
21 invasive species and fuels in additional months and  
22 increasing the issuance of grazing permits for tar-  
23 geted grazing.

1 **SEC. 203. FEDERAL/STATE ENDANGERED SPECIES COUN-**  
2 **CILS.**

3 (a) COUNCILS REQUIRED.—The Secretary of Agri-  
4 culture and the Secretary of the Interior shall carry out  
5 this title in a State in consultation with a Federal/State  
6 Endangered Species Council consisting of representatives  
7 of the Secretaries concerned and the Governor of the State  
8 and representatives of affected political subdivisions of the  
9 State.

10 (b) COUNCIL ROLE.—The Council for a State shall  
11 assist the Secretary concerned to prioritize habitat con-  
12 servation efforts, determine habitat land designations, and  
13 select management activities, conservation programs, and  
14 pilot projects under this title.

15 **SEC. 204. FUNDING REQUIREMENTS.**

16 (a) PRIORITY FOR ON-THE-GROUND EFFORTS.—Of  
17 the funds made available to carry out this title for a fiscal  
18 year, including funds made available to Councils under  
19 section 306, at least 75 percent shall be used for manage-  
20 ment activities, conservation programs, and pilot projects  
21 under this title.

22 (b) ADMINISTRATIVE COSTS.—Not more than 25  
23 percent of the funds made available to carry out this title  
24 for a fiscal year may be used for planning and administra-  
25 tive purposes.



1 (c) ACCEPTANCE OF IN-KIND CONTRIBUTIONS.—The  
2 Secretary concerned may accept contributions in money,  
3 services, materials, or otherwise, to support efforts under  
4 this title.

5 **SEC. 205. CATEGORICAL EXCLUSION AND OTHER EXCEP-**  
6 **TIONS.**

7 A management activity, conservation program, or  
8 pilot project to be conducted on a parcel of public lands  
9 or National Forest System lands consisting of 10,000  
10 acres or less and directly related to threats to an endan-  
11 gered or threatened species or to another species consid-  
12 ered for listing as an endangered or threatened species  
13 shall be—

14 (1) categorically excluded from the require-  
15 ments relating to environmental assessments or envi-  
16 ronmental impact statements under section 1508.4  
17 of title 40, Code of Federal Regulations; and

18 (2) exempt from the Archaeological Resources  
19 Protection Act of 1979 (16 U.S.C. 470aa et seq.)  
20 and any other requirement relating to the survey,  
21 identification, or disruption of archeological or cul-  
22 tural resources on public lands or National Forest  
23 System lands.

1 **TITLE III—SMALL LANDS**  
2 **TRACTS CONVEYANCES TO**  
3 **SUPPORT SPECIES PROTEC-**  
4 **TION AND CONSERVATION**  
5 **MEASURES**

6 **SEC. 301. PURPOSE.**

7 It is the purpose of this title to require the sale of  
8 small parcels of National Forest System land and small  
9 parcels of public lands and other lands administered by  
10 the Secretary of the Interior to generate revenues to fund  
11 the species protection and conservation measures author-  
12 ized by title II.

13 **SEC. 302. DEFINITIONS.**

14 In this title:

15 (1) **ADJACENT LANDHOLDER.**—The term “ad-  
16 jacent landholder” means any holder of non-Federal  
17 land (including a holder that is a State, county, or  
18 local government or any agency thereof, or an In-  
19 dian tribe) that shares one or more boundaries with  
20 an eligible Federal lands parcel and who makes a re-  
21 quest to purchase an eligible Federal lands parcel.

22 (2) **ELIGIBLE FEDERAL LANDS PARCEL.**—Sub-  
23 ject to the exclusions specified in section 303(c), the  
24 term “eligible Federal lands parcel” means a parcel  
25 of Federal lands that—

1 (A) shares one or more boundaries with  
2 non-Federal land;

3 (B) is located within the boundaries of an  
4 incorporated or unincorporated area with a pop-  
5 ulation of at least 500 residents; and

6 (C) is not subject to existing rights held by  
7 a non-Federal entity.

8 (3) EXCEPTIONAL RESOURCE.—The term “ex-  
9 ceptional resource” means a resource of scientific,  
10 historic, cultural, or recreational value on a parcel of  
11 Federal lands that would otherwise satisfy the defi-  
12 nition of eligible Federal lands parcel, but that the  
13 Secretary concerned determines, on the record and  
14 after an opportunity for a hearing—

15 (A) is documented by a Federal, State, or  
16 local governmental authority; and

17 (B) requires extraordinary conservation  
18 and protection to maintain the resource for the  
19 benefit of the public.

20 (4) FEDERAL LANDS.—The term “Federal  
21 lands” means—

22 (A) National Forest System land; and

23 (B) public lands and other lands adminis-  
24 tered by the Secretary of the Interior through  
25 the Bureau of Land Management, the Bureau

1           of Reclamation, or the United States Fish and  
2           Wildlife Service.

3           (5) INDIAN TRIBE.—The term “Indian tribe”  
4           has the meaning given that term in section 102 of  
5           the Federally Recognized Indian Tribe List Act of  
6           1994 (25 U.S.C. 479a).

7           (6) NATIONAL FOREST SYSTEM LAND.—The  
8           term “National Forest System land” means land  
9           within the National Forest System, as defined in  
10          section 11(a) of the Forest and Rangeland Renew-  
11          able Resources Planning Act of 1974 (16 U.S.C.  
12          1609(a)), including the National Grasslands and  
13          land utilization projects designated as National  
14          Grasslands administered pursuant to the Act of July  
15          22, 1937 (7 U.S.C. 1010–1012).

16          (7) PUBLIC LANDS.—The term “public lands”  
17          has the meaning given that term in section 103(e)  
18          of the Federal Land Policy and Management Act of  
19          1976 (43 U.S.C. 1702(e)).

20          (8) SECRETARY CONCERNED.—The term “Sec-  
21          retary concerned” means—

22                  (A) the Secretary of Agriculture, with re-  
23                  spect to National Forest System land; and

24                  (B) the Secretary of the Interior, with re-  
25                  spect to public lands and other lands adminis-

1           tered by the Secretary of the Interior through  
2           the Bureau of Land Management, the Bureau  
3           of Reclamation, or the United States Fish and  
4           Wildlife Service.

5 **SEC. 303. SELECTION OF PARCELS FOR CONVEYANCE.**

6       (a) SELECTION METHODS.—

7           (1) TWO SELECTION METHODS.—The Secretary  
8           concerned shall select an eligible Federal lands par-  
9           cel for conveyance under this section—

10               (A) in response to a request submitted by  
11               an adjacent landholder or other prospective pur-  
12               chaser; or

13               (B) upon the recommendation of the offi-  
14               cial of the Federal agency exercising immediate  
15               administration over the parcel.

16       (2) PUBLIC REQUESTS.—

17               (A) PROCESS REQUIRED.—The Secretary  
18               concerned shall create a process by which an  
19               adjacent landholder or other prospective pur-  
20               chaser may request the selection of a Federal  
21               lands parcel for conveyance under this title.

22               (B) GUIDELINES.—To the maximum ex-  
23               tent practicable, the process shall be consistent  
24               with other public purchase request processes  
25               used by the Secretary concerned to convey Fed-

1           eral land under their respective statutory and  
2           regulatory authority.

3           (3) PUBLIC ACCESSIBILITY.—The selection  
4           process shall be open to the public and available on  
5           the internet.

6           (4) REVIEW OF SELECTION REQUEST.—When a  
7           prospective buyer or an official referred to in para-  
8           graph (1)(B) submits a request or recommendation  
9           for the selection of a Federal lands parcel for con-  
10          veyance under this title, the Secretary concerned  
11          shall review the parcel and determine, within 30  
12          days after receipt of the request, whether the parcel  
13          in fact satisfies the definition of eligible Federal  
14          lands parcel for conveyance under this title.

15          (5) EFFECT OF REJECTION OF SELECTION RE-  
16          QUEST.—If the Secretary concerned determines that  
17          all or a portion of a Federal lands parcel covered by  
18          a request or recommendation under paragraph (1)  
19          fails to satisfy the definition of eligible Federal lands  
20          parcel, the Secretary concerned shall provide—

21                  (A) a written explanation of the reasons  
22                  for the rejection, which specifies—

23                          (i) which of the elements of the defini-  
24                          tion of eligible Federal lands parcel the

1 parcel fails to satisfy and how and why the  
2 parcel fails to satisfy that element;

3 (ii) how the continued administration  
4 of the parcel by the Secretary concerned  
5 would impact the parcel and surrounding  
6 economy; and

7 (iii) why the Federal Government  
8 needs to maintain ownership of the parcel  
9 and would be the best land ownership  
10 steward of the parcel; and

11 (B) an opportunity to appeal the deter-  
12 mination.

13 (6) DEADLINE.—The selection process shall be  
14 available to the public within 90 days of the date of  
15 the enactment of this Act.

16 (b) PARCEL AND ACREAGE LIMITATIONS.—

17 (1) ACREAGE.—An eligible Federal lands parcel  
18 conveyed under this section may not exceed 160  
19 acres unless a request for additional acreage is spe-  
20 cifically approved by the Secretary concerned.

21 (2) NUMBER OF PARCELS.—A purchaser may  
22 only acquire one eligible Federal lands parcel under  
23 this section per year, except that, if the parcel is less  
24 than 160 acres in size, the purchaser may acquire  
25 additional eligible Federal lands parcels during that

1 year so long as the total acreage acquired does not  
2 exceed 160 acres, unless a request for additional  
3 acreage was approved by the Secretary concerned  
4 under paragraph (1).

5 (c) EXCLUSION OF CERTAIN FEDERAL LANDS.—The  
6 following Federal lands may not be conveyed under the  
7 authority of this title:

8 (1) Federal lands containing an exceptional re-  
9 source.

10 (2) Federal lands that are habitat for an en-  
11 dangered species or a threatened species determined  
12 under section 4 of the Endangered Species Act of  
13 1973 (16 U.S.C. 1533).

14 (3) A national monument.

15 (4) An area of critical environmental concern.

16 (5) A national conservation area.

17 (6) A national riparian conservation area.

18 (7) A national recreation area.

19 (8) A national scenic area.

20 (9) A research natural area.

21 (10) A national outstanding natural area.

22 (11) A national natural landmark.

23 (12) A wilderness area.

24 (13) A wilderness study area.



1           (14) A unit of the national wild and scenic riv-  
2       ers system.

3           (15) A unit of the national system of trails.

4           (16) Land held in trust by the United States  
5       for the benefit of any Indian tribe.

6 **SEC. 304. CONVEYANCE PROCESS.**

7       (a) PUBLIC NOTICE.—The Secretary concerned shall  
8       provide public notice of the availability of an eligible Fed-  
9       eral lands parcel. The notice shall state that the parcel  
10      satisfies the definition of eligible Federal lands parcel for  
11      conveyance.

12      (b) EFFECT OF MULTIPLE OFFERS.—If multiple  
13      prospective buyers request to purchase an eligible public  
14      lands parcel, the sale of the eligible public lands parcel  
15      under this title shall be conducted using competitive bid-  
16      ding procedures established under section 203(f) of the  
17      Federal Land Policy and Management Act of 1976 (43  
18      U.S.C. 1713(f)).

19      (c) REJECTION OF OFFERS.—The Secretary con-  
20      cerned may reject any offer made under this section that  
21      does not offer the minimum consideration required by sec-  
22      tion 305. A prospective purchaser shall be given an oppor-  
23      tunity to appeal the rejection.

24      (d) COMPLIANCE WITH LOCAL PLANNING AND ZON-  
25      ING.—As a condition of the conveyance of an eligible pub-

1 lie lands parcel under this title, the Secretary concerned  
2 shall require the purchaser of the parcel to agree to com-  
3 ply with all local land use ordinances and any master zon-  
4 ing plan applicable to the parcel or the adjacent non-Fed-  
5 eral land.

6 (e) FORM OF CONVEYANCE.—When an eligible Fed-  
7 eral lands parcel is to be sold under this title, the Sec-  
8 retary concerned shall convey, by quitclaim deed, all right,  
9 title, and interest, including the mineral estate, of the  
10 United States in and to the parcel.

11 **SEC. 305. CONSIDERATION.**

12 (a) FAIR MARKET VALUE.—As consideration for the  
13 sale of an eligible Federal lands parcel under this title,  
14 the Secretary concerned shall require a cash payment in  
15 an amount that is equal to not less than the fair market  
16 value of the parcel, including the mineral estate.

17 (b) APPRAISAL.—The fair market value of an eligible  
18 Federal lands parcel shall be established by an appraisal  
19 submitted by the prospective purchaser, unless the Sec-  
20 retary concerned rejects such appraisal within 45 days  
21 after submission. In the case of the rejection of the ap-  
22 praisal, the Secretary concerned shall cause another ap-  
23 praisal to be conducted, within 30 days, in accordance  
24 with the regulations regarding appraisals issued under

1 section 206(f) of the Federal Land Policy and Manage-  
2 ment Act of 1976 (43 U.S.C. 1716(f)).

3 **SEC. 306. DISTRIBUTION OF PROCEEDS.**

4 (a) ESTABLISHMENT OF FUND.—The Secretary of  
5 the Treasury shall establish in the Treasury of the United  
6 States a special fund to provide for the collection and dis-  
7 tribution of consideration received under section 305.

8 (b) COLLECTION.—Funds collected from the convey-  
9 ance of an eligible Federal lands parcel under this section  
10 shall be deposited into the Treasury fund created under  
11 subsection (a).

12 (c) DISTRIBUTION.—Funds deposited into the Treas-  
13 ury fund created under subsection (a) shall be distributed  
14 annually only to those States in which the Federal govern-  
15 ment owns more than 33 percent of the land area. The  
16 amount each of such States receives shall be determined  
17 in accordance with the distribution formula provided in  
18 subsection (d).

19 (d) CALCULATION OF DISTRIBUTION.—From  
20 amounts deposited into the Treasury fund created under  
21 subsection (a)—

22 (1) 75 percent of the amount collected from a  
23 conveyance shall be distributed to the Federal/State  
24 Endangered Species Council of the State in which  
25 the conveyance took place; and

1           (2) the remaining 25 percent shall be distrib-  
2           uted equally between the remaining States identified  
3           under subsection (c).

4           (e) USE OF FUNDS.—As a condition of receipt of  
5           funds under this section, a State receiving such funds shall  
6           agree to use the funds only for authorized management  
7           efforts, conservation programs, and pilot projects under  
8           title II, including the following:

9           (1) Fire suppression.

10          (2) Pre-treatment and fuels management.

11          (3) Invasive species control.

12          (4) Habitat restoration.

13          (5) Wild horses and burros fertility control,  
14          adoption, and other non-slaughter management.

15          (6) Predator control.

16          (f) COMPLIANCE REQUIREMENTS.—An authorized  
17          management effort, conservation program, or pilot project  
18          carried out using funds received under this section must  
19          comply with any Federal requirement applicable under—

20                 (1) the Endangered Species Act of 1973 (16  
21                 U.S.C. 1531 et seq.);

22                 (2) the Federal Water Pollution Control Act  
23                 (33 U.S.C. 1251 et seq.); and

24                 (3) the National Environmental Policy Act of  
25                 1969 (42 U.S.C. 4321 et seq.).

1 **SEC. 307. PAYMENT OF COSTS OF CONVEYANCE.**

2 (a) PAYMENT OF COSTS REQUIRED.—The Secretary  
3 concerned shall require the purchaser of an eligible Fed-  
4 eral lands parcel under this title to cover the costs to be  
5 incurred, or to reimburse the Secretary concerned for  
6 costs incurred, to carry out the conveyance, including sur-  
7 vey and appraisal costs, costs for environmental docu-  
8 mentation, and any other administrative costs related to  
9 the conveyance.

10 (b) REFUND OF EXCESS.—If amounts are collected  
11 from the purchaser in advance, and the amount collected  
12 exceeds the costs actually incurred to carry out the convey-  
13 ance, the Secretary concerned shall refund the excess  
14 amount to the purchaser.

15 (c) TREATMENT OF AMOUNTS RECEIVED.—Amounts  
16 received as reimbursement under this section shall be  
17 credited to the fund or account that was used to cover  
18 those costs in carrying out the conveyance. Amounts so  
19 credited shall be merged with amounts in such fund or  
20 account, and shall be available for the same purposes, and  
21 subject to the same conditions and limitations, as amounts  
22 in such fund or account.

23 **SEC. 308. TIME FOR CONVEYANCE.**

24 It is the intent of the Congress that the conveyance  
25 of an eligible Federal lands parcel under this section, from

1 selection of the parcel for conveyance through completion  
2 of the sale, should take no more than 18 months.

3 **SEC. 309. CATEGORICAL EXCLUSION.**

4 Because the scope of a conveyance authorized by this  
5 title is limited and exceptional resources and certain other  
6 Federal lands are excluded from conveyance by section  
7 303(c), a conveyance of an eligible Federal lands parcel  
8 under this title is categorically excluded from the require-  
9 ment to prepare an environmental assessment or an envi-  
10 ronmental impact statement under the National Environ-  
11 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

12 **SEC. 310. ADDITIONAL AUTHORITY.**

13 The conveyance authority provided by this title is in  
14 addition to the sale authority provided by section 203 of  
15 the Federal Land Policy and Management Act of 1976  
16 (43 U.S.C. 1713) or any other provision of law.

17 **TITLE IV—REVIEWS OF STATUS**  
18 **OF LISTED SPECIES**

19 **SEC. 401. PERIODIC 5-YEAR STATUS REVIEWS OF LISTED**  
20 **SPECIES.**

21 (a) REVIEW REQUIREMENT.—Section 4 of the En-  
22 dangered Species Act of 1973 (16 U.S.C. 1533) is amend-  
23 ed—

24 (1) in subsection (c)—

25 (A) by striking “(1)”; and

1 (B) by striking paragraph (2);

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

3 “(d) PERIODIC 5-YEAR STATUS REVIEWS OF LISTED  
4 SPECIES.—

5 “(1) REVIEW REQUIREMENT.—The Secretary  
6 shall—

7 “(A) at least once before the end of the 5-  
8 year period beginning on the date a species is  
9 added to a list published under subsection (c),  
10 and of each 5-year period thereafter, conduct a  
11 review to determine whether the status of the  
12 species has changed and should be removed  
13 from a list under subsection (c); and

14 “(B) publish in the Federal Register notice  
15 of each such review.

16 “(2) DATA TO BE USED.—In each review of a  
17 species under this subsection, the Secretary shall use  
18 the best scientific and economic data available.

19 “(3) NOTICE OF DETERMINATION THAT LIST-  
20 ING IS WARRANTED.—

21 “(A) REQUIREMENT TO PROVIDE NO-  
22 TICE.—If the Secretary determines under para-  
23 graph (1)(B)(ii) that a species is warranted to  
24 be listed, the Secretary shall promptly provide  
25 to each person described in subparagraph (B),

1 in writing and by not later than the end of the  
2 60-day period beginning on the date of the de-  
3 termination—

4 “(i) the findings of the review, includ-  
5 ing the method used for determining cur-  
6 rent population levels of the species and  
7 the number of acres of habitat and critical  
8 habitat of the species;

9 “(ii) a list of all identified threats to  
10 the species and a description of the regu-  
11 latory mechanisms and on-the-ground  
12 projects the Federal government is car-  
13 rying out to address such identified threats  
14 in the State in which the person is located;  
15 and

16 “(iii) a draft plan establishing clear  
17 goals for conservation of habitat of the  
18 species.

19 “(B) PERSONS TO BE NOTIFIED.—The  
20 persons referred to in subparagraph (A) are the  
21 following:

22 “(i) The Governor of each State in  
23 which habitat of the species is located.



1           “(ii) Each member of the legislative  
2           body of each country in which habitat of  
3           the species is located.

4           “(iii) The tribal chairperson of each  
5           Indian tribe having lands or waters that  
6           are habitat of the species.

7           “(iv) The chief executive of each city  
8           and town having lands or waters that are  
9           habitat of the species.

10          “(v) Each owner of lands or waters  
11          that are habitat of the species.

12          “(vi) Each holder of a permit author-  
13          izing use of Federal lands or waters that  
14          are habitat of the species.

15          “(C) HEARING REQUIREMENT.—If the  
16          Secretary fails to provide notice in accordance  
17          with subparagraph (B) to a person in a State,  
18          the Secretary, in coordination with the Gov-  
19          ernor of the State, shall hold a hearing in such  
20          State to inform the public of such determina-  
21          tion, by not later than 6 months after the end  
22          of such period.”.

1 **TITLE V—PRIVATE PROPERTY**  
2 **AND FIFTH AMENDMENT**  
3 **TAKINGS**

4 **SEC. 501. DESIGNATION OF CRITICAL HABITAT DEEMED A**  
5 **TAKING FOR WHICH COMPENSATION IS RE-**  
6 **QUIRED.**

7 (a) DESIGNATION DEEMED TAKING.—Any designa-  
8 tion of critical habitat under the Endangered Species Act  
9 of 1973 (16 U.S.C. 1351 et seq.) that **【involves/imposes?】**  
10 restrictions on uses of land is deemed to be a regulatory  
11 taking of property for which fair-value compensation is re-  
12 quired to be paid under the fifth Article of amendment  
13 to the Constitution to—

14 (1) the owner of any private property affected  
15 by the designation;

16 (2) any States having State lands affected by  
17 the designation;

18 (3) to holder of any permit for any activity on  
19 Federal lands that is affected by the designation;  
20 and

21 (4) the county in which are located any Federal  
22 lands that are affected by such designation.

23 (b) MANNER OF PAYMENT.—Any compensation re-  
24 quired under this section for a designation of critical habi-

1 tat shall be paid in annual amounts until the designation  
2 is no longer effective.

3 **SEC. 502. RELATION TO PAYMENTS IN LIEU OF TAXES**  
4 **(PILT) PROGRAM.**

5 The operation of section 501 does not affect the cur-  
6 rent formula or payments under chapter 69 of title 31,  
7 United States Code (commonly known as the Payments  
8 in Lieu of Taxes (PILT) program).

9 **TITLE VI—REPORTING**  
10 **REQUIREMENTS**

11 **SEC. 601. ANNUAL REPORT.**

12 The Secretary of Agriculture and the Secretary of the  
13 Interior shall submit to Congress an annual report de-  
14 scribing—

15 (1) the species protection and conservation  
16 measures being conducted in each State under title  
17 II;

18 (2) the acres of habitat fragmentation on Fed-  
19 eral lands for threatened species or endangered spe-  
20 cies or species proposed for listing under the Endan-  
21 gered Species Act of 1973 as threatened species or  
22 endangered species due to wildfire, invasive species,  
23 and wild horses and burros;

1           (3) the list of species in each State for which  
2 such listing is warranted, and their analysis of costs  
3 and benefits of such listing;

4           (4) the costs of such measures, and the percent-  
5 age of the costs covered by funds distributed under  
6 section 306; and

7           (5) the acreage sold and the revenues generated  
8 from the sale of lands in each State under title III.

○