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(Original Signature of Member)

113TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To amend the Endangered Species Act of 1973 to encourage greater State input and authority over species and habitat management by allowing States to propose and implement State Protective Action before species are listed under that Act, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. NEUGEBAUER introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Endangered Species Act of 1973 to encourage greater State input and authority over species and habitat management by allowing States to propose and implement State Protective Action before species are listed under that Act, 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 “ESA Improvement Act  
5 of 2014”.

1 **SEC. 2. ENDANGERED AND THREATENED SPECIES STATE**  
2 **PROTECTIVE ACTIONS.**

3 Section 4(c) of the Endangered Species Act of 1973  
4 (16 U.S.C. 1533(c)) is amended—

5 (1) in paragraph (1), in the first sentence, by  
6 striking “The Secretary shall” and inserting “Ex-  
7 cept as provided in paragraph (3), the Secretary  
8 shall”; and

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

10 “(3) STATE PROTECTIVE ACTION.—

11 “(A) EXCLUSION FROM LISTS.—The Sec-  
12 retary shall not include in a list under this sub-  
13 section any population of a species in a State  
14 if the Secretary has approved a State Protective  
15 Action for such population in accordance with  
16 this paragraph.

17 “(B) PUBLICATION OF NOTICE.—Not later  
18 than 90 days before proposing to add a species  
19 to a list under this subsection, the Secretary  
20 shall notify each State in which a population of  
21 the species occurs of the opportunity to submit  
22 to the Secretary a proposed State Protective  
23 Action for the species in that State, including  
24 specification of the criteria for approval of such  
25 an action under this paragraph.

1           “(C) SUBMISSION BY STATE.—Each State  
2 notified under subparagraph (B), or group of  
3 such States, may submit to the Secretary a pro-  
4 posed State Protective Action for the species in  
5 such State or States within the period specified  
6 by the Secretary for the submission of public  
7 comment regarding the inclusion of the species  
8 in the list.

9           “(D) GUIDANCE TO STATES.—During  
10 preparation of a proposed State Protective Ac-  
11 tion under subparagraph (A), the Secretary  
12 shall provide guidance to the State regarding  
13 such preparation.

14           “(E) APPROVAL OR DISAPPROVAL; RESUB-  
15 MISSION.—The Secretary shall—

16           “(i) approve or disapprove a proposed  
17 State Protective Action by not later than  
18 45 days after the date it is submitted;

19           “(ii) approve such an action if the  
20 Secretary determines that it meets the cri-  
21 teria specified for approval in the notifica-  
22 tion under subparagraph (B);

23           “(iii) upon disapproving such an ac-  
24 tion—

1           “(I) provide the written com-  
2           ments explaining specifically why the  
3           action was not approved;

4           “(II) allow the proposed action to  
5           be resubmitted at any time before the  
6           end of the 45-day period beginning on  
7           the date the Secretary provides such  
8           comments; and

9           “(III) by not later than 30 days  
10          after the end of such period, issue a  
11          final decision regarding the proposed  
12          action.

13          “(F) LIMITATION ON FINAL LISTING.—  
14          The Secretary may not add a population of a  
15          species to a list before the date the Secretary  
16          has made a final determination regarding ap-  
17          proval of each State Protective Action for such  
18          population that has been submitted in accord-  
19          ance with this paragraph.

20          “(G) QUALIFICATION FOR GRANTS.—For  
21          purposes of subsection (d), a State Protective  
22          Action approved by the Secretary under this  
23          paragraph shall be treated as a cooperative  
24          agreement entered into pursuant to this sub-  
25          section.

1           “(H) REVIEW OF PLANS.—Every 5 years  
2           after approving a State Protective Action, the  
3           Secretary shall review the implementation and  
4           effectiveness of the action, and if necessary pro-  
5           vide guidance on improvements or revisions that  
6           are required to maintain the Secretary’s ap-  
7           proval of the action.

8           “(I) REVOCATION OF APPROVAL.—The  
9           Secretary may revoke approval of a State Pro-  
10          tective Action for a population and propose  
11          adding such species to a list under this sub-  
12          section if at any time after completion of the  
13          first review under subparagraph (H) the Sec-  
14          retary determines that—

15                 “(i) the State has failed to implement  
16                 the action; or

17                 “(ii) the action has failed to make  
18                 measurable progress toward achieving the  
19                 recovery criteria for the population.

20          “(J) TERMINATION.—The Secretary may  
21          terminate the effectiveness of a State Protective  
22          Action approved under this paragraph, includ-  
23          ing review regarding the action under subpara-  
24          graph (H), if the Secretary determines that re-

1           covery criteria for the population have been  
2           achieved.”.