

Endangered Species Management Self-Determination Act (S. ____)

1. *Increases State Authority over Endangered Species:*

- Amends the Endangered Species Act (ESA) method for determining endangered and threatened species by requiring that determinations be made only with the consent of the Governor of each state in which the endangered or threatened species is present.
- Clarifies the definition of “best scientific and commercial data” to include scientific evidence provided by the relevant state agency(s).
- Requires Congressional approval of a joint resolution for new species to be added to the federal endangered or threatened species list. All species are automatically de-listed after five years unless approved by another joint resolution with input from the state(s) in which the threatened or endangered species is found.
- For any currently listed endangered or threatened species, allows a state the option of regulating any such species found only within its borders. This would mean the state would have the exclusive authority to promulgate/enforce regulations in relation to these species, designate a critical habitat, issue a permit or license, develop or implement a recovery plan, and establish any goal with respect to the recovery plan. Also ensures that a state has the authority to regulate any endangered or threatened species within its borders listed on or after the date of enactment of this bill. Finally, the bill protects state authority to regulate a species by stating that if a state does choose to regulate a species, its actions are not subject to judicial review in any federal or state court.

2. *Costs & Compensation:*

- Requires certain power administrators to include in customers’ monthly billing statements the share of direct and indirect costs to the customer incurred by complying with the ESA. These administrators are also required to submit to Congress an annual report estimating these costs, as well as costs of compliance broken down on a project-by-project basis and on a system-wide basis.
- Creates new procedures to protect and clarify individual property rights.
 - Allows any property owner to submit to the Secretary of the Department of Interior (DOI) an application that includes any proposed use of his or her property. DOI would then be required to respond in writing within 90 days to confirm whether the proposed use will violate the ESA. If DOI fails to respond within 90 days, the proposed use will not be considered to violate the ESA. A favorable determination or DOI’s failure to respond would be considered an affirmative defense to any civil or criminal action brought under the ESA.
 - For actions taken by the Fish and Wildlife Service (FWS) that diminish the fair market value of property by at least 50% with respect to the intended use of the property, requires that within 180 days after the date of the action, DOI must pay the property owner an amount equal to 150% of the fair market value of the property. Agency actions include unfavorable determinations, as described above.

3. *Attorney’s Fees:*

- Amends the ESA to ensure that any party bringing suit under the ESA will not have their attorney’s fees compensated.

4. *Takes of Certain Protected Species*

- For individuals having issues with black vultures destroying livestock, homes, and cars, this bill provides a safe harbor to take black vultures reasonably believed to be endangering such property.
- In areas both populated by ravens and by a species listed or proposed for listing as endangered or threatened, this bill provides a safe harbor to take ravens if the applicable state agency determines the ravens’ predation poses a risk to recover the species which is listed or proposed for listing.