116TH CONGRESS  
1ST SESSION  

H. R. _____

To amend the Endangered Species Act of 1973 to provide for improved precision in the listing, delisting, and downlisting of endangered species and potentially endangered species.

IN THE HOUSE OF REPRESENTATIVES

Mr. GIANFORTE introduced the following bill; which was referred to the

A BILL

To amend the Endangered Species Act of 1973 to provide for improved precision in the listing, delisting, and downlisting of endangered species and potentially endangered species.

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 “Less Imprecision in
5 Species Treatment Act of 2019” or the “LIST Act of
6 2019”.

SEC. 2. REQUIREMENT TO INITIATE DELISTING.

(a) REQUIREMENT IN CASE OF RECOVERY.—Section 4(b) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)) is amended by adding at the end the following:

“(9)(A) The Secretary shall initiate the procedures in accordance with subsection (a)(1) to remove a species from a list published under subsection (c) if—

“(i) the goals of a recovery plan for the species developed under subsection (f) have been met; or

“(ii) the goals for recovery of the species have not been developed under subsection (f), and the Secretary determines that the species has recovered sufficiently to no longer require the protection of the Act.

“(B) Notwithstanding the requirement of subsection (c)(2) that each determination under subparagraph (B) of that subsection shall be made in accordance with the provisions of subsections (a) and (b), the Secretary shall remove a species from any list published under subsection (c) if the Department of the Interior has produced or received substantial scientific or commercial information demonstrating that the species is recovered or that recovery goals set for the species under subsection (f) have been met.

“(C) In the case of a species removed under subparagraph (A) from a list published under subsection (c), the
publication and notice under subsection (b)(5) shall consist solely of a notice of such removal.”.

(b) REQUIREMENT IN CASE ERRONEOUSLY OR WRONGFULLY LISTED.—Section 4(b)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)), as amended by subsection (a), is further amended by adding at the end the following:

“(H)(i) Not later than 90 days after the date the Department of the Interior receives or produces under this subsection information described in clause (ii) regarding a species included in a list under subsection (c), the Secretary shall to the maximum extent practicable find whether the inclusion of such species in such list was less than likely to have occurred in the absence of the scientific or commercial information referred to in clause (ii).

“(ii) Information referred to in clause (i) is any information demonstrating that the listing was determined on the basis of scientific or commercial information available to, or received or produced by, the Department under paragraphs (1) and (3) of subsection (b) that at the time the scientific or commercial information was available to or received or produced by the Department it was—

“(I) inaccurate beyond scientifically reasonable margins of error;

“(II) fraudulent; or
“(III) misrepresentative.

“(iii) Notwithstanding the requirement under subsection (c)(2)(B) that each determination under subparagraph (B) shall be made in accordance with the provisions of subsections (a) and (b), the Secretary shall—

“(I) remove from any list published under subsection (c) any species for which a positive finding is made under clause (i); and

“(II) promptly publish in the Federal Register notice of such finding that includes such information as was received or produced by the Department under such clause.

“(iv) Any positive finding by the Secretary under clause (i) shall not be subject to judicial review.

“(v) Any negative finding by the Secretary under clause (i) shall be subject to judicial review.

“(vi) In the case of a species removed under clause (iii) from a list, the publication and notice under subsection (b)(5) shall consist solely of a notice of such removal.

“(vii) If the Secretary finds that a person submitted a petition that is the subject of a positive finding under clause (i) knowing that it contained scientific or commercial information described in clause (ii), then during the 10-year period beginning on the date of the finding under
this clause the person shall not be considered an interested
person for purposes of subparagraph (A) with respect to
any petition submitted by the person after the date the
person submitted such scientific or commercial informa-
tion.”.

SEC. 3. EXPANDED CONSIDERATION DURING FIVE-YEAR
REVIEW.

Section 4(c) (16 U.S.C. 1533(c)) is amended by add-
ing at the end the following:

“(3) Each determination under paragraph (2)(B)
shall consider one of the following:

“(A) Except as provided in subparagraph (B)
of this paragraph, the criteria required under sub-
section (f)(1)(B) in the recovery plan for the species.

“(B) If the objective, measurable criteria under
subsection (f)(1)(B)(ii) are not established, the fac-
tors for the determination that a species is an en-
dangered species or a threatened species set forth in
subsections (a)(1) and (b)(1).

“(C) A finding of error in the determination
that the species is an endangered species, a threat-
ened species, or extinct.

“(D) A determination that the species is no
longer an endangered species or threatened species
or in danger of extinction, based on an analysis of
1 the factors that are the basis for listing in sub-
2 sections (a)(1) and (b)(1).”.