

116TH CONGRESS  
1ST SESSION

# H. R. 4483

To amend the Endangered Species Act of 1973 to increase State and local involvement in management plans.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2019

Mr. YOUNG introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To amend the Endangered Species Act of 1973 to increase State and local involvement in management plans.

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 “Localizing Authority  
5 of Management Plans Act of 2019” or the “LAMP Act  
6 of 2019”.

7 **SEC. 2. REFERENCES.**

8 Except as otherwise specifically provided, whenever in  
9 this Act an amendment or repeal is expressed in terms  
10 of an amendment to, or repeal of, a provision, the ref-

1 erence shall be considered to be made to a provision of  
2 the Endangered Species Act of 1973 (16 U.S.C. 1531 et  
3 seq.).

4 **SEC. 3. VOLUNTARY COOPERATIVE MANAGEMENT AGREE-**  
5 **MENTS.**

6 Section 6 (16 U.S.C. 1535) is amended by striking  
7 so much as precedes subsection (c) and inserting the fol-  
8 lowing:

9 **“SEC. 6. COOPERATION WITH NON-FEDERAL PERSONS.**

10 “(a) **GENERALLY.**—In carrying out the program au-  
11 thorized by this Act, the Secretary shall cooperate to the  
12 maximum extent practicable with the States and other  
13 non-Federal persons. Such cooperation shall include con-  
14 sultation with the States and non-Federal persons con-  
15 cerned before acquiring any land or water, or interest  
16 therein, for the purpose of conserving any endangered spe-  
17 cies or threatened species.

18 “(b) **COOPERATIVE MANAGEMENT AGREEMENTS.**—

19 “(1) **IN GENERAL.**—The Secretary may enter  
20 into a cooperative management agreement with any  
21 State or group of States, political subdivision of a  
22 State, Indian Tribe, local government, or non-Fed-  
23 eral person—

24 “(A) for the management of a species or  
25 group of species listed as endangered species or

1 threatened species under section 4, a species or  
2 group of species proposed to be listed under  
3 section 4, or species or group of species that  
4 are candidates for listing; or

5 “(B) for the management or acquisition of  
6 an area that provides habitat for a species.

7 “(2) SCOPE OF COOPERATIVE MANAGEMENT  
8 AGREEMENTS.—(A) A cooperative management  
9 agreement entered into under this subsection—

10 “(i) may provide for the management of a  
11 species or group of species on both public and  
12 private lands and waters that are under the au-  
13 thority, control, or ownership of a State or  
14 group of States, political subdivision of a State,  
15 Indian Tribe, local government, or non-Federal  
16 person and that are affected by a listing deter-  
17 mination, proposed determination, or proposed  
18 candidacy for determination; and

19 “(ii) may include the acquisition or man-  
20 agement of land as habitat for species.

21 “(B) A cooperative management agreement  
22 may not restrict private or non-Federal property un-  
23 less written consent to such restrictions by the non-  
24 Federal owner is given either to the Secretary or the

1 State, political subdivision, local government, or non-  
2 Federal person who is a party to the agreement.

3 “(C) The Secretary may grant to a party to an  
4 agreement the authority to undertake programs to  
5 enhance the population or habitat of a species on  
6 federally owned lands, except that such authority  
7 shall not otherwise conflict with other uses of such  
8 land that are approved by the Secretary or author-  
9 ized by the Congress.

10 “(D) The Secretary is authorized, in conjunc-  
11 tion with entering into and as a part of any agree-  
12 ment under this section, to provide funds to carry  
13 out the agreement to a non-Federal person, as pro-  
14 vided in paragraph (11).

15 “(3) NOTIFICATION.—Not later than 30 days  
16 after submission of a request to enter into a cooper-  
17 ative management agreement, the party submitting  
18 the request shall provide notice of the request to any  
19 non-Federal person or Federal power marketing ad-  
20 ministration that would be subject to the proposed  
21 cooperative management agreement.

22 “(4) DEVELOPMENT OF PROPOSED AGREE-  
23 MENT.—(A) The requesting party shall develop and  
24 submit to the Secretary a proposed cooperative man-  
25 agement agreement.

1 “(B) The Secretary shall—

2 “(i) publish in the Federal Register—

3 “(I) a notice of availability of any pro-  
4 posed cooperative management agreement;  
5 and

6 “(II) a request for submission within  
7 30 days after the date of publication of the  
8 notice, of public comment on such pro-  
9 posed agreement; and

10 “(ii) shall hold a public hearing on such a  
11 proposed agreement in the county in which the  
12 proposed agreement would be in effect, if re-  
13 quested by a non-Federal person that would be  
14 subject to the proposed agreement and that re-  
15 sides in such county.

16 “(5) APPROVAL OF AGREEMENT.—(A) Not  
17 later than 120 days after the submission of a pro-  
18 posed cooperative management agreement under  
19 paragraph (4), the Secretary shall determine wheth-  
20 er the proposed agreement is in accordance with this  
21 subsection and will promote the conservation of the  
22 species to which the proposed agreement applies.

23 “(B) The Secretary shall approve and enter  
24 into a proposed cooperative management agreement,  
25 if the Secretary finds that—

1           “(i) the requesting party has sufficient au-  
2           thority under law to implement and carry out  
3           the terms of the agreement;

4           “(ii) the agreement defines an area that  
5           serves as habitat for the species or group of  
6           species to which the agreement applies;

7           “(iii) the agreement adequately provides  
8           for the administration and management of the  
9           identified management area;

10          “(iv) the agreement promotes the conserva-  
11          tion of the species to which the agreement ap-  
12          plies by committing Federal or non-Federal ef-  
13          forts to the conservation;

14          “(v) the term of the agreement is of suffi-  
15          cient duration to accomplish the provisions of  
16          the agreement; and

17          “(vi) the agreement is adequately funded  
18          to carry out the agreement.

19          “(C) No later than 30 days after entering into  
20          a cooperative management agreement, the Secretary  
21          shall publish in the Federal Register a notice of  
22          availability of the terms of such agreement and the  
23          response of the Secretary to all information received  
24          or presented with respect to the agreement pursuant  
25          to paragraph (4)(B).

1           “(6) ENVIRONMENTAL ASSESSMENTS.—Prepa-  
2           ration, approval, and entering into a cooperative  
3           management agreement under this subsection shall  
4           not be subject to section 102(2) of the National En-  
5           vironmental Policy Act of 1969 (42 U.S.C. 4332(2)).

6           “(7) NO SURPRISES.—For any species or area  
7           that is the subject of a cooperative management  
8           agreement under this subsection, a party to the  
9           agreement shall not be required—

10           “(A) to make any additional payment for  
11           any purpose, or to accept any additional restric-  
12           tion on any parcel of land available for develop-  
13           ment or land management under the agree-  
14           ment, without consent of the party; or

15           “(B) to undertake any other measure to  
16           minimize or mitigate impacts on the species in  
17           addition to measures required by the agreement  
18           as established.

19           “(8) EFFECT OF LISTING OF SPECIES.—A co-  
20           operative management agreement entered into under  
21           this subsection shall remain in effect and shall not  
22           be required to be amended if a species to which the  
23           agreement does not apply is determined to be an en-  
24           dangered species or threatened species under section  
25           4.

1           “(9) APPLICABILITY OF CERTAIN PROVI-  
2           SIONS.—Sections 5, 7, and 9 shall not apply to those  
3           activities of a party to a cooperative management  
4           agreement that are conducted in accordance with  
5           such agreement.

6           “(10) VIOLATIONS OF AGREEMENTS.—(A) If  
7           the Secretary determines that a party to a coopera-  
8           tive management agreement is not administering or  
9           acting in accordance with the agreement, the Sec-  
10          retary shall notify the party.

11          “(B) If a party that is notified under subpara-  
12          graph (A) fails to take appropriate corrective action  
13          within a period of time determined by the Secretary  
14          to be reasonable (not to exceed 90 days after the  
15          date of the notification)—

16                 “(i) the Secretary shall rescind the entire  
17                 cooperative management agreement or the ap-  
18                 plicability of the agreement to the party that is  
19                 the subject of the notification; and

20                 “(ii) beginning on the date of the rescis-  
21                 sion—

22                         “(I) the entire agreement shall not be  
23                         effective, or the agreement shall not be ef-  
24                         fective with respect to the party, whichever  
25                         is appropriate; and

1                   “(II) sections 5, 7, and 9 shall apply  
2                   to activities of the party.

3                   “(11) FACA.—Consultation with States pursu-  
4                   ant to this section shall not be subject to the Fed-  
5                   eral Advisory Committee Act (5 U.S.C. App.).”.

6 **SEC. 4. DELEGATION OF AUTHORITY TO STATES.**

7                   (a) IN GENERAL.—Section 6 (16 U.S.C. 1535) as  
8                   amended by section 3 of this Act, is further amended by  
9                   striking subsection (c) and all that follows through sub-  
10                  section (f) and inserting the following:

11                  “(c) STATE AUTHORITY TO PROTECT ENDANGERED  
12                  SPECIES AND THREATENED SPECIES.—

13                         “(1) DELEGATION OF AUTHORITY.—In further-  
14                         ance of the purposes of this Act, the Secretary may  
15                         delegate to a State that establishes and maintains  
16                         an adequate program for the conservation of endan-  
17                         gered species and threatened species the authority  
18                         under this Act with respect to species that are resi-  
19                         dents in the State. Within 120 days after the Sec-  
20                         retary receives a certified copy of such a proposed  
21                         State program, the Secretary shall make a deter-  
22                         mination whether such program will be adequate to  
23                         provide protections to endangered species and  
24                         threatened species in such State. In order for a  
25                         State program to be determined to be an adequate

1 program for the conservation of endangered species  
2 and threatened species, the Secretary must find that  
3 under the State program—

4 “(A)(i) State agency has authority to con-  
5 serve resident species that are determined by  
6 the State agency or the Secretary to be endan-  
7 gered species or threatened species;

8 “(ii) the State agency has established ac-  
9 ceptable conservation programs, consistent with  
10 the purposes and policies of this Act, for all  
11 resident species in the State that are deter-  
12 mined by the Secretary to be endangered spe-  
13 cies or threatened species or for those species or  
14 taxonomic groups of species that the State pro-  
15 poses to cover under its program, and has fur-  
16 nished to the Secretary a copy of such plan and  
17 program together with all pertinent details and  
18 information requested by the Secretary;

19 “(iii) the State agency is authorized to  
20 conduct investigations to determine the status  
21 and requirements for survival of resident en-  
22 dangered species and threatened species;

23 “(iv) provision is made for public partici-  
24 pation in designating resident species as endan-  
25 gered species or threatened species; and

1           “(v) the State agency has initiated or en-  
2           couraged voluntary or incentive based programs  
3           to further the conservation objectives for the  
4           species; or

5           “(B)(i) the requirements set forth in  
6           clauses (iii) and (iv) of subparagraph (A) are  
7           complied with; and

8           “(ii) plans are included under which imme-  
9           diate attention will be given to those resident  
10          species that are determined by the Secretary or  
11          the State agency to be endangered species or  
12          threatened species and that the Secretary and  
13          the State agency agree are most urgently in  
14          need of conservation programs.

15          “(2) CONTENTS OF DELEGATION AGREE-  
16          MENT.—(A) Such delegation shall provide for—

17                 “(i) the actions to be taken by the Sec-  
18                 retary and the States;

19                 “(ii) the benefits that are expected to be  
20                 derived in connection with the conservation of  
21                 endangered species or threatened species;

22                 “(iii) the estimated cost of such actions;  
23                 and

1           “(iv) the share of such costs to be borne by  
2 the Federal Government and by the States; ex-  
3 cept that—

4           “(I) the Federal share of such costs  
5 shall not exceed 75 percent of the esti-  
6 mated program cost stated in the agree-  
7 ment; and

8           “(II) the Federal share may be in-  
9 creased to 90 percent if two or more States  
10 having a common interest in one or more  
11 endangered species or threatened species,  
12 the conservation of which may be enhanced  
13 by cooperation of such States, enter jointly  
14 into an agreement with the Secretary.

15           “(3) COMPLIANCE WITH PROCEDURES.—In im-  
16 plementing this Act under authority delegated to a  
17 State by the Secretary, the State shall comply with  
18 all requirements, prohibitions, and procedures set  
19 forth by this Act.

20           “(4) PROHIBITIONS NOT AFFECTED.—A delega-  
21 tion to a State whose program is determined ade-  
22 quate under paragraph (1) shall not affect the appli-  
23 cability of prohibitions set forth in or authorized  
24 pursuant to section 4(d) or paragraph (1) or (2) of  
25 section 9(a) with respect to the taking of any resi-

1       dent endangered species or threatened species in the  
2       State.

3       “(d) FINANCIAL ASSISTANCE.—

4               “(1) IN GENERAL.—The Secretary may provide  
5       financial assistance to any State, through its respec-  
6       tive State agency, that has entered into a coopera-  
7       tive management agreement under subsection (b) or  
8       received authority under a delegation under sub-  
9       section (c) of this section to assist in development of  
10      programs for the conservation of endangered species  
11      and threatened species or to assist in monitoring the  
12      status of candidate species pursuant to subpara-  
13      graph (C) of section 4(b)(3) and recovered species  
14      pursuant to section 4(f). The Secretary shall allocate  
15      among such States each annual appropriation under  
16      subsection (i) based on consideration of—

17                   “(A) the international commitments  
18                   of the United States to protect endangered  
19                   species or threatened species;

20                   “(B) the readiness of a State to pro-  
21                   ceed with a conservation program con-  
22                   sistent with the objectives and purposes of  
23                   this Act;

24                   “(C) the number of endangered spe-  
25                   cies and threatened species within a State;

1           “(D) the potential for restoring en-  
2           dangered species and threatened species  
3           within a State;

4           “(E) the relative urgency to initiate a  
5           program to restore and protect an endan-  
6           gered species or threatened species, in  
7           terms of survival of the species;

8           “(F) the importance of monitoring the  
9           status of candidate species within a State  
10          to prevent a significant risk to the well-  
11          being of any such species; and

12          “(G) the importance of monitoring the  
13          status of recovered species within a State  
14          to assure that such species do not return  
15          to the point at which the measures pro-  
16          vided pursuant to this Act are again nec-  
17          essary.

18          “(2) UNOBLIGATED AMOUNTS.—So much  
19          of the annual appropriation made under sub-  
20          section (i) allocated for obligation to any State  
21          for any fiscal year as remains unobligated at  
22          the end thereof may be made available to that  
23          State until the end of the succeeding fiscal  
24          year. Any amount allocated to any State that is  
25          unobligated at the end of the period during

1           which it is available for expenditure may be  
2           made available for expenditure by the Secretary  
3           in conducting programs under this section.

4                   “(3) ADVANCE OF FUNDS.—The Secretary  
5           may, in the Secretary’s discretion, and under  
6           such rules and regulations as the Secretary may  
7           prescribe, advance funds to the State for fi-  
8           nancing the United States pro rata share  
9           agreed upon in the cooperative agreement. For  
10          the purposes of this section, the non-Federal  
11          share may, in the discretion of the Secretary, be  
12          in the form of money or real property, the value  
13          of which shall be determined by the Secretary,  
14          whose decision shall be final.

15          “(e) REVIEW OF STATE PROGRAMS.—Any action  
16          taken by the Secretary under this section shall be subject  
17          to his periodic review at intervals of no greater than 5  
18          years.

19          “(f) CONFLICTS BETWEEN FEDERAL AND STATE  
20          LAWS.—Any State law or regulation that applies with re-  
21          spect to the importation or exportation of, or interstate  
22          or foreign commerce in, endangered species or threatened  
23          species is void to the extent that it may effectively—

24                   “(1) permit what is prohibited by this Act or by  
25          any regulation that implements this Act; or

1           “(2) prohibit what is authorized pursuant to an  
2 exemption or permit provided for in this Act or in  
3 any regulation that implements this Act. This Act  
4 shall not otherwise be construed to void any State  
5 law or regulation that is intended to conserve migra-  
6 tory, resident, or introduced fish or wildlife, or to  
7 permit or prohibit sale of such fish or wildlife. Any  
8 State law or regulation respecting the taking of an  
9 endangered species or threatened species may be  
10 more restrictive than the exemptions or permits pro-  
11 vided for in this Act or in any regulation that imple-  
12 ments this Act.”.

13           (b) CONFORMING AMENDMENT.—Section 6(g)(2)(A)  
14 (16 U.S.C. 1535(g)(2)(A)) is amended to read as follows:

15                   “(A) to which the Secretary has delegated  
16 authority under subsection (c); or”.

17 **SEC. 5. FACA.**

18           Section 6 (16 U.S.C. 1535), as amended by sections  
19 3 and 4 of this Act, is further amended by adding at the  
20 end the following:

21           “(j) FACA.—Consultation with States regarding this  
22 section shall not be subject to the Federal Advisory Com-  
23 mittee Act (5 U.S.C. App.).”.

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