

112TH CONGRESS  
1ST SESSION

# S. 1580

To direct the Secretary of the Interior to extend an exemption from certain requirements of the Endangered Species Act of 1973 to protect public health and safety.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2011

Mr. HATCH (for himself and Mr. LEE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To direct the Secretary of the Interior to extend an exemption from certain requirements of the Endangered Species Act of 1973 to protect public health and safety.

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 “Protecting Public Safe-  
5 ty and Sacred Sites from the Utah Prairie Dog Act of  
6 2011”.

7 **SEC. 2. FINDINGS.**

8 Congress finds that—

1           (1) habitation by the Utah prairie dog within  
2 the boundaries of the Parowan City Airport in  
3 Parowan, Utah, constitutes a serious threat to  
4 human health and safety;

5           (2) the Utah prairie dog burrows beneath the  
6 surface of the airport runways, causing sink holes to  
7 occur on the Parowan Airport landing strip;

8           (3) airport managers have expressed concern  
9 over the possibility of an airplane wheel getting  
10 caught in holes caused by Utah prairie dog burrows,  
11 at landing or during take-off, which may cause an  
12 accident;

13           (4) there is also serious concern that the bur-  
14 rows could cause the asphalt on the airport runways  
15 to collapse under the weight of stationary airplanes;

16           (5) the Federal Aviation Administration has re-  
17 quired a 37.5-foot safety zone to extend on each side  
18 of the Parowan Airport runway;

19           (6) airport managers and officials from the  
20 Utah Department of Wildlife Resources have deter-  
21 mined that Utah prairie dogs create a serious haz-  
22 ard by their presence and activities in the safety  
23 zone and runway at Parowan Airport;

24           (7) Utah prairie dogs have been burrowing near  
25 and interfering with airport runway lighting;

1           (8) the habitation of the Utah prairie dog with-  
2           in the boundaries of the cemetery in Paragonah,  
3           Utah, constitutes a serious threat to an area of cul-  
4           tural sanctity and to public health;

5           (9) the Utah prairie dog burrows under and  
6           around gravestones in the cemetery, causing signifi-  
7           cant damage to property and heartache to grieving  
8           visitors;

9           (10) it has also been discovered that Utah prai-  
10          rie dogs have burrowed into coffins of the deceased  
11          within the cemetery, disturbing human remains;

12          (11) the disruption of funeral services and the  
13          emotional distress of cemetery visitors caused by  
14          Utah prairie dogs at the cemetery destroy the sanc-  
15          tity of the cemetery;

16          (12) efforts are being made to prevent the Utah  
17          prairie dog from gaining access to the Parowan City  
18          Airport;

19          (13) a fence has been constructed around the  
20          Paragonah cemetery and has failed to prevent Utah  
21          prairie dogs from gaining access to the cemetery;  
22          and

23          (14) Congress should provide for an exemption  
24          to permit takings under the Endangered Species Act  
25          of 1973 (16 U.S.C. 1531 et seq.) as a last resort in

1 situations in which the presence of a threatened or  
2 endangered species constitutes a grave public health  
3 or safety risk or disturbs the sanctity of a burial  
4 site.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

7 (1) PRACTICABLE MEASURES.—The term  
8 “practicable measures” means, with respect to the  
9 Utah prairie dog—

10 (A) the construction of fences around  
11 areas in which there is a public safety concern  
12 posed by the presence of the Utah prairie dog;  
13 and

14 (B) translocation of Utah prairie dogs  
15 using established methods used by—

16 (i) the United States Fish and Wild-  
17 life Service; or

18 (ii) the Utah Division of Wildlife Re-  
19 sources.

20 (2) SATISFACTION OF THE SECRETARY.—The  
21 term “satisfaction of the Secretary” means, with re-  
22 spect to a determination made by the Secretary, that  
23 the determination is made taking into consideration  
24 the expert opinions of biologists and project man-  
25 agers of the United States Fish and Wildlife Service

1 typically used in the making of such a determina-  
2 tion.

3 **SEC. 4. EXTENSION OF EXEMPTION.**

4 Notwithstanding any other provision of law (includ-  
5 ing regulations), the Secretary of the Interior shall amend  
6 the special rule of the Secretary contained in section  
7 17.40(g) of title 50, Code of Federal Regulations (as in  
8 effect on the date of enactment of this Act), as necessary  
9 to permit the taking of the Utah prairie dog under the  
10 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)  
11 to include such a taking in any airport or cemetery in the  
12 range of the Utah prairie dog in which, as demonstrated  
13 by a State to the satisfaction of the Secretary—

14 (1) the entry or existence of the Utah prairie  
15 dog will cause or has caused a threat to public  
16 health and safety or to the sanctity of a burial site;  
17 and

18 (2) all practicable measures to eliminate that  
19 threat have been carried out without success.

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