

108TH CONGRESS  
1ST SESSION

# H. R. 1253

To amend the Endangered Species Act of 1973 to establish special requirements for determining whether the Preble's meadow jumping mouse is an endangered species or threatened species.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2003

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

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## A BILL

To amend the Endangered Species Act of 1973 to establish special requirements for determining whether the Preble's meadow jumping mouse is an endangered species or threatened 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 "Common Sense  
5 Preble's Conservation Act".

1 **SEC. 2. SPECIAL REQUIREMENTS REGARDING PREBLE'S**  
2 **MEADOW JUMPING MOUSE.**

3 (a) IN GENERAL.—Section 13 of the Endangered  
4 Species Act of 1973 is amended to read as follows:

5 “SPECIAL REQUIREMENTS REGARDING PREBLE’S  
6 MEADOW JUMPING MOUSE

7 “SEC. 13. (a) USE OF BEST SCIENTIFIC AND COM-  
8 Mercial DATA AVAILABLE.—In any case in which the  
9 Secretary is required by this Act to use the best scientific  
10 and commercial data available with respect to determining  
11 whether the Preble’s meadow jumping mouse is an endan-  
12 gered species or a threatened species, the Secretary—

13 “(1) in evaluating comparable data, shall give  
14 greater weight to scientific or commercial data that  
15 are empirical or have been field-tested or peer-re-  
16 viewed; and

17 “(2) shall include, in data used with respect to  
18 that species, data regarding population numbers of  
19 the species.

20 “(b) FIELD DATA.—

21 “(1) REQUIREMENT.—The Secretary may not  
22 determine under section 4 that the Preble’s meadow  
23 jumping mouse is an endangered species or a threat-  
24 ened species unless the determination is supported  
25 by data obtained by observation of the species in the  
26 field.

1           “(2) DATA FROM LANDOWNERS.—The Sec-  
2       retary shall—

3           “(A) accept and acknowledge receipt of  
4       data regarding the status of that species that is  
5       collected by an owner of land through observa-  
6       tion of the species on the land; and

7           “(B) include the data in the rulemaking  
8       record compiled for any determination that the  
9       species is an endangered species or a threatened  
10      species.

11       “(c) INDEPENDENT SCIENTIFIC REVIEW REQUIRE-  
12      MENTS.—

13       “(1) DEFINITIONS.—In this subsection:

14       “(A) ACTION.—The term ‘action’ means—

15           “(i) the determination that the  
16       Preble’s meadow jumping mouse is an en-  
17       dangered species or a threatened species  
18       under section 4(a); and

19           “(ii) the determination under section  
20       4(a) that the Preble’s meadow jumping  
21       mouse should be removed from any list  
22       published under section 4(c)(1).

23       “(B) QUALIFIED INDIVIDUAL.—The term  
24       ‘qualified individual’ means an individual with  
25       expertise in the biological sciences—

1           “(i) who through publication of peer-  
2           reviewed scientific literature or other  
3           means, has demonstrated scientific exper-  
4           tise on the Preble’s meadow jumping  
5           mouse or a similar species or other sci-  
6           entific expertise relevant to the decision of  
7           the Secretary under section 4(a) or (f);

8           “(ii) who does not have, or represent  
9           any person with, a conflict of interest with  
10          respect to the determination that is the  
11          subject of the review;

12          “(iii) who is not a participant in any  
13          petition or proposed or final determination  
14          before the Secretary; and

15          “(iv) who has no direct financial in-  
16          terest, and is not employed by any person  
17          with a direct financial interest, in opposing  
18          the action under consideration.

19          “(2) LIST OF INDEPENDENT SCIENTIFIC RE-  
20          VIEWERS.—The Secretary shall solicit recommenda-  
21          tions from the National Academy of Sciences and  
22          develop and maintain a list of qualified reviewers to  
23          participate in independent scientific review of ac-  
24          tions.

1           “(3) APPOINTMENT OF INDEPENDENT SCI-  
2           ENTIFIC REVIEWERS.—(A) Before any action shall  
3           become final, the Secretary shall appoint randomly,  
4           from among the list prepared in accordance with  
5           this section, 3 qualified individuals who shall review  
6           and report to the Secretary on the scientific infor-  
7           mation and analyses on which the proposed action is  
8           based.

9           “(B) The selection and activities of the review-  
10          ers selected pursuant to this section shall not be  
11          subject to the Federal Advisory Committee Act (5  
12          U.S.C. App.).

13          “(C) Reviewers shall be compensated for con-  
14          ducting the independent review.

15          “(4) OPINION OF PEER REVIEWERS.—Inde-  
16          pendent reviewers shall provide the Secretary, within  
17          3 months, their opinion regarding all relevant sci-  
18          entific information and assumptions relating to the  
19          taxonomy, population models, and supportive biologi-  
20          cal and ecological information for the Preble’s mead-  
21          ow jumping mouse.

22          “(5) FINAL DETERMINATION.—If the referees  
23          have made a recommendation on a proposed action,  
24          the Secretary shall evaluate and consider the infor-

1 mation that results from the independent scientific  
2 review and include in the final determination—

3 “(A) a summary of the results of the inde-  
4 pendent scientific review; and

5 “(B) in a case in which the recommenda-  
6 tion of a majority of the referees who conducted  
7 the independent scientific review is not followed,  
8 an explanation as to why the recommendation  
9 was not followed.

10 “(6) PUBLIC NOTICE.—The report of the peer  
11 reviewers shall be included in the official record of  
12 the proposed action and shall be available for public  
13 review prior to the close of the comment period on  
14 the proposed action.”.

15 (b) CONFORMING AMENDMENT.—The table of sec-  
16 tions in the first section of such Act is amended by strik-  
17 ing the item relating to section 13 and inserting the fol-  
18 lowing:

“Sec. 13. Special requirements regarding Preble’s meadow jumping mouse.”.

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