

113TH CONGRESS
2D SESSION

S. _____

To remove the American burying beetle from the list of endangered species under the Endangered Species Act (16 U.S.C. 1531 et seq.).

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To remove the American burying beetle from the list of endangered species under the Endangered Species Act (16 U.S.C. 1531 et seq.).

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 “American Burying
5 Beetle Relief Act of 2014”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) in 1989, the United States Fish and Wild-
9 life Service (referred to in this section as “the Serv-
10 ice”) listed the American burying beetle as an en-

1 dangered species under the Endangered Species Act
2 (16 U.S.C. 1531 et seq.);

3 (2) in making the decision to list the American
4 burying beetle as an endangered species, the Service—
5 ice—

6 (A) stated that the American burying bee-
7 tle was “once widely distributed throughout
8 eastern North America”; and

9 (B) considered possible factors in the pop-
10 ulation decline of the American burying beetle,
11 but ultimately concluded that “the cause of the
12 species’ decline is unknown”;

13 (3) as of the date of the decision, there were
14 only 2 known populations of the American burying
15 beetle, 1 located in Eastern Oklahoma and 1 located
16 on an island off the coast of Rhode Island;

17 (4) at that time, the Rhode Island population
18 was estimated to be around 520 American burying
19 beetles and the Oklahoma population to be fewer
20 than 12 American burying beetles;

21 (5) the Service has not completed a range-wide
22 population survey of the American burying beetle
23 since 1985;

24 (6) in 1991, the Service published a recovery
25 plan for the American burying beetle, with the objec-

1 tive of protecting and maintaining the extant popu-
2 lation in Rhode Island and the populations in Okla-
3 homa;

4 (7) in order to reconsider the listing status of
5 the American burying beetle, the Service is required
6 to identify 3 populations of American burying beetle
7 that have been reestablished (or additional popu-
8 lations discovered) within each of 4 broad geo-
9 graphical areas of the historical range of the Amer-
10 ican burying beetle;

11 (8) the Service has identified these 4 geo-
12 graphical areas as—

13 (A) the Midwest region, including Okla-
14 homa and most States between Texas, Lou-
15 isiana, and Montana;

16 (B) the Great Lakes region;

17 (C) the Southeast region; and

18 (D) the Northeast region, including Rhode
19 Island;

20 (9) in 2008, the Service performed the first 5-
21 year review of the American burying beetle, which—

22 (A) determined that—

23 (i) the criteria for reconsidering the
24 listing of the American burying beetle had
25 been met in the Midwest region, “where

1 additional occurrences of the American
2 burying beetle have been discovered”; and

3 (ii) that, “as a consequence, the total
4 number of American burying beetle in this
5 recovery area is believed to greatly exceed
6 the numerical target” established under
7 the recovery plan;

8 (B) stated that “although one of four geo-
9 graphic recovery areas for the American bury-
10 ing beetle has met the criteria for reclassifica-
11 tion, the species presumably remains extirpated
12 in most of its historic range”; and

13 (C) concluded that the American burying
14 beetle should remain listed as an endangered
15 species;

16 (10) as of the date of enactment of this Act—

17 (A) the population of the American bury-
18 ing beetle in Nebraska is estimated to contain
19 over 3,000 American burying beetles, making
20 that 1 of the largest known populations, al-
21 though at the time the American burying beetle
22 was listed in 1989 none were known to live in
23 Nebraska;

24 (B) the population of the American bury-
25 ing beetle in Oklahoma has grown dramatically

1 from the population numbers in 1989 when the
2 American burying beetle was listed as an en-
3 dangered species and is believed to be well into
4 the thousands;

5 (C) the Service believes that the American
6 burying beetle exists in 45 of the 77 counties in
7 Oklahoma, although at the time the Service list-
8 ed the American burying beetle as endangered
9 in 1989, only 4 counties in Oklahoma had a
10 known American burying beetle population;

11 (D) Oklahoma State officials are concerned
12 about the lack of mitigation options available to
13 developers relating to the American burying
14 beetle; and

15 (E) Oklahoma Department of Wildlife
16 Conservation Director Richard Hatcher has not
17 received a response to the request submitted to
18 the Service on April 15, 2013, which asked—

19 (i) for an update to the recovery plan
20 for the American burying beetle; and

21 (ii) that the process of delisting the
22 American burying beetle begin;

23 (11) Service documents published close to the
24 date of enactment of this Act list the States of Ar-
25 kansas, Kansas, Massachusetts, Missouri, Nebraska,

1 Ohio, Oklahoma, Rhode Island, South Dakota, and
2 Texas as having an American burying beetle popu-
3 lation;

4 (12) the history of the process of the gray wolf
5 being delisted as an endangered species, first in
6 some areas of the United States and then entirely,
7 provides an example that could be used to delist the
8 American burying beetle in the Midwest region;

9 (13) important points in the history of the gray
10 wolf being delisted include that—

11 (A) in 2011, the Service decided to remove
12 the gray wolf from the endangered species list
13 in the States of Idaho, Montana, Utah, Wash-
14 ington, and parts of Oregon while leaving the
15 species listed in Wyoming;

16 (B) this partial delisting was due to the
17 healthy population levels present in those States
18 at that time; and

19 (C) less than 2 years later, in 2013, the
20 delisting was extended to Wyoming, and the
21 gray wolf was no longer listed as endangered
22 under the Endangered Species Act (16 U.S.C.
23 1531 et seq.);

24 (14) there is support for the American burying
25 beetle being completely delisted, because—

1 (A) beginning in 2007, the Service promul-
2 gated an official policy stating that when the
3 Service evaluates the probability of a species
4 being lost to extinction across the range of that
5 species, the Service does so within the known
6 existing range of that species, not a hypo-
7 theoretical historic range of that species;

8 (B) using the policy described in subpara-
9 graph (A), if the American burying beetle were
10 reconsidered as a candidate for being listed as
11 an endangered species under the Endangered
12 Species Act (16 U.S.C. 1531 et seq.), the
13 American burying beetle likely would not be eli-
14 gible because the known populations are not in
15 danger of being lost and instead are expanding
16 as of the date of enactment of this Act; and

17 (C) the historic range of the American
18 burying beetle, described by the Service as
19 being “ubiquitous” at some point, is reliant on
20 data, observations, and studies that are more
21 than 70 years old and are not easy to locate;

22 (15) there is a lack of information about the ex-
23 tent of the American burying beetle population as of
24 the date of enactment of this Act, although the pop-
25 ulation appears to have expanded since the Amer-

1 ican burying beetle was originally listed as an endan-
2 gered species;

3 (16) it is not clear whether the increased popu-
4 lation count of the American burying beetle is due
5 to the scientific community being more apt at locat-
6 ing these insects or whether the population has actu-
7 ally increased; and

8 (17) it is clear the American burying beetle has
9 proven much more resilient than the Service origi-
10 nally believed, rendering the decision of the Service
11 to list the American burying beetle as an endangered
12 species under the Endangered Species Act (16
13 U.S.C. 1531 et seq.) indefensible.

14 **SEC. 3. REMOVAL OF ENDANGERED SPECIES STATUS.**

15 Notwithstanding the final rule of the United States
16 Fish and Wildlife Service entitled “Endangered and
17 Threatened Wildlife and Plants; Determination of Endan-
18 gered Status for the American Burying Beetle” (54 Fed.
19 Reg. 29652 (July 13, 1989)), the American burying beetle
20 shall not be listed as a threatened or endangered species
21 under the Endangered Species Act (16 U.S.C. 1531 et
22 seq.).