

REVOKING PROTECTIONS FOR THE IMPERILED LESSER PRAIRIE CHICKEN

Passed: 50-48

SUMMARY:

The Senate passed a resolution that would have revoked the Endangered Species Act listings of two populations of the lesser prairie chicken as threatened and endangered, respectively. (*May 3, 2023, Roll Call No. 110*).

BACKGROUND:

The lesser prairie chicken, an imperiled southwestern prairie grouse, occupies just ten percent of its original range. On November 25, 2022, U.S. Fish and Wildlife Service (FWS) issued 87 Fed Reg. 72674, which determined that the lesser prairie chicken's range was divided into two distinct population segments (DPSs). It found that the primary threat impacting both DPSs is the ongoing loss of large, connected blocks of grassland and shrubland habitat, and that the southern DPS is more vulnerable to drought than the northern DPS. The southern population segment was therefore listed as endangered, while the northern population segment was listed as threatened. FWS also promulgated a special rule under Section 4(d) of the ESA that allows for continued agriculture, prescribed fire, and grazing in the northern DPS.

In the 118th Congress, the House and Senate began, for the first time, using the Congressional Review Act (CRA) to revoke new federal agency regulations affording essential protections to imperiled wildlife under the Endangered Species Act. CRA resolutions signed into law also block agencies from issuing substantially similar rules in the future, thereby increasing the risk of extinction for species impacted by this form of legislative action. Under the CRA, Senator Marshall (R-Kan.) introduced S.J. Res. 9 on February 7, 2023, to revoke the listing of the two populations of the lesser prairie chicken.

OUTCOME:

On May 3, 2023, the Senate passed S.J. Res 9, 50-48. "Nay" was the pro-conservation vote. President Biden vetoed the resolution on September 26, 2023, and the Senate failed to override the President's veto on September 28, 2023 (47-46).