



Giving Illinois Wildlife a Fair Shot: A Critical Analysis of the Illinois Endangered Species Protection Act and the Path Forward

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I. EXECUTIVE SUMMARY

Biodiversity loss is one of the biggest risks posed to animal, plant, and human populations. In response to this issue, the federal government and state governments have enacted legislation to protect endangered species and promote habitat recovery. This brief specifically explores conservation efforts for endangered and threatened species in Illinois. This brief will examine how the Illinois Endangered Species Protection Act has effectively protected vulnerable species, while also critically analyzing its areas of weakness. Following the analysis, policy recommendations are given to help realize the full potential of the legislation.

II. OVERVIEW

The Illinois Endangered Species Protection Act (ESPA) is a fundamental mechanism for species conservation and protection in the state of Illinois. With its unique geographic landscape and access to abundant natural resources, Illinois is home to a myriad of plant and animal species. The Illinois ESPA aims to protect these species and their habitats through a comprehensive policy framework and government agency collaboration, ensuring that Illinois can serve as a natural home for generations to come.

The Illinois ESPA complements and extends

federal protections from the federal Endangered Species Act (ESA) to endangered and threatened native species in Illinois. The act does so by prohibiting the following: (1) the take, possession, transport, sell, offer of any endangered and threatened species, (2) the destruction, disturbance, or modification of endangered and threatened species habitat without proper government authorization, (3) the introduction of non-native species that pose a threat to endangered and threatened species, and (4) the discharge of pollutants or contaminants that may harm endangered and threatened species or their habitats. The act outlines these prohibitions, along with guidelines and penalties for incidental takes, the development of conservation programs, compliance requirements and standards, and enforcement mechanisms. The administration and enforcement of this act are carried out by the Illinois Department of Natural Resources (IDNR).

A. Relevance

Our natural world, once filled with flourishing species richness and diversity, is now at risk due to manmade threats. At a time when federal endangered species protection is in jeopardy, it is essential now more than ever to turn to state legislation to reinforce our commitment to protecting wildlife populations. The Trump

Administration has made it clear that climate change is not a concern for the federal government. By denying climate science, stripping funding for climate conservation initiatives, revoking the US's participation in international climate agreements, greenlighting expansive fossil fuel production projects, and more, the federal government has unequivocally shown that climate change is a fight that is back in the hands of individual states. Habitat destruction and degradation, both accelerated by climate change, continue to be the biggest threat to endangered and threatened species. This issue cannot afford to be taken off the national legislative agenda. It is imperative that states analyze their own legislation to discover what they can do to play their part in saving our planet's biodiversity.

III. HISTORY

A. Illinois ESPA: Landmark Legislation

Marked as one of the first states to pass endangered species legislation, Illinois passed its ESPA in June of 1972, predating the federal ESA of 193. This novel piece of legislation was signed into law by Governor Richard Ogilvie in August of 1972 and marked a longstanding commitment to tackling the issues of biodiversity loss, habitat destruction, and species protection in Illinois and across the world. Upon being signed into law, the Act created the Illinois Endangered Species Protection Board (ESPB), the body tasked with creating the list of endangered species. The Board would work with the Illinois Department of Conservation, or as it is now referred to as the Illinois Department of Natural Resources, to fully administer and enforce the legislation across the state.

The original focus of the 1972 Illinois ESPA was protecting globally endangered species by prohibiting the transfer, sale, and possession of these species' products or skins. The initial list of species was exclusively of globally endangered species and thus did not include species that were specifically endangered in Illinois. Because the Illinois ESPA predated the federal ESA, there was also no reference made to protecting species that were nationally endangered. The novelty of this act, paired with its political context, lays a strong foundation for how later amendments were necessary to strengthen and revitalize the Illinois ESPA.

In 1977, the first major reforms were made to the Illinois ESPA. The Illinois ESPB met eight times during this single year to pivot the focus of the listing process from globally endangered species to native Illinois species. While the board developed its first list of endangered Illinois species, the General Assembly drafted and adopted new amendments to the legislation, greatly expanding its scope and abilities. Along with now listing native Illinois species, these amendments also included: (1) automatically placing federally listed plant and animal species on the Illinois list without the need for notice or public hearing, (2) removing globally endangered species from the Illinois list, (3) adding 'threatened' as a formal risk category, and (4) authorizing the Illinois ESPB to list plants. By the end of 1977, 73 native animal species were listed as endangered or threatened, with the first list of endangered and threatened native plant species being published three years later in 1980.

The next reforms to the Illinois ESPA came in 1985, when the act underwent technical changes

to expand its impact. These changes included: (1) granting the same level of protection for endangered and threatened species, (2) incorporating invertebrates into the definition of ‘animal’, (3) expanding the definition of ‘plant’ to include algae, fungi, byrophytes and ferns, (4) requiring the Illinois ESPB to review the list of species every 5 years, and (6) established a consultation process for assessing if government agency actions jeopardize the existence of listed species. The consultation process, along with the permit process for managing incidental take, both work together to “form the proactive arm of endangered species protection in the state.” The permit process was further refined by an amendment made in 2000, which allowed for incidental taking if the take was incidental while carrying out an otherwise lawful government activity.

B. Current Standing

Since the act was created in 1972, over 650 native Illinois species have been listed, with over 70% of them remaining on the list today. Over 50 species have been delisted due to population recovery, but more species have been delisted because they are extirpated— meaning they no longer occur in a certain geographic area. These numbers show us that while the Illinois ESPA has succeeded in recovering some species, there is still significant room for policy reform to increase its effectiveness and increase Illinois’ biodiversity.

IV. POLICY PROBLEM

A. Stakeholders

Environmental issues are unique in the sense that everyone is impacted by them. Some stakeholders take part in the issue by actively working in environmental policy, science, engineering, business, and more to create a sustainable path

forward. In Illinois, many organizations have vested interests in endangered species, such as the Illinois Environmental Council, Friends of Illinois Nature Preserve, The Nature Conservancy in Illinois, and Openlands. These organizations work directly with government bodies through lobbying and legislative writing to influence endangered species and habitat protection. On top of state government influence, these organizations engage in a variety of initiatives and programming, including scientific research, site evaluation, species monitoring, land management, grassroots mobilization, and fundraising. Through government influence and organizational activities, environmental groups in Illinois are primary stakeholders in this policy discussion.

Many governmental bodies are also key stakeholders in the fight to protect endangered species. Both chambers of the Illinois General Assembly have specialized committees dedicated to drafting and passing environmental legislation, such as the Senate’s Environment and Conservation Committee and the House’s Energy & Environment Committee. Outside of the legislative branch, government agencies like the IDNR and the Illinois Environmental Protection Agency (EPA) work to carry out the Illinois ESPA and enforce additional environmental protections within the state.

However, the most numerous stakeholder is the general public. Each and every person is impacted by effective environmental policy, or the lack thereof. Policy guiding endangered species conservation and habitat protection impacts private land owners, businesses, agriculture, city and suburban development, public health, and

more, leaving no one exempt from the direct effects of this policy issue.

B. Risks of Indifference

The risk of indifference to endangered species conservation is found in the perpetuation of a false ultimatum that species and land conservation have to come at the expense of economic development and growth. It is widely held that species and land conservation will slow urban development, reduce agricultural productivity, decrease the profitability of business, and increase the burden on consumers. If environmental issues continue to be pitted against economic and societal progress, people will continue to view these issues as an afterthought to other policy problems. When the general public is not emboldened to care about a problem, or worse, thinks the problem is unproductive to their daily lives, necessary momentum is lost to push policy solutions forward. To dismantle such popular narratives, it is therefore necessary to have systemic collaboration between governmental bodies, non-governmental organizations, and the general public. It is through these widespread efforts that new information can be circulated and promising solutions can be created.

C. Nonpartisan Reasoning

The global and national loss of biodiversity is a crisis with such urgency that it cannot afford to be diluted to fulfill partisan legislative agendas. Nonpartisan recognition of this problem is required to ensure that all stakeholders work together to create long-term solutions. The benefits of such solutions include but are not limited to the following:

1) Preservation of natural resources: Illinois is

home to some of the richest ecosystems and fragile habitats, such as forests, prairies, and wetlands. These ecosystems sustain plant and animal life, but also replenish vital natural resources that our societies depend on, such as providing clean drinking water and mitigating air pollution. If vulnerable species and habitats are not preserved, entire ecosystems are thrown off equilibrium and run the risk of collapsing, which would not only devastate plant and animal species but also our human populations, who depend on these ecosystems for natural resources.

2) Increased economic growth: Investing in the conservation of endangered and threatened species can stimulate economic growth in many ways, including the creation of local jobs, enhancing property values, drawing in tourism, increasing tax revenue, and decreasing government costs. Sustainable development efforts show that there is a middle ground between protecting species and continuing to accommodate growing populations, demonstrating that it is possible to have both.

3) Public benefit and access to natural spaces: Healthy, natural spaces provide numerous benefits to human populations. These spaces act as a space for recreation and community gathering, an outlet for physical and mental health, and a mechanism for improving air and water quality. Local communities must have access to thriving natural ecosystems to experience their many benefits.

V. TRIED POLICY

From the original act in 1972 to the version we have today, major changes have been made to the Illinois ESPA. As mentioned previously, the act has been changed to protect state species, include listings for threatened species, extend protections to plant species, and refine the state consultation and permit processes. However, with the continued loss of vulnerable species and critical habitats, it is clear that the Illinois ESPA is far from perfect and has many opportunities to improve its effectiveness. Illinois policymakers and environmental groups are still grappling with how to make that happen.

Endangered species policy is on the radar for legislators in Illinois. In 2020, less than half of the states in the U.S. introduced endangered species legislation. Illinois had seven endangered species bills introduced before the General Assembly that year, making it the second-highest state in the nation. While none of these bills were successfully passed, it is hopeful to see that ideas are being presented and discussed. Environmental groups and legislators are finding other creative avenues to propose policy and protect endangered species, such as wetlands reform. These efforts demonstrate a continued commitment to Illinois wildlife and show that future change is possible.

VI. POLICY OPTIONS

Redefining Illinois ESPA Terms and Strengthening Scientific Standards

The Illinois ESPA has several definitions included in the act to provide a clear understanding of the act's jurisdiction and capabilities. However, some

crucial definitions are either simplified or entirely left out, significantly reducing the act's ability to enforce endangered species conservation. For example, "plant" is defined in the Illinois ESPA as "any organism not considered to be an animal, and shall include such organisms as algae, fungi, bryophytes, and ferns, as well as flowering plants and conifers." This definition is a negative one, ultimately claiming that plants are simply "not animals." This definition can be viewed in contrast with the federal ESA, which includes seeds, roots, and all species within the plant kingdom under the definition. Other definitions, such as "harm" and "biodiversity," are entirely left out of the state act. Leaving these terms undefined hinders the original purpose of the law and can make enforcing it more difficult in regard to litigation and government administration. It is essential that the aforementioned definitions are strengthened and included to expand the scope of the Illinois ESPA.

Moreover, the requirement of sound scientific standards vary is inconsistent with the overall enforcement of the act. The legislation only requires that the "best available scientific data" be used when authoring an incidental take permit, but does not lay out this requirement for the listing and delisting process or creation of habitat protection plans. It is crucial that all decisions regarding endangered species are supported by strong scientific evidence, and an explicit standardization must be included in the act.

Empowering the Illinois ESPB

Currently, the Illinois ESPB operates on volunteer board members and has no designated government funding dedicated to it. As they are in charge of creating and evaluating the list of endangered and threatened species every five

years, they are significantly limited in their ability to carry out these operations without financial backing. Without explicit funding, the board has limited resources and runs the risk of losing operational capacity if a future state government administration were to deem its work unnecessary. Funding for the Illinois ESPB must be written into the statute to ensure that it can continue to operate going forward.

Furthermore, while the Illinois ESPB operates under the IDNR, it is unclear how its expertise is factored into decisions made by the government agency. As it stands currently, IDNR may consider the board's expertise, but it is not required to make changes to decisions based on the board's recommendations. As the board is comprised of technical experts whose primary role is to compile research and data on these species, the legislation must require that their expertise is factored into the decisions made by IDNR, rather than just a mere suggestion.

Empower Citizen Conservation Efforts

While the Illinois ESPA does outline penalties for those who engage in actions that harm endangered species and habitat without permission, it does not reinforce incentives to contribute to endangered species conservation. As is seen through the volunteer work of the Illinois ESPB and countless other environmental groups in Illinois, citizens and organizations are coming together to devote themselves to this cause. Empowering citizen and organizational compliance and conservation efforts can come in many forms, such as allowing citizens to bring a civil suit against a party for their failure to comply with the Illinois ESPA, providing tax credits for land trusts doing land management and

conservation, and promoting citizen science and education initiatives through grants, state-funded research at universities, and educational programming. All of these efforts support the growing citizen movement in Illinois to look after endangered and threatened species and their critical habitats.

VII. CONCLUSIONS

The Illinois ESPA has served as a landmark state policy for conservation efforts for over fifty years, changing to meet the growing challenges of biodiversity and habitat restoration in Illinois. While its historical significance and foundational protections are noteworthy, the persistent threats to Illinois' plant and animal species reveal the gaps in its structure and enforcement.

This brief has provided concrete policy recommendations as a first step forward, including strengthening legislative definitions, enforcing scientific standards, empowering the Illinois ESPB, and incentivizing citizen conservation initiatives. As federal environmental protections for endangered species face uncertainty, Illinois must continue to lead by example, demonstrating how states can be a forefront voice in a policy issue.

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