

HOUSE BILL 468

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Dennis J. Roch

AN ACT

RELATING TO WILDLIFE MANAGEMENT; CREATING THE STATE SOVEREIGNTY
OVER STATE TRUST WILDLIFE ACT; ASSERTING STATE AUTHORITY TO
REGULATE THE LESSER PRAIRIE CHICKEN IN NEW MEXICO; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "State Sovereignty Over State Trust Wildlife Act".

SECTION 2. [NEW MATERIAL] FINDINGS AND PURPOSE.--The
legislature finds that:

A. the lesser prairie chicken is a nonmigratory
species native to the grasslands of New Mexico;

B. the lesser prairie chicken is a historically
designated and hunted game bird regulated by the states in
which it exists;

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1 C. the existence and management of the lesser
2 prairie chicken does not have a substantial effect on commerce
3 among the states; and

4 D. the department of game and fish has successfully
5 managed lesser prairie chickens in the state and has provided
6 for the adequate conservation of its habitat.

7 SECTION 3. [NEW MATERIAL] DEFINITION.--As used in the
8 State Sovereignty Over State Trust Wildlife Act, "lesser
9 prairie chicken" means the species *tympanuchus pallidicinctus*.

10 SECTION 4. [NEW MATERIAL] LESSER PRAIRIE CHICKEN--STATE
11 AUTHORITY TO REGULATE.--

12 A. The state, acting through the legislature and
13 through the department of game and fish, possesses the sole
14 regulatory authority to govern the management, hunting and
15 possession of lesser prairie chickens that exist within the
16 state and to promote conservation efforts.

17 B. The lesser prairie chickens that exist within
18 the state and the habitats of such species are not subject to
19 the federal Endangered Species Act of 1973, as in effect on the
20 effective date of this act, or any federal regulation or
21 executive action pertaining to the Endangered Species Act,
22 under the authority of congress to regulate interstate
23 commerce.

24 C. Any federal regulation or executive action
25 pertaining to the federal Endangered Species Act of 1973, as in
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1 effect on the effective date of this act, that purports to
2 limit control or regulate the following has no effect within
3 the state:

- 4 (1) the lesser prairie chicken;
- 5 (2) the habitat of the lesser prairie chicken;
- 6 (3) farming and ranching practices;
- 7 (4) oil and natural gas exploration,
8 development and production, energy pipelines, renewable energy
9 and transmission and distribution power lines; or
- 10 (5) other normal and necessary activities for
11 public health and safety and state, county and municipal
12 government and other human activity.

13 SECTION 5. [NEW MATERIAL] INJUNCTIVE RELIEF.--A county or
14 district attorney or the attorney general may seek injunctive
15 relief in any court of competent jurisdiction to enjoin any
16 official, agent or employee of the government of the United
17 States or employee of a corporation providing services to the
18 government of the United States from enforcing any federal
19 regulation or executive action pertaining to the federal
20 Endangered Species Act of 1973, as in effect on the effective
21 date of this act, that purports to regulate the following
22 within the state:

- 23 A. the lesser prairie chicken;
- 24 B. the habitat of the lesser prairie chicken;
- 25 C. farming and ranching practices;

underscoring material = new
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1 D. oil and natural gas exploration, development and
2 production, energy pipelines, renewable energy and transmission
3 and distribution power lines; or

4 E. other normal and necessary activities for public
5 health and safety and state, county and municipal government
6 and other human activity.

7 **SECTION 6. [NEW MATERIAL] NON-INFRINGEMENT WITH FEDERAL**
8 **PROGRAMS.--**

9 A. The State Sovereignty Over State Trust Wildlife
10 Act shall not be construed to infringe on the authority of the
11 United States department of agriculture to administer
12 conservation programs that apply to:

- 13 (1) the lesser prairie chicken;
14 (2) the habitat of the lesser prairie chicken;
15 (3) farming and ranching practices;
16 (4) energy exploration, development,
17 production and distribution; or

18 (5) the normal and necessary activities for
19 public safety and for state, county and municipal government
20 and other human activity.

21 B. The State Sovereignty Over State Trust Wildlife
22 Act shall not be construed to infringe on the authority of the
23 state and local government under delegated authority to
24 administer or manage other state, federal or local government
25 programs and funds.

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1 C. The State Sovereignty Over State Trust Wildlife
2 Act shall not be construed to infringe on the authority of the
3 department of game and fish, or any governmental subdivision,
4 business, or private citizen of this state to operate or
5 participate in the range-wide lesser prairie chicken management
6 plan, as administered by the western association of fish and
7 wildlife agencies; the stakeholder conservation strategy for
8 the lesser prairie chicken; or any other management or
9 conservation plan pertaining to the lesser prairie chicken that
10 may be developed with the assistance and participation of
11 state, local or federal government agencies that applies to:

- 12 (1) the lesser prairie chicken;
13 (2) the habitat of the lesser prairie chicken;
14 (3) farming and ranching practices;
15 (4) energy exploration, development,
16 production and distribution; or
17 (5) normal and necessary activities for public
18 safety and activities of state, county and municipal government
19 and other human activity.

20 **SECTION 7. [NEW MATERIAL] SEVERABILITY.**--If any part or
21 application of the State Sovereignty Over State Trust Wildlife
22 Act is held invalid, the remainder or its application to other
23 situations or persons shall not be affected.

24 **SECTION 8. EMERGENCY.**--It is necessary for the public
25 peace, health and safety that this act take effect immediately.

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