

SENATE BILL 538

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

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AN ACT

RELATING TO FEDERAL AGENCY ACTIONS; ALLOWING THE STATE AND
COUNTIES TO CLAIM DAMAGES RESULTING FROM FEDERAL AGENCY
DECISIONS MADE PURSUANT TO THE ENDANGERED SPECIES ACT OF 1973
WITHOUT CREDIBLE OR SUFFICIENT SUPPORTING SCIENTIFIC DATA.

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

Section 1. FINDINGS--ACTION FOR DAMAGES--REMEDY.--

A. The legislature finds that:

(1) the listing of endangered species within
the state by federal agencies can have an adverse impact on the
state's ability to manage its natural resources, including
water, which may harm local economies and the well-being of
residents;

(2) there is often little or no credible

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1 scientific data on which to accurately base listings of
2 endangered species or to manage the habitat of the listed
3 species;

4 (3) the lack of sufficient scientific data can
5 and does result in policy decisions being made that cause
6 needless harm to the state's economy and the well-being of its
7 residents and a grave waste of the state's natural resources;
8 and

9 (4) the federal government is in the best
10 position to compensate those who are injured by federal agency
11 decisions that are based on faulty or insufficient scientific
12 data.

13 B. The state or a county may make a claim on behalf
14 of its residents for damages against a federal agency in
15 district court if:

16 (1) pursuant to the federal Endangered Species
17 Act of 1973, the agency lists an endangered species that lives
18 in a county, declares habitat for a listed species in a county
19 or issues a management plan for a listed species in a county;

20 (2) the agency action in Paragraph (1) of this
21 subsection is based on insufficient scientific data or studies
22 that are found to be not credible; and

23 (3) the agency action in Paragraph (1) of this
24 subsection results in economic damage to a resident of a
25 county.

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1 C. If the court finds for the state or county, the
2 court shall award the state or county costs and attorney fees
3 in addition to damages, including compensation for any
4 resources used by the state to fulfill requirements arising out
5 of the federal agency action described in Paragraph (1) of
6 Subsection B of this section. Damages awarded pursuant to this
7 section shall be used by the state or county for remedial
8 programs for residents harmed by actions of a federal agency.

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