

- Such unscientific policy decisions may cause grave waste of New Mexico's natural resources, and may actually hinder the recovery of endangered species.

In seeking amendment of the federal Endangered Species Act, SM 36 requests that the federal government compensate private individuals and government entities that suffer economic damage due to a faulty decision if the decision is not based on credible and sufficient scientific data and studies.

Significant Issues

- The Memorial lacks specifics as to what is to be amended. Is the amendment to be limited simply to a provision allowing compensation of individuals and government entities that suffer economic damage due to faulty decisions lacking scientific data in support? Or, is the intent that the entire Act be reviewed, current criteria and listings be modified, etc.?
- The Memorial may similarly seek to clarify whether it is intended that compensation for faulty decisions cover only future decisions, or whether it is intended that currently existing decisions be subject to the liability proposed for faulty decisions
- The federal government may be immune from such legal liability as that being proposed.

FISCAL IMPLICATIONS

These implications are drawn from the agencies having previously addressed proposed amendment of the federal Endangered Species Act to curtail alleged damage to the state's economy and residents.

- While there are no fiscal implications relating to the Memorial itself, if the Memorial were acted upon by Congress, there could be significant fiscal implications for the Department of Game and Fish. The department receives federal funding pursuant to the Endangered Species Act for the department's nongame and endangered species program. The department receives approximately \$150.0 – \$175.0 annually.
- Loss of this funding would result in the department no longer having the funding necessary to support 2 – 3 of its FTEs.
- New Mexico is not required to use this federal funding on species listed as threatened or endangered under the Act. The funding may be used for research, monitoring, conservation, management, or recovery for species identified as being in need of management by the department.
- Some of these funds are used to support conservation and recovery activities pursuant to the New Mexico Wildlife Conservation Act for designation and preservation of critical habitat, or any comparable habitat designation. These funds are also used to achieve conservation of species in New Mexico with the intent of precluding the need for these species to ever become qualified under the Endangered Species Act.

POSSIBLE QUESTIONS

- **Please note Significant Issues Section above.**
- Does New Mexico have specific examples of federal endangered species listings that have adversely impacted the state's ability to manage its natural resources, including water, which have also cause harm to local economies and the well being of residents?

Has New Mexico assembled research and studies that demonstrate this adverse impact and that are available for review by this Committee? Such supporting documentation/evidence should also be provided to the federal government if this Memorial is enacted.

- Does New Mexico have specific examples of federal listings for which no federal /state studies were conducted in advance of the listings? Again, are these examples researched and documented?
- Does New Mexico have specific examples, again with supporting documentation, of federal policy decisions that have actually hindered the protection and recovery of endangered species in New Mexico?
- Is there supporting documentation, demonstrating specific injuries to the well-being of New Mexico's residents because of federal listings?

SJM/njw:sb