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FISCAL IMPACT REPORT

SPONSOR Komadina DATE TYPED 3/14/05 HB _____

SHORT TITLE Amend Federal Endangered Species Act SB SM 2

ANALYST Aguilar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

Office of State Engineer (OSE)

New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

Senate Memorial 2 requests that the New Mexico congressional delegation, the president and appropriate cabinet secretaries consider amending the Endangered Species Act to require that credible and sufficient scientific data be available before any federal agency lists, declares habitat or issues a management plan for an endangered species. The lack of sufficient data can and does result in policy decisions being made that cause harm to the state's economy and well being of its residents, as well as causing a waste of natural resources.

The memorial suggests federal law be amended to provide that if such decisions are not based on credible scientific data and studies the federal government would compensate private individuals or government entities that suffer any economic damages due to faulty decisions.

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Significant Issues

Senate Memorial 2 does not define what constitutes credible and sufficient scientific data.

The Energy, Minerals and Natural Resources Department (EMNRD) note terms such as “credible and sufficient scientific data” are often used by those who seek to weaken the ESA. For example HR1662 introduced into the US Congress would prevent the determination that a species is threatened or endangered unless there is observation of the species in the field.

The ESA already requires that decisions be based on substantial scientific information.

Federal regulations promulgated pursuant to the ESA include processes for placing species on the threatened or endangered list, making declarations of critical habitat, and for endangered species recovery plans. These processes require federal agencies to acquire all data on distribution, habitat requirements, species abundance and impacts to local economies.

Problems federal agencies will have in implementing the intent of this memorial include adopting criteria for determining and evaluating the level of credible and sufficient scientific data, what constitutes a faulty decision, what proof will be required from a claimant of economic loss, and how compensation is to be calculated.

PA/lg