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SENATE BILL 481

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

William F. Burt

AN ACT

RELATING TO ENDANGERED SPECIES; ENACTING THE ENDANGERED SPECIES
CONSERVATION AND COORDINATION ACT; IMPLEMENTING A STATE-BASED
RESEARCH PROGRAM TO ASSESS THE ECONOMIC IMPACTS OF THE LISTING
OF A SPECIES PURSUANT TO THE FEDERAL ENDANGERED SPECIES ACT OF
1973; PROVIDING POWERS AND DUTIES.

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 "Endangered Species Conservation and Coordination
Act".

SECTION 2. [NEW MATERIAL] PURPOSE.--The legislature
recognizes that the listing of species under the Endangered
Species Act can have significant impacts on the state's economy
and its private property owners. The legislature declares that
it is important to help ensure that the federal government rely

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1 upon the best available scientific, economic impact and social
2 data in making decisions to list a species under the Endangered
3 Species Act. The legislature finds that because federal
4 agencies are under no obligation to conduct new research or to
5 locate higher quality data when making important decisions
6 about species listing, a state-based research program that
7 evaluates environmental, economic and social data is necessary
8 to ensure that informed decisions are made regarding the
9 listing of species as subject to protection under the
10 Endangered Species Act or other regulatory activities conducted
11 pursuant to that act.

12 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
13 Endangered Species Conservation and Coordination Act:

14 A. "candidate species" means a species for which
15 the United States fish and wildlife service or national marine
16 fisheries service has enough information to warrant proposing
17 for listing but is precluded from doing so by other higher
18 priority listing activities;

19 B. "commission" means the state game commission;

20 C. "confidential information" means any data
21 collected about a landowner, species or property location from
22 a private landowner or property owner by a state or municipal
23 agency or an entity acting on its behalf pursuant to the
24 Endangered Species Conservation and Coordination Act;

25 D. "conservation plan" means a plan that promotes

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1 compliance with the federal law protecting candidate, proposed,
2 threatened or endangered species in a manner consistent with
3 New Mexico's economic development and fiscal stability;

4 E. "department" means the department of game and
5 fish;

6 F. "director" means the director of the department;

7 G. "endangered species" means a species that is in
8 danger of extinction throughout all or a significant portion of
9 its range in New Mexico and that is listed as endangered
10 pursuant to Section 4 of the Endangered Species Act;

11 H. "Endangered Species Act" means the federal
12 Endangered Species Act of 1973;

13 I. "property owner" means a person with a fee
14 simple, leasehold or other property interest, including owners
15 of water or other natural resources, or any other entity that
16 may have a property interest, sufficient to carry out species
17 research or management activities of species, subject to
18 applicable state law;

19 J. "proposed species" means a species that is
20 proposed to be listed under the Endangered Species Act;

21 K. "research" means a collection of scientifically
22 valid data;

23 L. "species" means any species or subspecies of
24 fish, wildlife or plants or any distinct population segment of
25 any species of vertebrate fish or wildlife that interbreeds

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1 when mature;

2 M. "species of interest" means a species that is
3 considered a candidate, proposed, threatened or endangered
4 species;

5 N. "state agency" means any state agency, authority
6 or body that is created and authorized by the New Mexico
7 legislature; and

8 O. "threatened species" means a species that is
9 likely to become endangered within the foreseeable future
10 throughout all or a significant portion of its range in New
11 Mexico and is listed as threatened pursuant to Section 4 of the
12 Endangered Species Act.

13 SECTION 4. [NEW MATERIAL] DIRECTOR DUTIES.--

14 A. The director shall:

15 (1) conduct research on the economic impact on
16 New Mexico of a species being listed or potentially being
17 listed as a threatened or endangered species;

18 (2) if requested by local or regional
19 governmental entities, residents, property owners and other
20 stakeholders in New Mexico, provide assistance to identify,
21 evaluate and implement cost-effective strategies for mitigating
22 impacts to and recovery of endangered species that are
23 consistent with economic development and growth in New Mexico;

24 (3) develop and manage a webpage housed by the
25 department to serve as a clearinghouse for information and

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1 data, including species that are currently and potentially
2 protected under the Endangered Species Act; basic information
3 to help residents understand and respond to the Endangered
4 Species Act; relevant news, updates, reports and links to
5 important information and resources about species that are
6 currently or potentially protected under the Endangered Species
7 Act; and ongoing information about conservation plans and
8 species research;

9 (4) direct the species research program
10 implemented pursuant to Section 5 of the Endangered Species
11 Conservation and Coordination Act; and

12 (5) consult with and coordinate species
13 research on state trust lands with the commissioner of public
14 lands.

15 B. The director shall provide to the commission and
16 post to the webpage developed pursuant to Paragraph (3) of
17 Subsection A of this section, as needed, reports on:

18 (1) innovative programs to protect endangered
19 species while promoting economic growth;

20 (2) recommendations for conservation plans,
21 future programs or legislation; and

22 (3) research conducted on species pursuant to
23 the Endangered Species Conservation and Coordination Act.

24 C. The director may appoint an advisory committee
25 to assist with the director's duties under the Endangered

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1 Species Conservation and Coordination Act. In appointing an
2 advisory committee, the director shall ensure that the
3 committee is composed of members who can address the economic,
4 environmental, social and other relevant policy issues related
5 to the listing of a species and who can fairly represent the
6 interests of property owners, industry, conservation groups,
7 municipalities and other local jurisdictions.

8 SECTION 5. [NEW MATERIAL] SPECIES RESEARCH PROGRAM.--

9 A. The director shall conduct high-quality research
10 on species of interest. The research shall include an
11 assessment of the environmental, economic and social impacts of
12 the listing or potential listing of the species as a threatened
13 or endangered species.

14 B. The research data and findings shall be
15 submitted to the United States fish and wildlife service or the
16 national marine fisheries service in a form that is acceptable
17 and usable by the United States fish and wildlife service or
18 the national marine fisheries service.

19 C. The director shall prescribe criteria for
20 species research proposals and publish on the department's
21 website requests for proposals for specific species research.

22 D. To identify and prioritize species for research,
23 the selection criteria shall, at a minimum, include:

- 24 (1) the potential economic impacts related to
25 the listing or potential listing of a species as threatened or

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1 endangered;

2 (2) gaps in species data; and

3 (3) the timing of expected actions by the

4 United States fish and wildlife service, national marine

5 fisheries service or other federal agencies regarding a

6 species.

7 E. The director may enter into written agreements
8 with public and private institutions of higher education with
9 demonstrated experience in species or habitat research,
10 evaluation and analysis to conduct research on species of
11 interest.

12 F. The director shall contract with an independent,
13 third-party audit firm to review the performance of the species
14 research program.

15 G. The director shall appoint a technical advisory
16 panel for each species research project undertaken pursuant to
17 this section. A technical advisory panel may consist of
18 species experts and shall be composed of at least three
19 members. The technical advisory panel shall review the species
20 research on an ongoing basis to monitor each species research
21 project's progress and to ensure suitability of methods and
22 controls used.

23 H. A peer review process shall be used to publish
24 nonconfidential data in scholarly journals or publicly
25 available reports. The technical advisory panel may serve as

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1 the peer review of a species research project.

2 I. The director shall convene working groups to
3 assist with the development and organization of the species
4 research program.

5 SECTION 6. [NEW MATERIAL] WORKING GROUPS.--

6 A. The species research program implemented
7 pursuant to Section 5 of the Endangered Species Conservation
8 and Coordination Act shall consist of a science working group,
9 an economic impact working group and a scoring working group.

10 B. A science working group shall identify and
11 prioritize species for research using defined selection
12 criteria and submit to the director proposals for species
13 research. A science working group may provide other assistance
14 to the director as needed, including technical specifications
15 for species research, funding levels for individual species
16 research and the names of potential individuals to serve on a
17 scoring working group and evaluate proposals for research. The
18 members of the science working group shall be selected by the
19 director and may include representatives from the United States
20 fish and wildlife service and national marine fisheries
21 service, state public and private institutions of higher
22 education, conservation organizations or governmental entities.

23 C. An economic impact working group shall provide a
24 prioritized list of species of interest to the director based
25 on economic considerations, provide input on the current and

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1 future economic activity in the state and the potential
2 economic impacts resulting from the listing of a species as a
3 threatened or endangered species. An economic impact working
4 group shall be selected by the director and may include state
5 economists or qualified representatives from affected
6 industries.

7 D. A scoring working group shall objectively
8 evaluate and score the proposals for species research and shall
9 make recommendations to the director on which species of
10 interest to research. The scoring working group shall be
11 selected by the director and may include scientists from New
12 Mexico or out-of-state institutions of higher education,
13 representatives of nonprofit organizations or representatives
14 of state and federal agencies.

15 E. Individual science working group members and
16 scoring working group members shall:

17 (1) not submit proposals for species research
18 on which they will be participating or assisting; and

19 (2) be reviewed for any potential conflicts of
20 interest and may be required to sign a conflict of interest
21 statement or a nondisclosure agreement.

22 F. If individual science working group members or
23 scoring working group members are associated in any way with an
24 institution of higher education sponsoring a proposal for
25 research, the member shall notify the director and the member

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1 shall be recused from any decision-making role.

2 SECTION 7. [NEW MATERIAL] CONFIDENTIALITY--AGGREGATION OF
3 DATA.--

4 A. Information collected from a private landowner,
5 property owner or other participant or potential participant in
6 species research or species surveys or in the development of a
7 conservation plan shall be maintained as confidential and shall
8 not be disclosed to any person, including state or federal
9 agencies, if the information relates to the specific location,
10 species identification or quantity of any animal or plant life
11 for which species research, a species survey or a conservation
12 plan is under consideration, development or implementation.
13 Such information may be described only to the person who
14 provided the information unless the person consents in writing
15 to full or specified partial disclosure of such information.

16 B. Confidential information about species shall
17 only be collected through a standardized form in which a
18 property owner provides express written consent to have species
19 research conducted on the property, the property surveyed or
20 enrolled or potentially subject to enrollment in a conservation
21 plan.

22 C. Data collected under the Endangered Species
23 Conservation and Coordination Act shall be aggregated in such a
24 way that the United States fish and wildlife service and
25 national marine fisheries service can verify the efficacy of

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1 the research conducted, while ensuring data and information
2 specific to individual property owners are maintained as
3 confidential.

4 SECTION 8. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2017.

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