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HOUSE BILL 764

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

INTRODUCED BY

Joe M Stell

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
scientific data on which to accurately base listings of**

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1 endangered species or to manage the habitat of the listed
2 species;

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

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

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

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

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

23 (3) the agency action in Paragraph (1) of
24 this 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
5 out of the federal agency action described in Paragraph (1) of
6 Subsection B of this section. Damages awarded pursuant to
7 this 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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