SENATE BILL 481

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

INTRODUCED BY

William F. Burt

AN ACT

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

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

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

B. "commission" means the state game commission;

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

D. "conservation plan" means a plan that promotes
compliance with the federal law protecting candidate, proposed, threatened or endangered species in a manner consistent with New Mexico's economic development and fiscal stability;

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

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

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


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

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

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

L. "species" means any species or subspecies of fish, wildlife or plants or any distinct population segment of any species of vertebrate fish or wildlife that interbreeds.
when mature;

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

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

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

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

A. The director shall:

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

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

(3) develop and manage a webpage housed by the department to serve as a clearinghouse for information and
data, including species that are currently and potentially protected under the Endangered Species Act; basic information to help residents understand and respond to the Endangered Species Act; relevant news, updates, reports and links to important information and resources about species that are currently or potentially protected under the Endangered Species Act; and ongoing information about conservation plans and species research;

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

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

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

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

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

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

C. The director may appoint an advisory committee to assist with the director's duties under the Endangered Species Act.
Species Conservation and Coordination Act. In appointing an advisory committee, the director shall ensure that the committee is composed of members who can address the economic, environmental, social and other relevant policy issues related to the listing of a species and who can fairly represent the interests of property owners, industry, conservation groups, municipalities and other local jurisdictions.

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

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

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

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

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

   (1) the potential economic impacts related to the listing or potential listing of a species as threatened or
endangered;

(2) gaps in species data; and

(3) the timing of expected actions by the

United States fish and wildlife service, national marine

fisheries service or other federal agencies regarding a

species.

E. The director may enter into written agreements

with public and private institutions of higher education with

demonstrated experience in species or habitat research,

evaluation and analysis to conduct research on species of

interest.

F. The director shall contract with an independent,

third-party audit firm to review the performance of the species

research program.

G. The director shall appoint a technical advisory

panel for each species research project undertaken pursuant to

this section. A technical advisory panel may consist of

species experts and shall be composed of at least three

members. The technical advisory panel shall review the species

research on an ongoing basis to monitor each species research

project's progress and to ensure suitability of methods and

controls used.

H. A peer review process shall be used to publish

nonconfidential data in scholarly journals or publicly

available reports. The technical advisory panel may serve as
the peer review of a species research project.

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

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

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

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

C. An economic impact working group shall provide a prioritized list of species of interest to the director based on economic considerations, provide input on the current and
future economic activity in the state and the potential
economic impacts resulting from the listing of a species as a
threatened or endangered species. An economic impact working
group shall be selected by the director and may include state
economists or qualified representatives from affected
industries.

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

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

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

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

F. If individual science working group members or
scoring working group members are associated in any way with an
institution of higher education sponsoring a proposal for
research, the member shall notify the director and the member
shall be recused from any decision-making role.

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

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

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

C. Data collected under the Endangered Species Conservation and Coordination Act shall be aggregated in such a way that the United States fish and wildlife service and national marine fisheries service can verify the efficacy of
the research conducted, while ensuring data and information specific to individual property owners are maintained as confidential.

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

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