

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

State legal action-NEPA and ESA.

Sponsored by: Representative(s) Childers

A BILL

for

1 AN ACT relating to federal natural resource policy;
2 providing for the investigation and initiation of legal
3 action; providing the attorney general the ability to seek
4 legal remedies as specified; and providing for an effective
5 date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.**

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11 (a) The attorney general shall investigate potential
12 litigation against the federal government of the United
13 States for the reasons provided in this section or, in the
14 alternative, may initiate litigation, file an amicus curiae

1 brief or intervene as provided by state or federal law in
2 any existing lawsuit concerning essentially the same
3 issues. When considering whether to initiate or intervene
4 in litigation, the attorney general shall give precedence
5 to lawsuits whose venue is within Wyoming, but may act in
6 lawsuits filed anywhere in the United States.

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8 (b) All costs of the investigation or litigation
9 shall be provided from the federal natural resource policy
10 account pursuant to W.S. 9-4-218, but nothing in this
11 section shall be construed to prohibit the state, through
12 the attorney general or a private attorney representing the
13 state under contract, from seeking reasonable costs and
14 attorney's fees from any responding party in litigation.

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16 (c) The investigation or litigation initiated by the
17 attorney general under this section shall include
18 determination of whether the state of Wyoming is entitled
19 to damages or other relief as provided by state or federal
20 laws or rules or regulations as a result of the failure of
21 any federal government agency to follow the requirements of
22 the National Environmental Policy Act, the Endangered
23 Species Act or any other act placing procedural

1 requirements on the federal government agency with respect
2 to natural resources issues. Specifically, the attorney
3 general is authorized to request relief in the form of
4 judicial direction requiring federal agencies to
5 incorporate sections 101, 103 and 104 of the National
6 Environmental Policy Act in decisions and administration
7 under all federal natural resources laws. Additionally,
8 the attorney general is authorizedd to pursue legal options
9 regarding the relisting of wolves on the endangered species
10 act. The attorney general is authorized to take any legal
11 action to pursue other claims against the federal
12 government that may arise in the course of preparing the
13 efforts authorized by this section.

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15 (d) The investigation initiated under this section
16 shall consider whether the agencies have met the
17 requirements of NEPA:

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19 (i) To create and maintain conditions under
20 which man and nature can exist in productive harmony;

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22 (ii) To provide documentation under section 103;
23 and

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2 (iii) To coordinate with and act upon

3 recommendations of local governments or state agencies.

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5 (e) The attorney general shall:

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7 (i) Monitor and identify monetary compensation

8 received from federal agencies under W.S. 9-4-218 and this

9 section;

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11 (ii) In cooperation with other relevant state

12 agencies, determine the benefits accrued to the state from

13 actions undertaken pursuant to W.S. 9-4-218 and this

14 section; and

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16 (iii) On or before January 1, 2010, report to

17 the joint agriculture, public lands and water resources

18 interim committee and the joint appropriations interim

19 committee on duties assigned under paragraphs (i) and (ii)

20 of this subsection.

21

22 **Section 2.** This act is effective July 1, 2009.

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(END)