

HOUSE BILL NO. HB0136

State legal action-NEPA and ESA.

Sponsored by: Representative(s) Childers, Cohee, Jaggi,
Philp and Simpson and Senator(s) Bebout,
Coe, Townsend and Vasey

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; requiring a report; and
5 providing for an effective 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
15 brief or intervene as provided by state or federal law in
16 any existing lawsuit concerning essentially the same

1 issues. When considering whether to initiate or intervene
2 in litigation, the attorney general shall give precedence
3 to lawsuits whose venue is within Wyoming, but may act in
4 lawsuits filed anywhere in the United States.

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

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

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

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12 (d) The investigation initiated under this section
13 shall consider whether the agencies have met the
14 requirements of NEPA:

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

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19 (ii) To provide documentation under section 103;
20 and

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22 (iii) To coordinate with and act upon
23 recommendations of local governments or state agencies.

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1 (e) The attorney general shall:

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3 (i) Monitor and identify monetary compensation
4 received from federal agencies under W.S. 9-4-218 and this
5 section;

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7 (ii) In cooperation with other relevant state
8 agencies, determine the benefits accrued to the state from
9 actions undertaken pursuant to W.S. 9-4-218 and this
10 section; and

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12 (iii) On or before January 1, 2010, report to
13 the joint agriculture, public lands and water resources
14 interim committee and the joint appropriations interim
15 committee on duties assigned under paragraphs (i) and (ii)
16 of this subsection.

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

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(END)