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SENATE BILL 1

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

INTRODUCED BY

Manny M. Aragon

AN ACT

RELATING TO DISASTERS; DECLARING A DISASTER IN CERTAIN AREAS
OF THE NATIONAL FORESTS IN NEW MEXICO; USING THE POLICE POWER
OF THE STATE TO EMPOWER COUNTY BOARDS OF COMMISSIONERS TO TAKE
ACTIONS NECESSARY FOR CLEARING AND THINNING UNDERGROWTH AND
FOR REMOVING AND LOGGING FIRE-DAMAGED TREES; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. FINDINGS--DECLARATION OF DISASTER--POWERS OF
COUNTY COMMISSIONS--APPROPRIATION.--

A. The legislature finds that:

(1) devastating fires during the past year
within the national forests in this state, caused in large
part by the failure to properly clear and thin forest
undergrowth, have resulted in fire-damaged trees that

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1 constitute a hazard needing immediate attention;

2 (2) the federal government has been reluctant
3 to act in clearing and thinning forests and in removing or
4 logging the fire-damaged trees and such reluctance could
5 result in future fires, causing additional severe economic
6 harm to areas within this state; and

7 (3) it is necessary for the state to exercise
8 its police power to avoid additional damage to the public
9 health, safety and welfare.

10 B. The legislature declares a disaster within
11 those areas of the national forests of New Mexico that
12 suffered severe fire damage during calendar year 2000 and
13 those areas, as determined by the local board of county
14 commissioners, where large amounts of forest undergrowth have
15 created the potential for damaging fires in the future. The
16 legislature also declares that the disaster is of such
17 magnitude that the police power of the state should be
18 exercised to the extent necessary to provide the resources and
19 services that will end the disaster and mitigate its effects.

20 C. After consulting with the state forester,
21 taking surveys, holding those public hearings as may be
22 necessary and developing a plan to mitigate the effects of the
23 disaster, a board of county commissioners for a county in
24 which a disaster has been declared pursuant to Subsection B of
25 this section may take such actions as are necessary to clear

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1 and thin undergrowth and to remove or log fire-damaged trees
2 within the area of the disaster. A county may enter into an
3 agreement with a contractor, licensee or other agent to carry
4 out the purposes of this subsection if:

5 (1) the contractor, licensee or other agent
6 maintains its principal office in New Mexico; and

7 (2) all the employees of the contractor,
8 licensee or other agent performing work under the agreement
9 are New Mexico residents.

10 D. Employees, contractors, licensees and other
11 agents of the county shall have unrestricted access to the
12 national forests, including the use of roads and trails, in
13 order to carry out the purposes of Subsection C of this
14 section and shall not be liable for criminal or civil action
15 for trespass or for damages for acts done while carrying out
16 the purposes of this subsection.

17 E. Any money received by a county as royalties,
18 license fees or other compensation for activities allowed
19 pursuant to this section shall:

20 (1) first be used to reimburse the county for
21 any amounts expended in carrying out the provisions of this
22 section;

23 (2) if any amounts remain, as much of the
24 excess as is needed shall be placed in a special fund for
25 necessary expenditures relating to the management of the

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1 national forests in such a way as to avoid future disasters;
2 and

3 (3) if any amounts remain, the excess shall
4 be forwarded to the federal government.

5 Section 2. EMERGENCY.--It is necessary for the public
6 peace, health and safety that this act take effect
7 immediately.

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