



AFP-New Mexico Key Vote Alert- Vote NO on HB 50

On behalf of our activists across New Mexico, AFP-NM urges you to vote “NO” on HB 50: Private Right of Action for Certain Statutes. While modeled after citizen suit provisions in our federal environmental laws, HB 50 would actually create an unnecessary and unprecedented private right of action and remove accountability. HB 50 would devastate small businesses, encourage endless litigation, exacerbate energy poverty, and set back environmental progress.

According to [one estimate](#), even before the pandemic, many low-income New Mexico households were paying over 20 percent of their annual income simply for electricity and heating. COVID-19 has [exacerbated energy poverty in the U.S.](#), but HB 50 would make this energy poverty much worse. HB 50 would undermine environmental progress by distracting from the highest priority issues.

The bill is a solution in search of a problem. Each year, the state of New Mexico [inspects thousands](#) of facilities for compliance with air quality, water, hazardous waste, and pesticide standards. The common law provides [environmental protection](#) ignored by HB 50’s proponents. Our neighbors in [Arizona have demonstrated](#) that bottom-up innovation, rather than top-down mandates and litigation, have led to better environmental and economic outcomes, including reducing energy-related carbon dioxide emissions and increasing population at a much faster pace than New Mexico.

If the problem is the failure of state agencies to properly enforce New Mexico’s environmental laws, the response ought to be more aggressive oversight of Governor Lujan Grisham’s administration, a re-prioritization of the Energy, Minerals and Natural Resources Department and Environment Department on its statutory responsibilities (rather than [distracting public relations efforts without legislative buy-in](#)), and a willingness for state agencies to respond to public complaints.

The bill creates substantial incentives for anti-development groups to file lawsuit after lawsuit in an attempt to hold up all types of energy infrastructure (including renewable and transmission projects), as well as permits for new small businesses, manufacturing facilities, and economic recovery projects. Decades of experience with more modest citizen suit and enforcement action provisions demonstrate that this bill will usher in secret, behind-closed-door rulemaking and enforcement actions, leaving New Mexicans to foot the bill. The U.S. Chamber of Commerce [found in a series of reports](#) that citizen enforcement actions under the federal Clean Air Act led to backroom, “sue and settle” agreements to develop costly and burdensome regulations, imposing hundreds of billions of dollars of costs on the American people each year.

Rather than create the tools for citizens to hold state environmental agencies accountable for carrying out our environmental laws, this bill would instead deputize unaccountable, anti-energy third parties, resulting in runaway litigation, frivolous citizens’ enforcement actions, and less economic opportunity for low-income New Mexicans.

It is for those reasons that Americans For Prosperity New Mexico strongly opposes HB 50, and urges you to do the same.

Sincerely,

Brenda Boatman
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Americans for Prosperity-New Mexico