

REFERENCE TITLE: equal access; justice; act; repeal

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HCM 2013

Introduced by
Representative Griffin

A CONCURRENT MEMORIAL

URGING CONGRESS TO REPEAL OR SUBSTANTIALLY AMEND THE EQUAL ACCESS TO JUSTICE ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 To the Congress of the United States of America:

2 Your memorialist respectfully represents:

3 Whereas, enacted in 1980, the Equal Access to Justice Act (EAJA)
4 allows the award of attorney fees and other expenses to certain
5 individuals, small businesses and other entities that prevail against the
6 federal government in litigation or administrative proceedings if the
7 government's position is not substantially justified. The governmental
8 entity has the burden to prove its position is substantially justified;
9 and

10 Whereas, the EAJA's stated purpose is to reduce the deterrent effect
11 of defending against or seeking review of governmental actions; and

12 Whereas, in fiscal year 2023, federal agencies reported paying more
13 than \$115 million in awards of attorney fees and other expenses under the
14 EAJA; and

15 Whereas, to be eligible, an individual must have a net worth of not
16 more than \$2 million, businesses must have a net worth of not more than \$7
17 million and not more than 500 employees and tax-exempt organizations must
18 have not more than 500 employees; and

19 Whereas, tax-exempt nonprofit organizations do not have a cap on net
20 worth; and

21 Whereas, over the years, the EAJA has shifted from allowing
22 individuals and small businesses to protect themselves from government
23 overreach to a powerful weapon for large, well-funded special interest
24 nonprofit groups to repeatedly sue the government regarding environmental
25 issues; and

26 Whereas, nonprofits can recover substantial fees under the EAJA,
27 even if they settle out of court or win only a small part of the case; and

28 Whereas, nonprofit groups evade the cap on the amount of legal fees
29 that may be recovered. The base rate of costs may be increased when a
30 case requires attorneys that have distinctive knowledge or a specialized
31 skill necessary for the litigation; and

32 Whereas, attorneys for environmental-related nonprofits exploit this
33 exception to bilk the federal government for millions of dollars in legal
34 fees and costs. These awards often exceed the actual legal costs; and

35 Whereas, abuse and misuse of the EAJA stops development and active
36 management of natural resources and instead advances radical ideologies.

37 Wherefore your memorialist, the House of Representatives of the State of
38 Arizona, the Senate concurring, prays:

39 1. That the United States Congress entirely repeal or substantially
40 amend the Equal Access to Justice Act to do the following:

41 (a) Close the loopholes that allow exorbitant fees to be awarded.

42 (b) Enact an eligibility cap on tax-exempt nonprofit entities' net
43 worth.

44 (c) Enact a total award cap for a single case.

1 2. That the Secretary of State of the State of Arizona transmit a
2 copy of this Memorial to the President of the United States Senate, the
3 Speaker of the United States House of Representatives and each Member of
4 Congress from the State of Arizona.