

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2/24/15

SPONSOR Gonzales LAST UPDATED _____ HB 426

SHORT TITLE NM Wildlife Protection & Public Safety Act SB _____

ANALYST Elkins

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY15 | FY16 | FY17 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|----------------------|----------------------|-----------------------|------------------------------|----------------------------|
| Total | | (\$70.0- \$150.0) | (\$70.0- \$150.0) | (\$140.0- \$300.0) | Recurring | Game Protection Fund |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Game and Fish (DGF)

New Mexico Livestock Board (NMLB)

SUMMARY

Synopsis of Bill

House Bill 426 makes it unlawful for a person to: set or use, or attempt to set or use, a trap to kill or capture wildlife on public land; set or use, or attempt to set or use, a body-gripping trap to kill or capture any feral or domestic animal on public land; apply or use, or attempt to apply or use, any poison to kill or injure wildlife or a feral animal on public land; buy, sell, barter or otherwise exchange for profit or offer to buy, sell, barter or otherwise exchange for profit the “raw fur” of any protected or unprotected fur-bearer taken by a trap or poison. It establishes a variety of exceptions with specific requirements. It also provides for penalties ranging from misdemeanor to fourth degree felonies.

The bill also amends Sections 17-5-3 and 17-5-5 NMSA 1978, to ensure adherence to the New Mexico Wildlife Protection and Public Safety Act by the director of DGF when issuing permits for the take of furbearers doing damage to game, private property, poultry or livestock and when trappers are on official business and under the supervision of DGF, the New Mexico Department of Agriculture, or the United States Fish and Wildlife Service.

The bill also amends Section 17-5-5 NMSA 1978 to require residents trying to protect livestock, domesticated animals, or fowl adhere to the provisions set forth in the New Mexico Wildlife Protection and Public Safety Act. It also changes the current “trapper’s” license to “fur-bearer” license.

The bill also amends 77-15-3 NMSA 1978 regarding the receipt of funds for the take of predatory, rodent, or furbearing animals.

FISCAL IMPLICATIONS

The direct loss of license revenue due to the prohibition or significant reduction of trapping contemplated by this bill could be between \$20 and \$40 thousand annually. Indirect loss of matching federal funds could be between \$50 and \$110,000 thousand. These estimates are based on an average of approximately 1,500 trapper licenses sold over the last three years with three percent of those being non-resident license purchasers and half to most of the current licensees choosing not to purchase licenses due to the trapping prohibition on public lands.

The legislation presents a risk of being litigated on claims that it unconstitutionally burdens interstate commerce as well as legal challenges regarding a person's constitutional right to protect their private property. DGF may be expected to spend license dollars from the Game Protection Fund to defend lawsuits.

Because the effective date of this bill is July 1, 2015, DGF would also be required to assist the State Game Commission in amending applicable rules such as the New Mexico Hunter and Trapper Reporting System Rule. Subsequent to these rule amendments, DGF would need to make the necessary changes to internal policies governing trapping and translocation of wildlife and the current hunting rules and information booklet. Various computer systems and programming associated with DGF's web-based license sales system would also have to be updated. Much of this work can be absorbed within the current operating budget, but it will take significant personnel and fiscal resources away from important previously planned activities.

SIGNIFICANT ISSUES

The Department of Game and Fish offers the following commentary:

Under current law, regulated trapping of New Mexico's furbearers constitutes the sustainable use of a renewable resource, and trapping related to wildlife damage control and wildlife restoration are integral to continued conservation of various wildlife species. This bill would reduce sportswomen's ability to realistically utilize renewable furbearer resources across over 50 percent of New Mexico. It will also inhibit efficient and timely wildlife damage control on public lands as well as wildlife restoration and management actions conducted by DGF such as strategic predator control for Bighorn Sheep, Elk, or Mule Deer.

The bill essentially outlaws all trapping of furbearers on public lands in New Mexico as well as prohibiting the sale of any fur trapped on private or tribal lands. As currently regulated by the Commission, trapping is both an effective wildlife management tool and a time-honored tradition passed on from generation to generation of New Mexicans. Many DGF's customers rely on trapping to supplement their annual income. Trapping and tanned furs are also a vital part of the traditions and culture of many Native Americans.

The sound management of predators in balance with prey species is vital in ensuring robust and healthy wildlife populations. Without the ability to use management tools like

trapping and snaring, the ability to balance predator/prey populations will be jeopardized and game and non-game species may be negatively impacted. The bill does allow for the use of traps and trapping for “scientific research”, but requires that such research be reviewed by an arbitrarily assembled “university based institutional animal care and use committee, or a similar process developed with policies of the United States Public Health Service,” which undermines the authority of the State Game Commission.

The bill allows for the use of “non-body gripping” traps to be used to protect livestock and crop damage. The significant issues with this is not all predators or other animals that damage crops and livestock can be successfully trapped in live traps or live trapping methodologies limiting a person’s ability to protect their private property and potentially leading to a public takings situation if the animal causing the damage is protected wildlife under state law.

The legislation would criminalize current efforts to eradicate feral hogs by the use of “body gripping” traps as defined in this bill if it is done to protect private property, livestock or crop damage and does not comply with human health and safety.

PERFORMANCE IMPLICATIONS

The bill may diminish the DGF’s ability to meet the performance measure of 95 percent of depredation complaints resolved within the mandated one-year timeframe due to the bill’s restriction on the use of traps and snares to deal with livestock depredations caused by predators on public lands.

ADMINISTRATIVE IMPLICATIONS

Additionally, because the bill limits the taking of wildlife that causes damage to property, including livestock, to “non-body-gripping” traps, the only alternative to realistically dealing with bears or cougars that kill livestock on public lands will be to attempt to capture them with the use of dogs, which requires significantly more time and resources and could result in taking individuals that are not the offending animals. The additional costs associated with this method would be significantly higher and depend on the number of depredations reported each year. Currently the Department estimates that approximately 15-20 bear or cougar related livestock depredation events occur each year.

TECHNICAL ISSUES

The bill repeatedly uses the term “leg-hold trap” however the proper term is foot-hold trap.

The definition of public land is very broad in nature and does not make a distinction between federally owned or managed lands and State Trust or other state owned or managed lands and groups them all as “public” land.