

HOUSE BILL 486

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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AN ACT

RELATING TO WILDLIFE; RENAMING THE DEPARTMENT OF GAME AND FISH AS THE WILDLIFE DEPARTMENT; RENAMING THE STATE GAME COMMISSION AS THE STATE WILDLIFE COMMISSION; AMENDING STATUTORY POLICY; EXPANDING THE MANAGEMENT OF WILDLIFE; ADDING DEFINITIONS; PROVIDING REPORTING REQUIREMENTS; PROVIDING FOR TRANSFERS; AMENDING LICENSING FEES; PROVIDING DISCOUNTS FOR RESIDENTS AND FAMILY MEMBERS OF RESIDENTS WHO RECEIVE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS; REPEALING SECTION 17-2-2 NMSA 1978 (BEING LAWS 1937, CHAPTER 23, SECTION 1).

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

SECTION 1. Section 17-1-1 NMSA 1978 (being Laws 1921, Chapter 35, Section 1, as amended) is amended to read:

"17-1-1. DECLARATION OF POLICY.--It is the purpose of ~~[this act]~~ Chapter 17 NMSA 1978 and the policy of the state ~~[of~~ .225215.3

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1 ~~New Mexico to provide an adequate and flexible system for the~~
2 ~~protection of the game and fish of New Mexico and for their use~~
3 ~~and development for public recreation and food supply and to~~
4 ~~provide for their propagation, planting, protection, regulation~~
5 ~~and conservation to the extent necessary to provide and~~
6 ~~maintain an adequate supply of game and fish within the state~~
7 ~~of New Mexico]~~ to provide for the conservation and management
8 of the state's wildlife as a public trust resource with
9 intrinsic and ecological value, as well as for the benefit,
10 use, food supply and nonconsumptive enjoyment of all."

11 SECTION 2. Section 17-2A-1 NMSA 1978 (being Laws 1996,
12 Chapter 89, Section 3) is recompiled as Section 17-1-1.1 NMSA
13 1978 and is amended to read:

14 "17-1-1.1. DEFINITIONS.--For the purposes of Chapter 17
15 NMSA 1978:

16 A. "commission" or "state game commission" means
17 the state wildlife commission;

18 B. "department" or "department of game and fish"
19 means the wildlife department;

20 C. "director", "warden", "state warden", "state
21 game warden" or "state game and fish warden" means the director
22 of the wildlife department;

23 [A.] D. "hunt code" means a description used to
24 identify and define the species, weapon type and time frame
25 authorized for a specific hunt;

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1 ~~[B.]~~ E. "outfitter" or "guide" means a person who
2 advertises or holds ~~[himself]~~ the person's self out to the
3 public for hire or is employed or accepts compensation for
4 providing, within the unit where a hunt occurs, facilities,
5 equipment or services for hunting activities; provided,
6 however, that "outfitter" or "guide" does not include a person
7 who only cooks, cuts wood or performs other comparable or
8 incidental duties not directly related to hunting activities;
9 and

10 ~~[C.]~~ F. "unit" means a geographically bound area in
11 the state that is used to manage game species."

12 SECTION 3. Section 17-1-26 NMSA 1978 (being Laws 1931,
13 Chapter 117, Section 2, as amended) is amended to read:

14 "17-1-26. RULEMAKING POWER.--

15 A. The ~~[state game]~~ commission is ~~[hereby]~~
16 authorized and directed to make ~~[such]~~ rules ~~[and regulations]~~
17 and establish ~~[such]~~ service as it may deem necessary to carry
18 out all the provisions and purposes of ~~[this Act]~~ Chapter 17
19 NMSA 1978 and all other acts relating to ~~[game and fish, and in~~
20 ~~making such rules and regulations and in providing when]~~
21 wildlife.

22 B. The rules may include, as applicable, when,
23 where, by what means and to what extent, if at all, [and by
24 what means game animals, birds and fish] wildlife may be
25 hunted, taken, captured, killed, possessed, released, bartered,

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1 sold, purchased, ~~[and]~~ shipped and imported into or exported
2 from the state. ~~[game and fish]~~

3 C. In making rules, the commission shall evaluate
4 and give due ~~[regard to the zones of temperatures and to the~~
5 ~~distribution, abundance, economic value and breeding habits of~~
6 ~~such game animals, birds and fish.~~

7 ~~The state game commission is hereby authorized to~~
8 ~~spend such reasonable amounts as in its judgment is desirable~~
9 ~~and necessary annually, from their funds not otherwise needed,~~
10 ~~for the eradication of predatory animals]~~ consideration to a
11 species' population size and trends, migration patterns,
12 availability of suitable habitat response to changes in climate
13 conditions, conservation actions necessary to sustain healthy
14 populations and ecosystems and any other factors, natural or
15 human-driven, that are judged to affect the health of a species
16 or a species' ecosystem."

17 SECTION 4. Section 17-1-28 NMSA 1978 (being Laws 1939,
18 Chapter 19, Section 1) is amended to read:

19 "17-1-28. ASSENT TO ACT OF CONGRESS.--The state of New
20 Mexico hereby assents to the provisions of the act of congress
21 of the United States of America entitled "An act to provide
22 that the United States shall aid the states in wildlife
23 restoration projects, and for other purposes", approved
24 September [7] 2, 1937 (Public Law Number 415, 75th Congress),
25 also known as the federal Pittman-Robertson Wildlife

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1 Restoration Act, and the [~~state game~~] commission is hereby
2 authorized and directed to perform all [~~such~~] acts as may be
3 necessary to the conduct and establishment of cooperative
4 wildlife restoration projects as defined by [~~said~~] that act of
5 congress and in compliance with [~~said~~] that act and rules and
6 regulations promulgated by the [~~secretary of agriculture~~]
7 United States secretary of the interior thereunder."

8 SECTION 5. Section 17-1-29 NMSA 1978 (being Laws 1939,
9 Chapter 19, Section 2) is amended to read:

10 "17-1-29. DISTRIBUTION OF FEDERAL FUNDS.--The [~~state~~
11 ~~game~~] commission is authorized to receive any [~~moneys~~] money to
12 which the state [~~of New Mexico~~] may become entitled under the
13 [~~aforesaid act of congress~~] federal Pittman-Robertson Wildlife
14 Restoration Act. Such [~~moneys~~] money, when received, [~~to~~]
15 shall be deposited with the state treasurer [~~of the state of~~
16 ~~New Mexico~~] to the credit of the [~~state~~] game protection fund,
17 expended for the purpose designated and withdrawn [~~and~~] as
18 other [~~moneys are~~] money is withdrawn from the [~~state~~] game
19 protection fund."

20 SECTION 6. A new section of the Wildlife Conservation Act
21 is enacted to read:

22 "[NEW MATERIAL] WILDLIFE TO BE PROTECTED--MANAGEMENT.--

23 A. In addition to other species defined in statute,
24 the commission is authorized to extend management and
25 protection by rule or policy to any species of wildlife not

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1 protected by statute pursuant to Chapter 17 NMSA 1978.

2 B. When determining whether and how to protect a
3 species of wildlife, the commission shall evaluate and give due
4 consideration to:

5 (1) whether a species qualifies as a species
6 of greatest conservation need;

7 (2) the science-based reasons for protection
8 of a species; and

9 (3) the rules and management programs that
10 would potentially accompany protected status.

11 C. The department is not required to respond to
12 wildlife nuisance incidents unless:

13 (1) the commission, in its own discretion,
14 adopts a policy or rule to do so; or

15 (2) as otherwise provided by law.

16 D. As used in this section, "wildlife" means a
17 nondomestic mammal, bird, reptile, amphibian, fish or
18 invertebrate species, including a living animal, or any part,
19 egg, spawn, offspring or the dead body or parts thereof."

20 SECTION 7. Section 17-2-38 NMSA 1978 (being Laws 1974,
21 Chapter 83, Section 2, as amended) is amended to read:

22 "17-2-38. DEFINITIONS.--As used in the Wildlife
23 Conservation Act:

24 A. "commission" means the state [~~game~~] wildlife
25 commission;

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1 B. "director" means the director of the wildlife
2 department [~~of game and fish~~];

3 C. "ecosystem" means a system of living organisms
4 and their environment;

5 D. "endangered species" means any species of fish
6 or wildlife whose prospects of survival or recruitment within
7 the state are in jeopardy due to any of the following factors:

8 (1) the present or threatened destruction,
9 modification or curtailment of its habitat;

10 (2) overutilization for scientific, commercial
11 or sporting purposes;

12 (3) the effect of disease or predation;

13 (4) other natural or man-made factors
14 affecting its prospects of survival or recruitment within the
15 state; or

16 (5) any combination of the foregoing factors.

17 The term may also include any species of fish or wildlife
18 appearing on the United States list of endangered native and
19 foreign fish and wildlife as set forth in Section 4 of the
20 federal Endangered Species Act of 1973 as endangered species;
21 provided that the commission adopts those lists in whole or in
22 part. The term [~~shall~~] does not include any species covered by
23 the provisions of 16 U.S.C. 1331 through 1340 (1971) [~~and shall~~
24 ~~not include~~] or any species of the class insecta determined by
25 the director to constitute a pest whose protection under the

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1 Wildlife Conservation Act would present an overwhelming and
2 overriding risk to man;

3 E. "investigation" means a process pursuant to
4 Subsections B through L of Section 17-2-40 NMSA 1978 undertaken
5 whenever the director suspects that a species may be threatened
6 or endangered and ~~[which]~~ that consists of a formal review of
7 existing data and studies and may include additional field
8 research to determine whether a species is threatened or
9 endangered;

10 F. "land or aquatic habitat interests" means
11 interests in real property or water rights consisting of fee
12 simple title, easements in perpetuity, time certain easements,
13 long-term leases and short-term leases;

14 G. "management" means the collection and
15 application of biological information for the purposes of
16 establishing and maintaining a congruous relationship between
17 individuals within species and populations of wildlife and the
18 carrying capacity of their habitat. The term includes the
19 entire range of activities that constitutes a full scientific
20 resource program ~~[of]~~, including ~~[but not limited to]~~ research,
21 census, law enforcement, propagation, acquisition or
22 maintenance of land or aquatic habitat interests appropriate
23 for recovery of the species; improvement and maintenance,
24 education and related activities; ~~[or]~~ and protection and
25 regulated taking;

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1 H. "recovery plan" means a designated program or
2 methodology reasonably expected to lead to restoration and
3 maintenance of a species and its habitat;

4 I. "peer review panel" means an advisory panel of
5 scientists, each of whom possesses expertise relevant to the
6 proposed investigation and at least one of whom is a wildlife
7 biologist, convened to review the scientific methodology for
8 collection and analysis of data by a researcher based on
9 commonly accepted scientific peer review;

10 J. "species" means any species or subspecies;

11 K. "substantial public interest" means a
12 nonfrivolous claim indicated by a broad-based expression of
13 public concern;

14 L. "take" or "taking" means to harass, hunt,
15 capture or kill any wildlife or attempt to do so;

16 M. "threatened species" means any species that is
17 likely to become an endangered species within the foreseeable
18 future throughout all or a significant portion of its range in
19 New Mexico; the term may also include any species of fish or
20 wildlife appearing on the United States list of endangered
21 native and foreign fish and wildlife as set forth in Section 4
22 of the federal Endangered Species Act of 1973 as threatened
23 species; provided that the commission adopts the list in whole
24 or in part; and

25 N. "wildlife" means ~~[any]~~ a nondomestic mammal,

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1 bird, reptile, amphibian, fish [~~mollusk or crustacean~~] or
2 invertebrate species, including a living animal, or any part,
3 egg, spawn, [ø] offspring or the dead body or parts thereof."

4 SECTION 8. A new section of the Wildlife Conservation Act
5 is enacted to read:

6 "[NEW MATERIAL] SPECIES OF GREATEST CONSERVATION NEED--
7 DEFINITION--REPORTING.--

8 A. For the purposes of Chapter 17 NMSA 1978,
9 "species of greatest conservation need" means species existing
10 within New Mexico that are subject to one or more of the
11 following factors:

12 (1) species that have experienced substantial
13 long-term declines in habitat or population, known as declining
14 species;

15 (2) species in which some aspect of their life
16 histories and ecology makes them disproportionately susceptible
17 to decline, including concentration to small areas during
18 migration or hibernation, low reproductive rates,
19 susceptibility to disease, inability to respond to changing
20 climate conditions, habitat loss, wildfire and overexploitation
21 for anthropogenic purposes, known as vulnerable species;

22 (3) species that are limited to New Mexico,
23 known as endemic species;

24 (4) species that have populations
25 geographically isolated from other populations of the same

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1 species and are thereby susceptible to local decline or
2 extirpation, known as disjunct species; or

3 (5) species that are crucial to the integrity
4 and the functioning of their ecosystems and that may represent
5 more value to conservation of biological diversity than the
6 size of their population or their distribution would suggest,
7 known as keystone species.

8 B. The wildlife department shall report annually by
9 November 1 to the appropriate interim legislative committee and
10 publish on the department's website data collected on species
11 of greatest conservation need and the use of state and federal
12 funds for the support and recovery of species of greatest
13 conservation need."

14 SECTION 9. Section 17-3-13 NMSA 1978 (being Laws 1964
15 (1st S.S.), Chapter 17, Section 5, as amended) is amended to
16 read:

17 "17-3-13. LICENSE FEES.--

18 A. The director [~~of the department of game and~~
19 ~~fish~~] shall keep a record of all money received and licenses
20 and permits issued by the department, numbering each class
21 separately. Upon satisfactory proof that a license or permit
22 has been lost before its expiration, the director may issue a
23 duplicate and collect a just and reasonable fee for it as
24 determined by regulation of the [~~state game~~] commission.

25 B. The director [~~of the department of game and~~

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1 fish] shall collect the following fees for each license of the
2 class indicated:

3	Resident, fishing	[\$25.00]	<u>\$35.00</u>
4	Resident, game hunting	[15.00]	<u>25.00</u>
5	Resident, deer	[31.00]	<u>50.00</u>
6	Resident, junior-senior, deer	[19.00]	<u>25.00</u>
7	Resident, senior, handicapped, 8 game hunting and fishing		20.00
9	Resident, fishing and game hunting 10 combination	[30.00]	<u>42.00</u>
11	Resident, junior, fishing and game 12 hunting combination		15.00
13	Resident, disabled veteran, fishing and game hunting 14 combination		10.00
15	Resident, antelope	[50.00]	<u>60.00</u>
16	Resident, elk cow	[50.00]	<u>60.00</u>
17	Resident, elk bull or either sex	[80.00]	<u>90.00</u>
18	Resident, junior-senior, elk	[48.00]	<u>60.00</u>
19	Resident, bighorn sheep, ram		150.00
20	Resident, bighorn sheep, ewe		75.00
21	Resident, Barbary sheep	[100.00]	<u>120.00</u>
22	Resident, bear	[44.00]	<u>55.00</u>
23	Resident, turkey	[25.00]	<u>35.00</u>
24	Resident, cougar	[40.00]	<u>55.00</u>
25	Resident, oryx	[150.00]	<u>175.00</u>

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1	Resident, ibex	[100.00]	<u>110.00</u>
2	Resident, javelina		55.00
3	Resident, fur dealer	[15.00]	<u>100.00</u>
4	Resident, trapper	[20.00]	<u>100.00</u>
5	Resident, junior trapper	[9.00]	<u>50.00</u>
6	Nonresident, fishing	[56.00]	<u>90.00</u>
7	Nonresident, junior fishing	[15.00]	<u>20.00</u>
8	Nonresident, junior, game hunting	[15.00]	<u>20.00</u>
9	Nonresident, game hunting	[65.00]	<u>85.00</u>
10	Nonresident, deer	[260.00]	<u>375.00</u>
11	Nonresident, quality deer	[345.00]	<u>600.00</u>
12	Nonresident, bear	[250.00]	<u>350.00</u>
13	Nonresident, cougar	[280.00]	<u>350.00</u>
14	Nonresident, turkey	[100.00]	<u>125.00</u>
15	Nonresident, antelope	[260.00]	<u>400.00</u>
16	Nonresident, elk cow	[315.00]	<u>550.00</u>
17	Nonresident, elk bull or either sex	[525.00]	<u>750.00</u>
18	Nonresident, quality elk	[750.00]	<u>975.00</u>
19	Nonresident, bighorn sheep		3,150.00
20	Nonresident, Barbary sheep		350.00
21	Nonresident, oryx		1,600.00
22	Nonresident, ibex		1,600.00
23	Nonresident, javelina		155.00
24	Nonresident, fur dealer	[125.00]	<u>200.00</u>
25	Nonresident, trapper	[345.00]	<u>500.00</u>

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1	Nonresident, nongame	65.00
2	Resident, senior, handicapped,	
3	fishing	8.00
4	Resident, junior fishing	5.00
5	Temporary fishing, one day	12.00
6	Temporary fishing, five days	[24.00] 30.00
7	Resident, senior, handicapped,	
8	game hunting	15.00
9	Resident, junior, game hunting	10.00
10	Temporary game hunting, four days	[33.00] 40.00
11	Second rod validation	[4.00] 10.00.

C. Residents and family members of residents who participate in the supplemental nutrition assistance program are eligible to receive a twenty-five percent discount on all license fees after qualifying with the department."

SECTION 10. Section 17-5-4 NMSA 1978 (being Laws 1939, Chapter 178, Section 4, as amended) is amended to read:

"17-5-4. [~~STATE GAME COMMISSION TO ADMINISTER ACT RULES AND REGULATIONS~~] CONFLICT OF AUTHORITY--TAKING OF BOBCATS.--

~~[The state game commission is authorized and directed to administer the provisions of Sections 17-5-1 through 17-5-9 NMSA 1978 and to make such rules and regulations and establish such service as it may deem necessary to carry out all the provisions and purposes of those sections. In making such rules and regulations and providing when and by what means fur-~~

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1 ~~bearing animals may be hunted, taken, captured, possessed or~~
2 ~~killed, the state game commission shall give due regard to the~~
3 ~~zones of temperatures and to the distribution, abundance,~~
4 ~~economic value and breeding habits of such animals. Provided]~~
5 Nothing in Sections 17-5-1 through 17-5-9 NMSA 1978 shall
6 interfere with the authority granted to the president of New
7 Mexico state university under Sections 77-15-1 through 77-15-5
8 NMSA 1978 or [~~shall~~] prevent livestock producers without a
9 permit from the taking of bobcats that are doing damage to
10 livestock."

11 SECTION 11. TEMPORARY PROVISION--NAME CHANGE--TRANSFER OF
12 FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY,
13 CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.--

14 A. The department of game and fish is renamed as
15 the "wildlife department".

16 B. The state game commission is renamed as the
17 "state wildlife commission".

18 C. On July 1, 2024, all:

19 (1) functions, personnel, money,
20 appropriations, records, furniture, equipment, supplies and
21 other personal and real property of the department of game and
22 fish are transferred to the wildlife department;

23 (2) agreements and contractual obligations of
24 the department of game and fish are binding on the wildlife
25 department;

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1 (3) references in law to the department of
2 game and fish shall be deemed to be references to the wildlife
3 department;

4 (4) functions, personnel, money,
5 appropriations, records, furniture, equipment, supplies and
6 other personal and real property of the state game commission
7 are transferred to the state wildlife commission;

8 (5) agreements and contractual obligations of
9 the state game commission are binding on the state wildlife
10 commission; and

11 (6) references in law to the state game
12 commission shall be deemed to be references to the state
13 wildlife commission.

14 D. On July 1, 2024, statutory references in Chapter
15 17 NMSA 1978 to:

16 (1) the "department of game and fish" or
17 "department" shall be construed to be references to the
18 wildlife department;

19 (2) the "state game commission" or
20 "commission" shall be construed to be references to the state
21 wildlife commission; and

22 (3) the "director", "warden", "state warden",
23 "state game warden" or "state game and fish warden" shall be
24 construed to be references to the director of the wildlife
25 department.

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E. Rules of the department of game and fish shall be rules of the wildlife department until amended or repealed.

F. Rules of the state game commission shall be rules of the state wildlife commission until amended or repealed.

SECTION 12. REPEAL.--Section 17-2-2 NMSA 1978 (being Laws 1937, Chapter 23, Section 1) is repealed.

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.