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## FISCAL IMPACT REPORT

LAST UPDATED 2/20/23

SPONSOR Pirtle ORIGINAL DATE 2/20/23

BILL

SHORT TITLE Hunter Safety Training for Filmmaking NUMBER Senate Bill 225

ANALYST Torres, J

### REVENUE\* (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
	Up to (\$23,000.0)**	Up to (\$23,000.0)**	Recurring	Game Protection Fund

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

\*\* DGF indicates they could lose \$23 million annually in federal funding. See fiscal implications.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DGF		\$1,400.0	\$1,400.0	\$2,800.0	Recurring	Operating Budget for staff and volunteers
DGF		\$350.0	\$350.0	\$700.0	Recurring	Operating Budget for materials and equipment
TRD		5.5		5.5		Operating Budget for ITD

### Sources of Information

LFC Files

#### Responses Received From

Department of Game and Fish (DGF)

Economic Development Department (EDD)

Taxation and Revenue Department (TRD)

## SUMMARY

### Synopsis of Senate Bill 225

Senate Bill 225 expands the Hunter Training Act, Sections 17-2-33 to 17-2-36 NMSA 1978, to include filmmaking firearm safety training. All individuals employed in New Mexico by a film production company with firearms or firearm ammunition physically located on the filmmaking premises would be required to have a valid certificate of hunter training competency in the safe

handling of firearms. Failure to comply with this requirement would make film production companies ineligible for the Film Production Tax Credit for the calendar year in which the violation occurs.

DGF would be the agency overseeing the required firearm safety certification for the filmmaking industry.

The effective date of this bill is January 1, 2024.

## **FISCAL IMPLICATIONS**

This bill does not contain an appropriation. The Department of Game and Fish (DGF) anticipates a substantial increase in operating budget for new staff and volunteers as well as new materials and equipment if provisions of this bill are implemented. Additionally, DGF cautions that up to \$23 million in federal funding may be at risk if implementing provisions of this bill takes them out of federal compliance:

Assuming the responsibility of certifying the filmmaking industry in firearm safety would require the Department of Game and Fish to hire additional staff, obtain additional funding, and would create accounting challenges that could result in loss of federal funding.

The Department currently has three full-time staff dedicated to the Hunter Education Program as outlined by the Hunter Training Act — a Program Manager, an Assistant Program Manager, and an Office Manager/Financial Specialist. These staff are responsible for the firearm safety certification of approximately 3,000 student hunters annually (3,190 students in 2023 post-pandemic and 3,200 students in 2019 pre-pandemic). In addition to staff, the Department relies on 250 volunteers that help to administer the program and receive per diem for their activities. Current cost to operate this program for approximately 3,000 participants is approximately \$525,000.00.

With an estimated 6,000 film workers needing firearm safety certification, the Department would need six additional full-time positions and up to 500 volunteers. In addition, new supplies and materials would be required to develop and implement a film making specific program. The estimated costs to implement this program is \$1.4 million which includes staff and volunteer costs as well as \$350,000.00 annually in new materials and equipment.

Without an appropriation separate and apart from the Game Protection Fund for the new program, the Department's annual Federal funding of \$23 million dollars is at risk. By Federal rules, hunting and fishing license dollars (Game Protection Fund) may only be expended on wildlife related activities. Use of Game Protection Fund dollars on a safety program for film makers would be considered a diversion of hunting and fishing license dollars and result in the Federal government withholding all Federal funding from the Department.

EDD states:

Should the bill be enacted, there could be immense fiscal implications including the cost of training for potentially thousands of people per year, the administration and execution

of training and renewal, the enforcement of such training and of permitting and ensuring compliance. These costs would include necessary additional FTE and budget increases at the EDD Film Division, the film tax credit unit of TRD, and the NM Department of Game and Fish.

The bill's requirement of "all individuals" working for a film production utilizing firearms to take hunter safety training (which is approximately a 2-day course), adds a significant layer of bureaucracy to producing film and television in New Mexico, and this would create a disincentive for filmmaking in New Mexico, resulting in declining production spend, economic impact and job creation. All of this would result in less gross receipts tax, personal income tax and corporate income tax revenue to the state and local governments.

TRD states:

**TRD Methodology for Estimated Revenue Impact:** The proposed legislation requires that if a film production company in New Mexico has firearms or ammunition located on the premises, then all its employees in New Mexico must have a valid certificate of competency in the safe handling of firearms, per the Hunter Training Act. Non-compliance with this requirement in a calendar year will make the film production company ineligible for tax credits under the Film Production Tax Credit Act in that year. Because it is unknown how many production companies will have a firearm or ammunition on their premises, and how many of them will violate the requirements of this legislation, it is unknown how many companies will become ineligible for the film tax credits and the value of the said credits.

The proposed legislation adds a burden costs on production companies by requiring all employees of the production company to have the certificate, whether or not they have any potential contact with firearms or ammunition. Because of this burden, production companies might choose to move their business out of New Mexico. This move would have a negative impact on the incomes of various economic agents in the state of New Mexico and negatively impact General Fund revenues via loss of personal income taxes, gross receipts tax, etc.

**Administrative & Compliance Impact:** TRD will need to make information system changes and update procedures and publications. These changes will be incorporated into annual tax year implementation and cost \$5,554 in workload costs for TRD's Information Technology Division (ITD).

## SIGNIFICANT ISSUES

EDD states:

It appears this bill is a response to the rare incident that occurred on the production "Rust" and attempts to address presumed safety issues on film sets.

There are a multitude of significant and detrimental issues that this bill presents, and its enactment would not address safety issues, presumed or otherwise, on film sets.

This bill is unreasonably broad in its language and scope, in that it requires “all individuals” working for a film production company with firearms on the set to undergo training, rather than only those who handle the firearms. Film production companies should not be denied film production tax credits because the camera operators, background actors, wardrobe supervisors and hair and makeup crew, for example, have not been trained to handle firearms. Further, the bill is not drafted to consider the legal ramifications or impacts to the industry or jobs.

This bill mandates safety compliance and permitting to be tied to training and permitting for hunters, not industry safety standards for filmmaking. Filmmaking and hunting are extremely different in their very nature, environment, parties involved, standards, practices, safety measures, safety protocols, hazards, materials, and equipment, and finally, there is also a difference between hunting firearms and set weapons (in most cases, set weapons are not the same as actual firearms).

The Department of Game and Fish is not familiar with the film industry, nor do they know what kind of training is required for working on film sets. The Hunter Training certificate does not address the circumstances, nor situations specific to the film industry or filmmaking. The Hunter Training certificate does not align with, nor complement any existing safety protocols in place for the film industry, which are extensive. For reference: [Safety Bulletins – Contract Services \(csatf.org\)](#). Specifically, Safety Bulletin #1 is dedicated to safety with firearms and use of “blank ammunition” and is 4 pages long. Safety Bulletin #2 is dedicated to special use of live ammunition and is 6 pages long.

Training programs must originate from people within the industry who are knowledgeable and fluent in current standards, practices and protocols. If the Department of Game and Fish were to do the training, it is possible New Mexico could be increasing the chance of another tragedy because there is no guarantee those trained will have the adequate knowledge or expertise regarding firearm safety on set.

DGF states:

Hunter Training Act (17-2-33 to 17-2-36 NMSA 1978) states that firearm safety training is only required for individuals who are under the age of eighteen (18) and were born after April 1, 1976. It also states that individuals under the age of 18 do not need firearm safety training if supervised by a parent, legal guardian or a responsible adult designated by the parent or guardian. Requiring all individuals employed in New Mexico by a film production company with firearms or ammunition located on the premises to have a valid certificate pursuant to the Hunter Training Act, would actually exclude individuals who are over the age of eighteen (18) or who are under the age of eighteen (18) and supervised by an adult, thus defeating the intended purpose of the bill.

The Hunter Training Act was intended to provide firearm safety training specifically for hunters as indicated by the Act name and statement that “no exemption shall permit hunting without possession of a valid hunter training course.” The Hunter Education Program that meets the Hunter Training Act is funded by federal funds with grant requirements specific to hunter education. Thus, the trainings and certifications provided are specific to hunting and hunting situations. Trainings include the safe use of hunting equipment, safety and considerations specific to various wildlife species, staying safe in

wilderness and hunting lands, and general information on wildlife management. The vast majority of the topics covered are not remotely related to the needs of the filmmaking industry but are specific to the safety and educational needs of new and incoming hunters.

Further, training specific to the use and handling of firearms are again tailored to the needs of hunters and hunting. In no hunting situation would a firearm ever be pointed in the direction of another person or towards buildings, roads, or other areas potentially occupied by people, and this is a focus of basic hunter safety. However, for the film making industry, firearms are often pointed at others to simulate gun fights, battles, and other human vs. human conflicts. This is in fact in direct opposition to the teachings of the safe use and handling of firearms in real-world hunting scenarios. Trainings offered by the New Mexico Department of Game and Fish's Hunter Education Program, in accordance to the Hunter Training Act, do not meet the firearm safety needs of the filmmaking industry.

According to the Hunter Training Act, the New Mexico Department of Game and Fish shall revoke certifications that are "determined by regulation of the department to be unsafe handling of a firearm." Department regulations regarding the use of firearms include, but are not limited to, shooting from a motor vehicle; shooting from an aircraft or drone; shooting from or across paved, graded, or maintained public roads or from within the fenced right-of-way of said road; discharging a firearm within 150 yards of a dwelling or building without the permission of the owner or lessee; shining spotlights or other artificial lights into areas where game or livestock may be present while in possession of a firearm; and the illegal use of tracer ammunition, full-metal jacketed bullets, and fully automatic weapons. Many of these scenarios are common in the filmmaking industry but would result in the revocation of any obtained certificate in accordance to the Hunter Training Act.

TRD states:

**Policy Issues:** Firearm and ammunition safety is an important concern to prevent gun-related injuries and accidents on film sets. However, the solution proposed in this bill could potentially be better targeted to the individuals who may come into contact with firearms or ammunition through their work on a film production. If the burdens imposed are greater than necessary to ensure safe film productions in New Mexico, then New Mexico's film industry will be less competitive relative to other states that do not have such regulations in place. Most states where film production is a major industry (such as New York, Georgia, Louisiana) have minimal regulations around the use of firearms on film production sets and generally rely on the industry to follow its own guidelines. Some states such as Texas require film companies to have their own safety policies in place. California requires an entertainment firearm permit to be obtained by the production company.

## PERFORMANCE IMPLICATIONS

DGF states:

Additional staff and funding would be needed to avoid decreased performance of the current Hunter Education Program as directed by the Hunter Training Act (17-2-33 to 17-2-36 NMSA 1978).

## **ADMINISTRATIVE IMPLICATIONS**

DGF states:

Additional staff and funding would be needed to avoid administrative issues for the current Hunter Education Program as directed by the Hunter Training Act (17-2-33 to 17-2-36 NMSA 1978).

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

DGF states:

SB225 may be in conflict with the Hunter Training Act (17-2-33 to 17-2-36 NMSA 1978) which states that training is only required for individuals who are under the age of eighteen (18) and were born after April 1, 1976.

TRD states:

Conflicts with SB38, Similar to SB188 (2022 Regular Legislative Session)

## **TECHNICAL ISSUES**

TRD states:

The bill does not clearly detail who will administer the certifications, the Film Division of Economic Development Department (EDD) or TRD. TRD recommends adding language to require EDD to maintain certificates and taxpayers must present them to TRD with application of the film credit.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

DFG states:

The New Mexico Department of Game and Fish's Hunter Education Program would be able to continue to provide essential hunting safety training to new hunters as originally intended by the Hunter Training Act (Sections 17-2-33 to 17-2-36 NMSA 1978).

JT/al/ne/rl