

LFC Requester:

Helen Gaussoin

### AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

#### SECTION I: GENERAL INFORMATION

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: 01/22/2025

Check all that apply:

Bill Number: SB5

Original  Correction   
Amendment  Substitute

Sponsor: Sen. Pete Campos  
Sen. Peter Wirth  
Rep. Matthew McQueen

Agency Name and Code Number: 305 – New Mexico  
Department of Justice

Person Writing

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#### SECTION II: FISCAL IMPACT

##### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

##### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis:

Senate Bill 5 (“SB5”) proposes a substantial reform to Chapter 17 NMSA 1978, which establishes the legal framework for regulating New Mexico’s wildlife resources.

Section 1 proposes to change the declared policy of Chapter 17 NMSA 1978. The proposed policy would be “to provide for the conservation and management of the state's wildlife as a public trust resource with ecological, economic and intrinsic value, as well as for the benefit, use, food supply and nonconsumptive enjoyment of all.”

Section 2 adds definitions to reflect name changes proposed later in the bill whereby “state game commission” is renamed to the “state wildlife commission” and the “department of game and fish” is renamed to the “department of wildlife.”

Section 3 proposes the name change of the “state game commission” to the “state wildlife commission” as noted above. This section continues to propose a reform of the appointment process and makeup of the commission. Currently, the governor appoints seven members from specified districts for four-year terms and with no more than four members being from the same political party. The bill proposes to establish seven numbered commission positions with six-year terms into which the governor appoints seven voting members each of which must “possess “knowledge of wildlife, hunting, and fishing and be New Mexico residents.” Positions one, two, and three would be at-large members with no more than one from any one county and no more than two from the same political party. Positions four, five, six, and seven are similarly restricted with no more than one from any one county and no more than two from the same political party. Additionally, positions four, five, six, and seven are specifically reserved for a rancher or farmer, a conservationist, a person who is both a hunter and angler, and a scientist with at least a master’s degree in related fields, respectively.

Subsection G of Section 3 establishes a removal process that is enforced by the state ethics commission. In the event the ethics commission removes a commissioner, that commissioner would have the right to a hearing. The state ethics commission would be authorized to bring actions under the Act. The New Mexico supreme court would exclusive jurisdiction over these proceedings.

Subsection H of Section 3 establishes parameters to address the eligibility of a person to be

appointed as a commissioner who has changed political parties during the previous four years or for the purpose of voting in a primary election.

Subsection I of Section 3 creates four advisory, non-voting members of the commission, consisting of the director of the New Mexico outdoor recreation division of the economic development department, the director of the New Mexico department of agriculture, the commissioner of public lands, and the secretary of Indian affairs.

Section 4 proposes the establishment of a state wildlife commission nominating committee with seven members. The nominating committee would consist of the following appointees: one appointed by the speaker of the house; one appointed by the house minority floor leader; one appointed by the president pro tempore of the senate; one appointed by the senate minority floor leader; the chair of UNM's department of biology; the chair of NMSU's department of fish wildlife and conservation ecology; and one appointed by the governor representing an Indian nation, tribe, or pueblo. Section 4 continues to layout the methodologies and procedures for nominating commission members.

The proposed language of Section 4 would allow committee members to be reimbursed under the Per Diem and Mileage Act and subject them to the Governmental Conduct Act, the Inspection of Public Records Act, the Open Meetings Act, the Gift Act, and the Financial Disclosure Act. Meetings of the committee would be held ninety (90) days prior to the end of a term or thirty (30) days after a vacancy. Each nomination would be provided to the governor by majority vote of the committee where a quorum is present. The committee would have to allow public comment, which a requirement not included in the Open Meetings Act.

Section 5 proposes additional language in NMSA 1978, Section 17-1-26 about rule making abilities. This includes some reorganization of the language, but also the addition of several parts. More specifically, rulemaking authority would be granted to address when wildlife is "released, bartered,... and imported into or exported from the state." Additionally, Subsection C of Section 5 establishes the required specified factors the commission would have to consider when proposing rules.

Section 6 proposes new material entitled, WILDLIFE TO BE PROTECTED – MANAGEMENT. This new section proposes to extend management and protection of any species under the commission's authority by rule or policy. The section further outlines the areas that the commission shall consider when adopting these new protected species.

Section 7 proposes new material entitled, SPECIES OF GREATEST CONSERVATION NEED. This requires the wildlife department to publish on the website a list of species with the greatest conservation need.

Section 8 enumerates defined terms used in the Act. These changes include the name changes identified above as well as some additions of clarifying words or meanings to some definitions.

Section 9 proposes changes in NMSA 1978, 17-3-13 related to licensing fees. The changes include a regular interval starting in April 2027 of when fees may be adjusted and the methodologies to determine how fees are increased. Subsection D of Section 9 would make residents who participate in the "supplemental nutrition assistance program" are eligible for a 25% discount on all license fees.

Section 10 manages the impact of the name changes in the bill, including transferring all functions, property, agreements, personnel, positions, and references in law to the newly-named department and commission, respectively.

Section 11 is a temporary provision to provides for initial appointments of the new “wildlife commission” and its commissioners.

Section 12 proposes to repeal Section 17-2-2 NMSA 1978, which relates to the current rulemaking authority of the game commission.

Section 13 establishes effective dates for specific sections. Sections 1, 2, 5 through 8, 10, and 12 would have an effective date of July 01, 2026. Sections 3, 4, and 11 would have an effective date of January 01, 2027. Section 9 would have an effective date of April 01, 2026.

### **FISCAL IMPLICATIONS**

N/A

### **SIGNIFICANT ISSUES**

The proposal in Subsection H of Section 3 may impermissibly infringe on political speech and associational rights guaranteed by the First Amendment of the United States Constitution and Article II of the New Mexico Constitution by disqualifying a person who changed political party affiliation within the past four (4) years, with a limited exception for a temporary change, from serving as a commissioner. Also, the exception to the disqualification requires an examination of the reason for the change. This could present implementation challenges because the bill does not specify how the reason for changing political parties will be determined or who is responsible for making that determination. Consider amending to avoid this potential constitutional concern.

Subsection G of Section 3 concerning the state ethics commission’s authority to remove commissioners or enforce Subsection F of Section 3 is unclear. The language appears to establish administrative due process by requiring a hearing before a commissioner’s removal. However, the provision also authorizes the ethics commission to bring an action for removal before the New Mexico supreme court. It is unclear whether the action before the New Mexico supreme court would be a review of the administrative record or whether the court would hear the action de novo, making it the fact finder. Consider amending this provision to more clearly establish the intended enforcement mechanisms.

The proposed new language in Subsection D of Section 9 regarding the “supplemental nutrition assistance program” is presumably a reference to the USDA program. Consider amending to make the reference to the program explicit.

### **PERFORMANCE IMPLICATIONS**

None.

### **ADMINISTRATIVE IMPLICATIONS**

None.

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

None.

**TECHNICAL ISSUES**

None.

**OTHER SUBSTANTIVE ISSUES**

None.

**ALTERNATIVES**

None.

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

Status Quo.

**AMENDMENTS**

See “Significant Issues” above.