

March 20, 2025

SENATE EXECUTIVE MESSAGE NO. 11

The Honorable Mimi Stewart, President Pro Tempore
and Members of the New Mexico State Senate
State Capitol Building
Santa Fe, New Mexico 87501

President Pro Tempore Stewart and Members of the Senate:

I appreciate the Legislature's efforts on SENATE BILL 5, as amended ("SB 5"), which enacts substantial reforms to the Department of Game and Fish, the State Game Commission, and our wildlife laws. Unfortunately, however, in the Legislature's zeal to further weaken the chief official of a coordinate branch of the government, SB 5 has spawned a serious problem that threatens to cripple the State Game Commission.

Currently, members of the Commission may be promptly removed by the Governor. *See* N.M. Const. art. V, § 5; NMSA 1978, § 17-1-2 (1991). As drafted, it appears SB 5 requires that commissioners may only be removed after the State Ethics Commission files an action in district court, with the possibility of an appeal to the Supreme Court.¹ The same goes for determining whether a vacancy on the Commission exists. This change unnecessarily complicates and lengthens the removal process. Given the many pressing matters addressed by district courts and the Supreme Court, it would take years to remove even the most blatantly incompetent or corrupt individuals—allowing those individuals to continue to hinder or corrupt the Commission in the interim.

Good governance demands accountability and responsiveness. Requiring lengthy judicial proceedings for removal (or determining the existence of a vacancy) could paralyze the Commission's work in situations where prompt action is needed to address gross misconduct or ensure proper functioning. The proposed process is cumbersome and undermines the Executive's ability to uphold the integrity of the Commission in a timely manner.

¹ Both the Attorney General and the State Ethics Commission have pointed out that this provision is poorly drafted and creates quite a bit of ambiguity—which will inevitably lead to costly litigation when a member of the Commission is removed. *See Fiscal Impact Report*, Legislative Fin. Comm. (Mar. 8, 2025), <https://www.nmlegis.gov/Sessions/25%20Regular/firs/SB0005.PDF>. This is another issue with SB 5.

As our Supreme Court observed long ago:

[T]he Constitution makers thought that a person who could be trusted to fill the office of Governor could be trusted to deal fairly with office holders whom he [or she] was empowered to appoint, and that cases might arise where prompt action was necessary for the public good, and that it was not wise to tie the hands of the Governor when such action might well work to the detriment of the state.

State ex rel. Ulrick v. Sanchez, 1926-NMSC-060, ¶ 41, 32 N.M. 265, 255 P. 1077. I agree. Rather than tie our hands with a lengthy and complex legal process, we should continue to allow the person that New Mexican voters entrusted to “take care that the laws be faithfully executed,” N.M. Const. art. V, § 4, to promptly hold members of the State Game Commission accountable.

To be clear, this concern has nothing to do with me, as I am nearing the end of my second consecutive term in Office, and I doubt this issue will arise before I depart. My concern is for the public good. And the public is best served without the confusing, lengthy, and costly removal process contained in SB 5.

Thankfully, it is unnecessary to veto SB 5 in toto. As SB 5 appropriates money, it is subject to line-item veto pursuant to Article IV, Section 22 of the New Mexico Constitution. *See* Letter from Elizabeth A. Glenn, Deputy Attorney General, to Raul E. Burciaga, Director of the Legislative Council Service (Mar. 16, 2011), 2011 WL 1587745.

Accordingly, I this day SIGN and RETURN:

SENATE BILL 5, as amended, enacted by the Fifty-Seventh Legislature, First Session, 2025, except the following item or items, part or parts, which I hereby veto pursuant to the authority granted me in Article IV, Section 22 of the New Mexico Constitution:

On page 5, I have vetoed the semi-colon and the language following the semi-colon on line 4, all of lines 5-17, and the word “appealed” through the word “court” on line 18. This is necessary to remove the offending provision discussed above. With this language stricken, I am pleased to sign SB 5 into law. My signature on SB 5 is contingent upon the effectiveness of this line-item veto. If this line-item veto is determined to be invalid or void by a court of law, then my signature shall be null and void and this veto shall be interpreted to apply to SB 5 as a whole.

Respectfully yours,

Michelle Lujan Grisham
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR

Time: _____ a.m. p.m.

Date: _____ 2025

By _____

Secretary of State

Time: _____ a.m. p.m.

Date: _____ 2025

By _____

Chief Clerk of the Senate