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FISCAL IMPACT REPORT

SPONSOR	Sens. Campos, Wirth and Brantley/Reps. McQueen and Small	LAST UPDATED	<u>2/13/2025</u>
		ORIGINAL DATE	<u>1/25/25</u>
SHORT TITLE	<u>Game Commission Reform</u>	BILL NUMBER	<u>Senate Bill 5/aSRC/aSCONC</u>
		ANALYST	<u>Gaussoin</u>

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Fees		\$1,000.0	\$10,000.0	\$11,800.0	\$14,396.0	Recurring	Game Protection Fund

Parentheses () indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DGF	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		Recurring	Other state funds
Total	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		Recurring	Other state funds

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Relates to an appropriation in the General Appropriation Act

Sources of Information

LFC Files

Agency Analysis Received From
State Ethics Commission (SEC)
New Mexico Attorney General (NMAG)

Agency Analysis was Solicited but Not Received From
Department of Game and Fish (DGF)

SUMMARY

Synopsis of SCONC Amendment to Senate Bill 5

The Senate Conservation Committee amendment to Senate Bill 5 (SB5):

- Adds a requirement that at least one of the three at-large members of the State Wildlife Commission be a member of a Native American nation, tribe, or pueblo and removes a

- requirement that the rancher or farmer member of the commission own the ranch or farm;
- Adds two gubernatorial appointees to the nominating commission to bring the total to nine;
- Makes certain considerations in commission rulemaking discretionary instead of mandatory and reverses a Senate Rules Committee amendment that made certain considerations in the protection of wildlife discretionary, returning those considerations to mandatory; and
- Reduces the increase in trapper fees in the original bill.

Synopsis of SRC Amendment to Senate Bill 5

The Senate Rules Committee amendment to Senate Bill 5 (SB5) moves original jurisdiction over game commissioner removal proceedings from the state Supreme Court to the district courts. It also strikes the purpose statement, both that in current law focused on game and fish and the revised version in SB5 that included nonconsumptive uses. In addition, it makes discretionary the commission's consideration of certain new factors in the protection of species, which were mandatory in the original bill.

Synopsis of Original Senate Bill 5

Senate Bill 5 (SB5) would rename and revise the mission of the Game and Fish Department, change the way the commission members are selected and the conditions of their terms, and raise most hunting and fishing fees.

Name and Mission. SB5 would amend Chapter 17 of state law to rename the Department of Game and Fish to the Department of Wildlife and broaden its purpose from the protection of game and fish for recreation and food supply to the “protection 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.” The bill specifies the expansion to wildlife does not also automatically expand the number of species covered by the nuisance abatement law, which allows private landowner to kill certain animals if the animal poses an immediate threat to humans or property and requires the department to respond and provide interventions for certain animals that pose a threat.

Commission Reorganization. SB5 would rename the State Game Commission as the State Wildlife Commission and change the way commissioners are appointed by creating a nominating committee that would provide a list of candidates to the governor, who would appoint the members with the consent of the Senate. Currently, all seven members are appointed by the governor with the consent of the Senate, with five members representing regions of the state and two serving at large.

Under SB5, the commission would consist of three at-large members, with each member from a different county and no more than two members affiliated with the same political party. The remaining members would be a rancher or farmer, a conservationist with at least four years’ experience as an employee or member of a wildlife organization not focused on a game species, a hunter or angler who has held a New Mexico license for at least the previous four years, and a scientist with at least a master’s degree in wildlife biology, conservation biology, fisheries science or management, wildlife management, or a similar field. These commissioners must be from different counties and no more than two could be from the same political party. The law

specifically excludes candidates who change political party just to qualify for appointment. The commissioners would serve staggered six-year terms, compared with the current four-year terms, and would be limited to two terms.

The seven voting members would be joined by four advisory, nonvoting members: the directors of the Outdoor Recreation Division of the Economic Development Department and the New Mexico Department of Agriculture or their designees, the commissioner of public lands or the commissioner's designee, and the secretary of the Indian Affairs Department or the secretary's designee.

A commissioner could not be removed except for incompetence, neglect of duty, or malfeasance, and a commission position would be considered vacant if a commissioner missed three consecutive meetings. Only the Supreme Court could remove a commissioner, and commissioners being considered for removal would have a right to a hearing. SB5 would give the State Ethics Commission the authority to bring an action for removal.

The bill would broaden the commission's rulemaking responsibility from rules affecting game animals, birds, and fish to all wildlife, including insects and other invertebrates, and would enable the consideration of a broad range of conditions, including migration patterns, suitable habitat, and climate conditions. It specifically strikes existing language allowing the commission to spend "reasonable amounts" for the eradication of predatory animals.

Hunting and License Fees. SB5 would raise the fees on 36 of 53 hunting and fishing licenses (see attached list) and create a mechanism, using the consumer price index, for raising the fees in subsequent years without the need to amend statute. It also creates a 25 percent discount on license fees for residents who participate in the Supplemental Nutrition Assistance (food stamp) Program.

The effective date of provisions changing the name and mission of the department would be July 1, 2026. The provisions reorganizing the commission would be effective January 1, 2027. The hunting and license fee increases would go into effect April 1, 2026, in alignment with hunting and fishing calendars.

FISCAL IMPLICATIONS

Name and Mission. While a name change typically comes with costs (signage, stationery, etc.), SB5 attempts to limit this cost by providing that "existing supplies, forms, insignias, signs and logos" may continue to be used until "exhausted or unserviceable." In addition, although not a statutory responsibility, the agency already conserves and manages a broad range of species and, in the federally required update of the *State Wildlife Action Plan*, proposes a substantial expansion of its list of species of greatest conservation need, including insects for the first time. For these reasons, any additional cost from the change in name and mission should be minimal.

Commission Reorganization. Similarly, SB5's reorganization of the commission will not significantly change the duties now assigned to the State Game Commission, and the nominating committee is unlikely to generate significant costs.

The State Ethics Commission notes its role in enforcing the removal or appointment processes of the State Wildlife Commission would entail "marginal indeterminate" civil litigation costs.

Hunting and License Fees. The Department of Game and Fish did not provide analysis for this bill, but in analysis of 2023 legislation that would have raised most of the same hunting and fishing fees as in SB5, the department estimated the fee increase, the first since 2006, would generate \$10 million a year for the game protection fund, the primary source of revenue for the department. The estimate assumed the discount for recipients of the Supplemental Nutrition Assistance Program would reduce potential revenues by \$1 million a year. The agency noted the enactment of the fee increases in April, while timed with the current pattern of license sales, would mean revenue in FY26 would be limited. The “Revenue” table reflects the projected consumer price index impact on revenue growth in subsequent years.

SIGNIFICANT ISSUES

Constitutional Concerns. Both the State Ethics Commission and New Mexico Attorney General (NMAG) raise legal questions with provisions in the bill. The State Ethics Commission reports the SRC amendment addresses a major constitutional issue in the original bill over a provision assigning “exclusive original jurisdiction”—a court’s authority to hear and decide a case first (before an appeal)—to the state Supreme Court, which is assigned the matters over which it has original jurisdiction in Article VI, Section 3, of the state constitution. The bill was amended to assign original jurisdiction to the district courts.

NMAG argues the provision disqualifying a commission candidate who has changed political party, which remains in the amended bill, might “impermissibly infringe” on political speech and associated First Amendment rights. Further, exceptions that allow the candidate to have changed parties under certain circumstances creates a need to establish the reason behind the party change. From NMAG: “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.”

The State Ethics Commission and NMAG agree the bill creates confusion by both requiring a hearing prior to a commissioner’s removal, apparently establishing administrative due process, and authorizing the State Ethics Commission to bring the action of removal before the court (a district court in the amended bill). NMAG notes the bill is unclear on “whether the action before the [court] would be a review of the administrative record or whether the court would hear the action de novo, making it the fact finder.” The State Ethics Commission reports the process for removing a commissioner remains unclear in the amended bill:

Subsection 2(G) of the amended SB5 states that “no removal shall be made without notice of hearing and an opportunity to be heard having first been given to the commissioner.” The next sentence authorizes the State Ethics Commission to bring a removal action in district court. It is not entirely clear whether the “notice of hearing and opportunity to be heard” mandates a hearing to occur prior to the State Ethics Commission’s initiation of an action, or if the litigation process addresses these concerns. If SB5 does, in fact, mandate that a hearing occur prior to the commission bringing an action, it is entirely unclear where the hearing occurs (e.g., before the remaining State Wildlife Commissioners or [before] the State Ethics Commission).

Commission Stability. While six of seven commission positions are currently filled and the commission met regularly in 2024, the commission struggled to maintain membership through 2022 and, at one point in early 2023, had too few members to constitute a quorum. In addition,

hunting and fishing conservation groups have criticized the makeup of the panel for failing to adequately represent conservation interests, although one of the more recent appointees is a wildlife biologist. In a full-page newspaper advertisement published in November 2024 and on an issue-specific website,¹ 18 organizations—including Audubon Southwest, the New Mexico Wildlife Federation, Animal Protection Voters, the New Mexico Association of Conservation Districts, and Common Cause—call for a “21st century wildlife management system” that includes reform of the State Game Commission and an update of the department’s mission. From the website: “Our current wildlife management system is outdated and underfunded, while our State Game Commission has been politicized.”

Of note, the State Land Office reports it has “a significant interest” in Game and Fish Department operations because hunting and fishing is allowed on state trust lands during the relevant hunting and fishing seasons, and the land office will benefit from representation on the commission as called for in the bill.

Hunting and Fishing Fees and Fund Balance. The department contends the hunting and fish fee increases are necessary because the game protection fund is being depleted and additional revenue is needed to keep the balance in the fund at \$10 million, the level the department says it needs as a cushion for operations. The department projects the balance in the game protection fund will be \$19.6 million at the end of FY25 and \$15.8 million at the end of FY26. Notably, the agency projected end-of-year balances of \$16.6 million for FY24; the actual balance at the end of FY24 was \$22 million. Also notable, revenue from hunting and fishing fees, the primary source of funds in the game protection fund, grew 30 percent between FY20 and FY24, generating more than \$33 million in FY24.

In addition, while the annual transfer from the game protection fund has generally represented close to 95 percent of the department’s appropriation, that share is shrinking with the availability of land of enchantment legacy fund dollars, estimated at \$3.3 million for FY26 and expected to grow every year. While the department’s use of game protection fund dollars was flat with prior years in FY24 and FY25, the agency’s total budget grew in FY25 because of the legacy fund distribution and, given both the LFC and executive budget recommendations for the FY26 General Appropriation Act, is likely to grow again in FY26. Nevertheless, the agency has testified repeatedly before interim committees it is unable to effectively manage and conserve New Mexico’s wildlife because of inadequate funds.

A review of adult resident freshwater fishing licenses in surrounding states shows the current New Mexico fee of \$25 is the lowest in the region, and the proposed increase to \$35 would make it second highest. A resident deer hunting license, now \$31 and second lowest in the region, would be on the high end in the region if raised to \$50 as proposed. It is not known if surrounding states offer discounts for residents receiving public assistance.

Resident License Fees		
	Fishing	Deer
Arizona	\$37.00	\$58.00
Colorado	\$41.83	\$47.91
NM-Current	\$25.00	\$31.00
NM-Proposed	\$35.00	\$50.00

¹ <https://www.wildlifeform.org/>

Texas	\$30.00	\$25.00
Utah	\$40.00	\$40.00

Conservation groups have argued the department’s dependence on hunting and fishing fees leads to the department emphasizing hunting and fishing activities over other recreational uses and efforts to manage nongame species and have argued for expanded availability of funds like those from the legacy fund.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB5 relates to a three-year, \$10.5 million government results and opportunity fund appropriation in the LFC recommendation for the General Appropriation Act intended for the management of species of greatest conservation need.

TECHNICAL ISSUES

The Office of Attorney General suggests the language in Subsection D of Section 9 regarding the “supplemental nutrition assistance program” is unclear because it does not specifically name the federal program run by the Department of Agriculture. It recommends clarifying the language.

Attachment

1. Proposed License Fee Changes

HG/SL2/rl/SL2/rl

Attachment: Proposed License Fee Changes in SB5 as Amended

Resident, fishing	[\$25.00] \$35.00
Resident, game hunting	[15.00] 25.00
Resident, deer	[31.00] 50.00
Resident, junior-senior, deer	[19.00] 25.00
Resident, senior, handicapped, game hunting and fishing	20.00
Resident, fishing and game hunting combination	[30.00] 42.00
Resident, junior, fishing and game hunting combination	15.00
Resident, disabled veteran, fishing and game hunting combination	10.00
Resident, antelope	[50.00] 60.00
Resident, elk cow	[50.00] 60.00
Resident, elk bull or either sex	[80.00] 90.00
Resident, junior-senior, elk	[48.00] 60.00
Resident, bighorn sheep, ram	150.00
Resident, bighorn sheep, ewe	75.00
Resident, Barbary sheep	[100.00] 120.00
Resident, bear	[44.00] 55.00
Resident, turkey	[25.00] 35.00
Resident, cougar	[40.00] 55.00
Resident, oryx	[150.00] 175.00
Resident, ibex	[100.00] 110.00
Resident, javelina	55.00
Resident, fur dealer	[15.00] 50.00
Resident, trapper	[20.00] 50.00
Resident, junior trapper	[9.00] 20.00
Nonresident, fishing	[56.00] 90.00
Nonresident, junior fishing	[15.00] 20.00
Nonresident, junior, game hunting	[15.00] 20.00
Nonresident, game hunting	[65.00] 85.00
Nonresident, deer	[260.00] 375.00
Nonresident, quality deer	[345.00] 600.00
Nonresident, bear	[250.00] 350.00
Nonresident, cougar	[280.00] 350.00
Nonresident, turkey	[100.00] 125.00
Nonresident, antelope	[260.00] 400.00
Nonresident, elk cow	[315.00] 550.00
Nonresident, elk bull or either sex	[525.00] 750.00
Nonresident, quality elk	[750.00] 975.00
Nonresident, bighorn sheep	3,150.00
Nonresident, Barbary sheep	350.00
Nonresident, oryx	1,600.00
Nonresident, ibex	1,600.00
Nonresident, javelina	155.00
Nonresident, fur dealer	[125.00] 200.00
Nonresident, trapper	[345.00] 500.00
Nonresident, nongame	65.00
Resident, senior, handicapped, fishing	8.00
Resident, junior fishing	5.00
Temporary fishing, one day	12.00
Temporary fishing, five days	[24.00] 30.00
Resident, senior, handicapped, game hunting	15.00
Resident, junior, game hunting	10.00
Temporary game hunting, four days	[33.00] 40.00
Second rod validation	[4.00] 10.00