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## FISCAL IMPACT REPORT

ORIGINAL DATE 03/09/09  
 LAST UPDATED 03/16/09    **HB** \_\_\_\_\_

SPONSOR    SJC \_\_\_\_\_

SHORT TITLE    Landowner Takings Of Certain Animals    **SB** 391/SJCS/aSFI#1

ANALYST    Woods \_\_\_\_\_

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
NA	\$300.0	\$450.0	NA	Big Game Damage Depredation Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>	NA	NA	\$300.0	\$300.0	NA	Big Game Damage Depredation Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to N/A

### SOURCES OF INFORMATION

LFC Files

Response Received From  
 Department of Game and Fish

## SUMMARY

### Synopsis of SFI#1 Amendment

Senate Floor Amendment 1 to Senate Judiciary Committee Substitute for Senate Bill 391 effects the following:

1. On page 11, line 5, after "land", insert ", or state or public land for the purpose of growing cultivated crops,".

### Synopsis of Original Bill

This bill will amend state statute 17-2-7.2 NMSA 1978, with an effective date of July 1, 2010. The bill will eliminate the current provision that allows a landowner or lessee, or employee of either to kill animals on private land that present an immediate threat of damage to property or when Department provided assistance has not attained results intended. It reaffirms the ability of any person to kill a predator that presents an immediate threat to human life, livestock, or pets. It further specifies that a landowner, lessee, or employee of either may request assistance from the Department to prevent or remedy depredation caused by wildlife, provided that the request is made before the damage is likely to occur or within 72 hours of recognizing damage is occurring so that the Department can respond to the request in a timely and effective manner to prevent or minimize the damage. If Department assistance is not practical, economically feasible, or does not prove to be successful, landowners may seek timely compensation for losses by filing a claim with the Department. Claims shall be paid with money appropriated in the big game depredation damage fund. If the value of claims exceeds the amount available in the appropriation to the big game depredation damage fund the Department shall request a grant from the State Board of Finance to pay outstanding claims each fiscal year.

If the Department and the landowner cannot agree on the cause of the damage or the amount of the damages, the claim will be forwarded to a committee comprised of the county extension agent and the county assessor for the county in which the damage occurred, a member of the public appointed by the county commission, and a qualified claims adjuster contracted by the Department. The determination of the value of the claim made by this committee shall be final and binding on both parties. The bill requires the landowner to pay half of the costs of the contracted adjuster if the committee determines that the value of the claim is less than the landowner asserted.

The bill also amends state section 17-3-13.3 NMSA 1978 and is effective April 1, 2010. Bill amendments will increase the fees for the big game depredation damage stamp that is included in the sale of each license to hunt big game. These fee increases will put the big game depredation damage fund in a better position to support prevention activities and compensation payments. Fees for resident licenses will increase from five dollars (\$5.00) to six dollars (\$6.00) and fees for non-resident licenses will increase from ten dollars (\$10.00) to twenty dollars (\$20.00).

The bill authorizes the State Game Commission to adopt rules for implementation of the amendments.<sup>1</sup>

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<sup>1</sup> Excerpted from DGF response dated 3-9-09.

## FISCAL IMPLICATIONS

DGF indicates that costs associated with providing assistance to landowners to prevent or remedy depredation are significant. Current and proposed funding is derived entirely from big game hunters through the sale of Big Game Depredation Damage Stamps that are included in the price of every big game license sold. The current fee is \$3 for each resident license (although statute allows for a \$5.00 fee) and \$10 for each nonresident license. Species designated as big game are; deer, elk, pronghorn antelope, bighorn sheep, barbary sheep, oryx, ibex, bear, cougar and javelina. Annual revenue varies based on fluctuations in license sales but in recent years has ranged from \$400,000 - \$450,000. This bill will increase the allowable Big Game Depredation Damage Stamp fees from five dollars (\$5.00) to six dollars (\$6.00) for resident licenses and from ten dollars (\$10.00) to twenty dollars (\$20.00) for non-resident licenses, thus increasing the annual revenue to \$800,000 - \$900,000. As a result the Department may request full appropriation of this fund in FY 2011 to accomplish the intent of this bill. If the value of approved claims exceeds the amount appropriated from the big game depredation damage fund the department shall request a grant from the State Board of Finance sufficient to pay outstanding claims for the balance of the fiscal year.

## SIGNIFICANT ISSUES

DGF indicates that the most significant issues associated with this legislation bill include:

1. The bill will continue to require the Department to ensure that responses to requests for assistance are prompt, professional, and effective in preventing, reducing, or remedying damages to private property caused by wildlife.
2. The bill reaffirms the ability of any person to kill a predator that presents an immediate threat to human life, livestock, or pets.
3. Beginning July 1, 2010, the bill eliminates the provision that allows a landowner to take or kill animals (except predators) on private land that are threatening damage to property or when Department interventions are not successful.
4. The bill creates a provision that allows landowners who have requested assistance from the Department in a timely manner to work to prevent or minimize damage caused by wildlife, to seek timely compensation for losses to property caused by wildlife when Department assistance does not work or is not feasible.
5. The bill provides for a committee comprised of the county extension agent, the county assessor, a local citizen appointed by the county commission, and a Department contracted agricultural claims adjuster, to make a final determination on the cause and/or value of a claim if the Department and the landowner can not agree to the initial claim.
6. If the value of claims exceeds the amount available in the appropriation to the big game depredation damage fund, the bill directs the Department to request a grant from the State Board of Finance to pay outstanding claims each fiscal year.
7. Beginning April 1, 2010, this bill increases the fees for big game depredation damage stamps so the big game depredation damage fund is in a better position to support the costs of prevention activities and compensation payments.

## **PERFORMANCE IMPLICATIONS**

DGF states, “This bill will significantly improve the Department’s ability to meet the expectations of private landowners and other New Mexicans related to resolving damage to private property and threats to public safety caused by protected wildlife.”

## **ADMINISTRATIVE IMPLICATIONS**

DGF indicates that this bill will require the Department to ensure that its organizational structure and resources assigned to the depredation program are such that responses to requests for assistance are prompt, professional, knowledgeable, and effective. The bill will also require the Department to develop amendments to the Depredation Assistance Rule and the Game & Fish Licenses and Permits Rule, for Commission consideration, to ensure it aligns with the provisions of the bill.

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

DGF states, “Not enacting this bill will result in the Department and landowners continuing to attempt to resolve wildlife caused depredation with the current tools and allowances including the ability of landowners to take or kill wildlife and with no provision of compensation capabilities.”

## **AMENDMENTS**

None suggested by respondent.

BW/mc:svb