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FISCAL IMPACT REPORT

ORIGINAL DATE 02/25/13
 SPONSOR Gonzales LAST UPDATED 02/26/13 HB 579
 SHORT TITLE NM Wildlife Protection & Public Safety Act SB _____
 ANALYST Weber

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	(\$70.0 to \$140.0)	(\$70.0 to \$140.0)	Recurring	

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General Office (AGO)
 New Mexico Livestock Board (NMLB)
 Department of Game and Fish (DGF)

SUMMARY

Synopsis of Bill

House Bill 579 creates the New Mexico Wildlife Protection and Public Safety Act. Broadly, the Act prohibits the trapping or poisoning or attempted trapping or poisoning of wildlife in New Mexico and is a violation of the Act for: (1) a person to set or use, or attempt to set or use, a trap to kill or capture wildlife; (2) a person to set or use, or attempt to set or use, a body-gripping trap to kill or capture any feral or domestic animal; (3) a person to apply or use, or attempt to apply or use, any poison to kill or injure wildlife or a feral animal; (4) a person to buy, sell, barter or otherwise exchange for profit or to offer to buy, sell, barter or otherwise exchange for profit the raw fur of any protected or unprotected fur-bearer taken by a trap or poison; or (5) the owner, possessor or any other person in control of a lot, track or parcel of land to knowingly permit the unlawful use of a trap or poison to kill or injure wildlife or a feral or domestic animal on the property.

The Act does not prohibit: (1) the taking of wildlife or feral or domestic animals by federal, state, county or municipal government employees or their duly authorized agents when prohibited devices or methods are the only feasible method available to protect human health and safety;(2) the taking of beaver by use of a conibear-type trap partially or wholly submerged in

water by federal, state, county or municipal government employees or their duly authorized agents where the trap is the only feasible method available to protect public waterways, levees or dams; (3) the taking of wildlife by traps to conduct scientific research; (4) the use of traps to protect threatened or endangered species, if used by the department or its agents or by the United States fish and wildlife service or its agents; (5) the use of non-body-gripping traps for the lawful taking of wildlife to abate damages caused to property, crops or livestock. Traps used for this purpose must be checked every twenty-four hours by the person who set the traps, or the person's designee, and any captured wildlife removed. Captured wildlife found alive must be released immediately or killed, unless permission has been granted by the department for relocation and release.

A person who violates the New Mexico Wildlife Protection and Public Safety Act is, for a first offense, guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Upon a second or subsequent conviction for a violation of that act, the offender is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978. There can also be civil penalties.

The bill also amends Sections 17-5-3 (providing for the issuance of permits to take furbearers doing damage) and 17-5-5 (providing for trapper licenses) NMSA 1978, to ensure adherence to the New Mexico Wildlife Protection and Public Safety Act by the Director of the Department of Game & Fish when issuing permits for the take of furbearers doing damage to game, private property, poultry or livestock and when trappers are on official business and under the supervision of the Department, the New Mexico Department of Agriculture or the United States Fish and Wildlife Service. The bill also amends Section 17-5-5 to require that residents trying to protect livestock, domesticated animals or fowl adhere to the provisions set forth in the New Mexico Wildlife Protection and Public Safety Act. It also amends various sections of 17-5-5 NMSA to change the current “trapper’s” license to “fur-bearer” license.

FISCAL IMPLICATIONS

DGF estimates the direct loss of license revenue due to the prohibition of trapping contemplated by this bill could be between \$20,000 and \$40,000 annually. Indirect loss of matching federal funds would be between \$50,000 and \$110,000. These estimates are based on an average of approximately 1,500 trapper licenses sold over the last three years with three percent of those being non-resident license purchasers and half to most of the current licensees choosing not to purchase licenses due to the trapping prohibition. Historically, trapper license sales have been highly variable (700 to 2,600/yr.) and are typically based on fur prices, so these estimates have the potential to halve or double as fur prices vary.

SIGNIFICANT ISSUES

DGF offers the following:

By its very nature and title, the legislation asserts that wildlife need to be “protected” from traps and that all traps are inherently dangerous to people. From the Department’s perspective, with over 100 years of successful wildlife management to date, both assertions are patently false. Regulated trapping of New Mexico’s furbearers constitutes sustainable use of a renewable resource, and trapping related to wildlife damage control and wildlife restoration are integral to continued conservation of various wildlife species by the Department.

The bill essentially outlaws all trapping of furbearers on private and public lands in New Mexico. As currently regulated by the Department, trapping is both an effective wildlife management tool and a time-honored tradition passed on from generation to generation of New Mexicans. Many of the Department's customers rely on trapping to substantially supplement their annual income. Trapping and the resultant tanned furs are also a vital part of the traditions and culture of many Native Americans and are used in many religious and traditional ceremonies. The bill would eliminate the traditional and sustainable use of wildlife by both trapper license buyers and Native Americans wishing to sell their fur outside reservation boundaries.

Several wildlife species, especially furbearers, are known to harbor and transmit diseases of significant concern to humans, including rabies, plague and tularemia. Disease outbreaks are exacerbated when population densities reach high levels. As trapping is the most effective, efficient, and humane method to maintain or reduce population densities, the prohibition of trapping contemplated by the bill unnecessarily reduces the ability of trappers to keep furbearer populations in check.

The sound management of predators in balance with prey species is vital in ensuring robust and healthy wildlife populations. Without the ability to use management tools like trapping and snaring, the ability to balance predator/prey populations will be jeopardized and socially and economically important game and non-game species will be negatively impacted.

In addition to eliminating realistic predator management, the bill effectively prohibits Department management actions such as the trapping and transplanting of wildlife to augment or restore populations by the use of drop nets, net guns, etc. Many of these projects would not be exempted because they do not constitute "scientific research" or "protect human health and safety" as required by the bill. For example, all of the river otters released in New Mexico were caught in unpadded steel foot-hold traps, as padded traps have often been shown in scientific studies to cause more damage to animals than steel jawed leg-hold traps. The effective use of the more humane steel foot-hold traps would be precluded from use in this and other wildlife capture and reintroduction efforts.

However, alternative points of view exist that the bill will protect wildlife from unintended or unnecessary death, injury or suffering.

Trappers represent only a fraction of the population, with only 2,000 buying a trapping license, and it is estimated that just 1,000 of these permits are used exclusively for trapping. Residents can currently trap coyotes and skunks with no license. Trapping is largely a commercial pursuit that benefits a tiny fraction of New Mexicans.

New Mexico Livestock Board expresses concern regarding controlling undesirable populations:

The bill has wide sweeping implications on the elimination of wildlife species and as written, could well negatively impact elimination of pests, predators and invasive species. Thus, would negatively impact the livestock industry. Inability to control, predators, pests and invasive species is detrimental to livestock production. With the ongoing drought, competition for habitat and forage is intense. Inability to control unwanted species results in degradation of habitat.

TECHNICAL ISSUES

A thorough review of implicated statutes and regulations would be needed to identify all potential conflicts. To the extent that the New Mexico Wildlife Protection and Public Safety Act (“the Act”) conflicts with current statutes and rules, there would exist ambiguity in the law that would affect the enforceability of not only the Act, but also the otherwise enforceable laws and rules with which it conflicts.¹ These problems of enforceability would persist until the conflicts in law and regulation were resolved by law- and rule-making.

MW/blm
