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HOUSE BILL 80

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Paul C. Bandy

FOR THE GOVERNMENT RESTRUCTURING TASK FORCE

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; MERGING THE DEPARTMENT OF
GAME AND FISH WITH THE ENERGY, MINERALS AND NATURAL RESOURCES
DEPARTMENT; TRANSFERRING THE DUTIES OF THE STATE GAME
COMMISSION TO THE GAME AND FISH DIVISION OF THE ENERGY,
MINERALS AND NATURAL RESOURCES DEPARTMENT; ELIMINATING THE
STATE GAME COMMISSION; COMBINING THE MINING COMMISSION AND THE
COAL SURFACE MINING COMMISSION; ELIMINATING THE TECHNICAL
ADVISORY COMMITTEE TO THE OFFICE OF INTERSTATE MARKETS AND THE
NATURAL LANDS PROTECTION COMMITTEE; SUNSETTING ALL BOARDS AND
COMMISSIONS ADDRESSING ENERGY AND NATURAL RESOURCES ISSUES;
PROVIDING FOR TRANSFERS OF FUNCTIONS, PERSONNEL,
APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND
REFERENCES; AMENDING, REPEALING, ENACTING AND RECOMPILING
SECTIONS OF THE NMSA 1978; RECONCILING MULTIPLE AMENDMENTS TO
THE SAME SECTION OF LAW IN LAWS 1997, LAWS 2000 AND LAWS 2005.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 9-5A-1 NMSA 1978 (being Laws 1987, Chapter 234, Section 1) is amended to read:

"9-5A-1. SHORT TITLE.--~~[Sections 1 through 7 of this act]~~
Chapter 9, Article 5A NMSA 1978 may be cited as the "Energy, Minerals and Natural Resources Department Act"."

SECTION 2. Section 9-5A-3 NMSA 1978 (being Laws 1987, Chapter 234, Section 3, as amended by Laws 1997, Chapter 137, Section 1 and also by Laws 1997, Chapter 149, Section 2) is amended to read:

"9-5A-3. DEPARTMENT ESTABLISHED.--~~[A.]~~ There is created in the executive branch the "energy, minerals and natural resources department". The department shall be a cabinet department and shall include but not be limited to the following organizational units:

- ~~[(1)]~~ A. the administrative services division;
 - ~~[(2)]~~ B. the state parks division;
 - ~~[(3)]~~ C. the forestry division;
 - ~~[(4)]~~ D. the energy conservation and management division;
 - ~~[(5)]~~ E. the mining and minerals division; ~~and~~
 - ~~[(6)]~~ F. the oil conservation division; and
 - G. the game and fish division
- ~~[B. The state game commission is administratively~~

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1 ~~attached to the department]."~~

2 SECTION 3. Section 9-5A-5 NMSA 1978 (being Laws 1987,
3 Chapter 234, Section 5) is amended to read:

4 "9-5A-5. SECRETARY OF ENERGY, MINERALS AND NATURAL
5 RESOURCES--APPOINTMENT--POWERS AND DUTIES.--

6 A. The administrative head of the energy, minerals
7 and natural resources department is the "secretary of energy,
8 minerals and natural resources", who shall be appointed by the
9 governor with the consent of the senate and who shall serve in
10 the executive cabinet.

11 B. An appointed secretary of energy, minerals and
12 natural resources shall serve and have all of the duties,
13 responsibilities and authority of that office during the period
14 of time prior to final action by the senate confirming or
15 rejecting ~~[his]~~ the secretary's appointment.

16 C. The secretary of energy, minerals and natural
17 resources has every power expressly enumerated in the laws to
18 perform the secretary's duties, whether granted to the
19 secretary, the energy, minerals and natural resources
20 department or any division of the department, except where
21 authority conferred upon any division is explicitly exempt from
22 the secretary's authority by statute."

23 SECTION 4. Section 9-5B-1 NMSA 1978 (being Laws 1992,
24 Chapter 91, Section 1) is amended to read:

25 "9-5B-1. SHORT TITLE.--~~[This act]~~ Chapter 9, Article 5B

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1 NMSA 1978 may be cited as the "New Mexico Youth Conservation
2 Corps Act".

3 SECTION 5. A new section of the New Mexico Youth
4 Conservation Corps Act is enacted to read:

5 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
6 REPEAL.--The New Mexico youth conservation corps commission is
7 terminated on July 1, 2017 pursuant to the provisions of the
8 Sunset Act. The commission shall continue to operate according
9 to the provisions of Chapter 9, Article 5B NMSA 1978 until July
10 1, 2018. Effective July 1, 2018, the New Mexico Youth
11 Conservation Corps Act is repealed."

12 SECTION 6. Section 11-16-1 NMSA 1978 (being Laws 2001,
13 Chapter 101, Section 1) is amended to read:

14 "11-16-1. SHORT TITLE.--~~[This act]~~ Chapter 11, Article 16
15 NMSA 1978 may be cited as the "Wildlife Violator Compact".

16 SECTION 7. Section 11-16-11 NMSA 1978 (being Laws 2001,
17 Chapter 101, Section 11) is amended to read:

18 "11-16-11. LICENSING AUTHORITY--ADMINISTRATOR--
19 EXPENSES.--

20 A. The ~~[department of]~~ game and fish division of
21 the energy, minerals and natural resources department is
22 designated as the licensing authority in New Mexico for the
23 purposes of the Wildlife Violator Compact.

24 B. The director of the ~~[department of]~~ game and
25 fish division shall furnish to the appropriate authorities of

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1 the participating states any information or documents
2 reasonably necessary to facilitate the administration of the
3 Wildlife Violator Compact.

4 C. The compact administrator shall not be entitled
5 to any additional compensation for ~~[his]~~ service as the compact
6 administrator, but shall be entitled to expenses incurred in
7 connection with ~~[his]~~ the duties and responsibilities as
8 compact administrator in the same manner as for expenses
9 incurred in connection with other duties or responsibilities of
10 ~~[his]~~ the compact administrator's office or employment."

11 SECTION 8. Section 16-2-2 NMSA 1978 (being Laws 1977,
12 Chapter 254, Section 113, as amended) is amended to read:

13 "16-2-2. STATE PARKS ADVISORY BOARD CREATED--MEMBERSHIP--
14 COMPENSATION--DUTIES.--

15 A. The "advisory board" to the state parks division
16 of the energy, minerals and natural resources department is
17 created. It shall be composed of seven to eleven members
18 appointed by the governor.

19 B. The advisory board shall provide advice and make
20 recommendations relating to the administration of the state
21 parks division. It shall advise on all matters of policy,
22 ~~[regulations]~~ rules, the formulation of a comprehensive
23 statewide recreation plan and such other matters as may be
24 requested by the director of that division.

25 C. The advisory board shall meet quarterly or at

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1 the call of the [~~chairman~~] chair.

2 D. Each member of the advisory board shall annually
3 elect a [~~chairman~~] chair and vice [~~chairman~~] chair from its
4 membership. The director of the state parks division shall
5 serve as the executive secretary of the board.

6 E. Members of the advisory board shall not be paid
7 and shall not receive per diem.

8 F. The advisory board is terminated on July 1, 2017
9 pursuant to the provisions of the Sunset Act unless continued
10 by law. The provisions of the Sunset Act notwithstanding,
11 there is no wind-up period for the board."

12 SECTION 9. Section 16-2-32 NMSA 1978 (being Laws 1935,
13 Chapter 57, Section 19, as amended) is amended to read:

14 "16-2-32. CRIMINAL OFFENSES--PENALTY.--A person who
15 commits any of the following acts is guilty of a petty
16 misdemeanor and shall be sentenced in accordance with the
17 provisions of Section 31-19-1 NMSA 1978:

18 A. cut, break, injure, destroy, take or remove a
19 tree, shrub, timber, plant or natural object in any state park
20 and recreation area, except in areas designated by the
21 secretary of energy, minerals and natural resources and
22 permitted by [~~regulations~~] rules adopted by the secretary.
23 [~~such. Regulations~~] Rules shall only permit the removal of a
24 tree, shrub, timber, plant or natural object for scientific
25 study or for noncommercial use by an individual as a souvenir.

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1 The quantity of material authorized for removal from any area
2 shall be strictly regulated by park personnel in order to
3 minimize resource damage;

4 B. kill, cause to be killed or pursue with intent
5 to kill a bird or animal in a state park and recreation area,
6 except in areas designated by the secretary and except in
7 conformity with the provisions of general law and the
8 [~~regulations~~] rules of the [~~state game commission~~] game and
9 fish division of the energy, minerals and natural resources
10 department;

11 C. take a fish from the waters of a state park and
12 recreation area, except in conformity with the provisions of
13 general law and the [~~regulations~~] rules of the [~~state game~~
14 ~~commission~~] game and fish division;

15 D. willfully mutilate, injure, deface or destroy
16 any guidepost, notice, tablet, fence, enclosure or work that is
17 for the protection or ornamentation of a state park and
18 recreation area;

19 E. light a fire in a state park and recreation
20 area, except in those places authorized for fires by the
21 secretary, or willfully or carelessly permit any fire [~~which~~]
22 that is authorized and that [~~he~~] the person has lighted or
23 caused to be lighted or under [~~his~~] the person's charge to
24 spread or extend to or burn the shrubbery, trees, timber,
25 ornaments or improvements in a state park and recreation area

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1 or leave a campfire that [~~he~~] the person has lighted or that
2 has been left in [~~his~~] the person's charge unattended by a
3 competent person without extinguishing it;

4 F. place in a state park and recreation area or affix
5 to an object in a state park and recreation area a word,
6 character or device designed to advertise a business,
7 profession, article, thing, exhibition, matter or event without
8 a written license from the secretary permitting [~~him~~] the
9 person to do it; or

10 G. violate a rule [~~or regulation~~] adopted by the
11 secretary pursuant to the provisions of Chapter 16, Article 2
12 NMSA 1978."

13 SECTION 10. Section 17-1-5 NMSA 1978 (being Laws 1931,
14 Chapter 117, Section 5, as amended) is amended to read:

15 "17-1-5. [~~EMPLOYMENT AND DISCHARGE OF~~] DIRECTOR [~~AND~~
16 ~~OTHER EMPLOYEES-- DEPARTMENT OF GAME AND FISH CREATED~~] OF THE
17 GAME AND FISH DIVISION.--[A.] The [~~state game commission~~]
18 energy, minerals and natural resources department shall employ
19 a director of the game and fish division of the department, who
20 shall [~~under such authorization that the game commission shall~~
21 ~~approve~~] employ such conservation officers, clerks and other
22 employees as [~~he shall deem~~] the director deems proper and
23 necessary to enforce and administer the laws and [~~regulations~~]
24 rules relating to game and fish, and who shall prescribe their
25 duties respectively. [~~and who with the advice and consent of~~

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1 ~~the state game commission shall fix the compensation of all the~~
2 ~~employees of the "department of game and fish", which is hereby~~
3 ~~created.~~

4 ~~B. The state game commission may at any time~~
5 ~~discharge the director for reasons that the state game~~
6 ~~commission shall deem sufficient. The director may dismiss~~
7 ~~employees in accordance with the provisions of the Personnel~~
8 ~~Act.]"~~

9 SECTION 11. Section 17-1-5.1 NMSA 1978 (being Laws 1994,
10 Chapter 129, Section 1) is amended to read:

11 "17-1-5.1. CONSERVATION SERVICES ~~[DIVISION]~~ BUREAU--
12 DUTIES--

13 A. The "conservation services ~~[division]~~ bureau" is
14 created within the ~~[department of]~~ game and fish division of
15 the energy, minerals and natural resources department.

16 B. The conservation services ~~[division]~~ bureau is
17 responsible for:

- 18 (1) management, enhancement, research and
- 19 conservation of public wildlife habitat;
- 20 (2) the lease, purchase, enhancement and
- 21 management of state wildlife habitat;
- 22 (3) assisting landowners in improving wildlife
- 23 habitats;
- 24 (4) development of educational programs related
- 25 to conservation of wildlife and the environment, including the

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1 expanded dissemination of wildlife publications; and

2 (5) communication and consultation with federal
3 and other state agencies, local governments and communities,
4 private organizations and affected interests responsible for
5 habitat, wilderness, recreation, water quality and
6 environmental protection to ensure comprehensive conservation
7 services for hunters, anglers and nonconsumptive wildlife
8 users."

9 SECTION 12. Section 17-1-7 NMSA 1978 (being Laws 1955,
10 Chapter 181, Section 1) is amended to read:

11 "17-1-7. RESERVE CONSERVATION OFFICER.--There is hereby
12 created within the [~~department of~~] game and fish division of
13 the energy, minerals and natural resources department the
14 position of "reserve conservation officer", which shall be a
15 nonsalaried position."

16 SECTION 13. Section 17-1-8 NMSA 1978 (being Laws 1955,
17 Chapter 181, Section 2) is amended to read:

18 "17-1-8. QUALIFICATIONS.--

19 A. Reserve conservation officer commissions shall be
20 issued only to [~~the following: (a)~~] persons who have
21 successfully completed a school of at least twenty-five hours
22 conducted by the [~~department of~~] game and fish division of the
23 energy, minerals and natural resources department covering
24 procedures and techniques of wildlife management, law
25 enforcement, public relations and such other subjects as may be

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1 deemed desirable by the [~~department of game and fish~~] division.

2 [~~(b)~~] B. The director of the game and fish division
3 may substitute a minimum of six [~~months~~] months' experience as
4 an employee of a state or federal conservation agency or a
5 state livestock law enforcement board in lieu of the
6 [~~aforementioned~~] schooling required under Subsection A of this
7 section. Any substitution made under the provisions of this
8 [~~paragraph~~] subsection shall be limited to the personnel
9 currently employed by one of the [~~aforementioned~~] conservation
10 agencies set forth in this subsection. Any appointments the
11 director may make under the provisions of this [~~paragraph will~~]
12 subsection shall terminate automatically with the termination
13 of employment by [~~said~~] the agency of the individual so
14 appointed or the individual's transfer from the state."

15 SECTION 14. Section 17-1-9 NMSA 1978 (being Laws 1955,
16 Chapter 181, Section 3, as amended) is amended to read:

17 "17-1-9. POWERS AND DUTIES OF RESERVE CONSERVATION
18 OFFICERS.--

19 A. Under the supervision of the [~~department of~~] game
20 and fish [~~and subject to such restrictions as may be provided~~
21 ~~by the state game commission~~] division of the energy, minerals
22 and natural resources department, reserve conservation officers
23 shall have authority to enforce laws and valid [~~regulations~~]
24 rules of the [~~state game commission~~] division relating to game
25 and fish and perform such duties with respect to wildlife

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1 management and conservation education as may be assigned to
2 them from time to time by the [~~department of game and fish~~]
3 division. When on duty, reserve conservation officers shall be
4 covered by the [~~Workmen's~~] Workers' Compensation Act. Reserve
5 conservation officers shall have only the rights of private
6 citizens in the enforcement of laws other than those relating
7 to game and fish.

8 B. For the purpose of calculating the amount of
9 reserve conservation officer's disability or death benefits
10 pursuant to the [~~Workmen's~~] Workers' Compensation Act, the
11 officer's average weekly wages shall be deemed to be the base
12 wage of a wildlife management officer II as classified by the
13 personnel board."

14 SECTION 15. Section 17-1-11 NMSA 1978 (being Laws 1977,
15 Chapter 290, Section 5) is amended to read:

16 "17-1-11. CONSERVATION OFFICERS--OFFICIAL DUTIES--
17 INSURANCE.--Conservation officers shall, in emergency
18 situations, be considered on duty and within the scope of their
19 employment for purposes of employee benefits and risk insurance
20 when they follow specific instructions from a duly qualified
21 full-time peace officer and in aid of [~~such~~] the peace officer
22 in the carrying out of [~~his~~] the peace officer's duties. [~~The~~
23 ~~state game commission shall expand current insurance coverage~~
24 ~~to provide protection in such situations.~~]"

25 SECTION 16. Section 17-1-13 NMSA 1978 (being Laws 1912,
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1 Chapter 85, Section 46, as amended) is amended to read:

2 "17-1-13. [~~GAME WARDEN~~] DIRECTOR--SEAL OF OFFICE [~~SHALL~~
3 ~~KEEP~~].--[~~Sec. 46.~~] The [~~State Warden~~] director of the game and
4 fish division of the energy, minerals and natural resources
5 department shall keep a seal of office [~~which~~] that shall be
6 used to authenticate all papers and documents issued and
7 executed by [~~him~~] the director as such officer."

8 SECTION 17. Section 17-1-14 NMSA 1978 (being Laws 1921,
9 Chapter 35, Section 7, as amended by Laws 2005, Chapter 38,
10 Section 1 and by Laws 2005, Chapter 177, Section 1) is amended
11 to read:

12 "17-1-14. GENERAL POWERS AND DUTIES OF [~~STATE GAME~~
13 ~~COMMISSION~~] GAME AND FISH DIVISION--GAME PROTECTION FUND--
14 LIABILITY SUSPENSE ACCOUNT.--

15 A. The [~~state game commission~~] game and fish division
16 of the energy, minerals and natural resources department shall
17 have general control over the collection and disbursement of
18 all money collected or received under the state laws for the
19 protection and propagation of game and fish, which money shall
20 be paid over to the state treasurer to the credit of the game
21 protection fund, unless otherwise provided by law, and the
22 fund, including all earned income, shall not be transferred to
23 another fund. Prior to depositing money into the game
24 protection fund, the [~~department of~~] game and fish division
25 shall ensure that an amount adequate to cover the cost of

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1 refunds allowed by the provisions of Chapter 17 NMSA 1978 is
2 held in a liability suspense account. All refunds shall be
3 made from the liability suspense account. Money not needed to
4 cover the cost of refunds shall be deposited in the game
5 protection fund at the end of each month. Chapter 17 NMSA 1978
6 shall be guaranty to the person who pays for hunting and
7 fishing licenses and permits that the money in that fund shall
8 not be used for any purpose other than as provided in Chapter
9 17 NMSA 1978.

10 B. The ~~[state game commission]~~ game and fish division
11 shall have authority to:

12 (1) establish and ~~[through the director of the~~
13 ~~department of game and fish, to]~~ operate fish hatcheries for
14 the purpose of stocking public waters of the state and to
15 furnish fish fry and fingerlings to stock private waters,
16 receipts from such sources to go into the game protection fund;

17 (2) declare closed seasons in any specified
18 locality and on any species of game or fish threatened with
19 undue depletion from any cause;

20 (3) establish game refuges for the purpose of
21 providing safe sanctuaries in which game may breed and
22 replenish adjacent hunting ranges, it being the purpose of this
23 provision to establish small refuges rather than large
24 preserves or to close large areas to hunting;

25 (4) purchase lands for game refuges where

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1 suitable public lands do not exist, to purchase lands for fish
2 hatcheries and to purchase lands to be maintained perpetually
3 as public hunting grounds, particularly lands suitable for
4 waterfowl hunting, all such lands to be paid for from the game
5 protection fund;

6 (5) receive by gift or bequest, in the name and
7 on behalf of the state, lands suitable for game refuges,
8 hunting grounds, fish hatcheries or for any other purpose
9 necessary to carry out the provisions of Chapter 17 NMSA 1978;

10 (6) apply for and accept any state, federal or
11 private funds, grants or donations from any source for game and
12 fish programs and projects;

13 (7) designate certain areas as rest grounds for
14 migratory birds, in which hunting shall be forbidden at all
15 times or at such times as the [~~state game commission~~] division
16 shall provide, it being the purpose of this provision not to
17 interfere unduly with the hunting of waterfowl but to provide
18 havens in which they can rest and feed without molestation;

19 (8) close any public stream or lake or portion
20 thereof to fishing when such action is necessary to protect a
21 recently stocked water, to protect spawning waters or to
22 prevent undue depletion of the fish;

23 (9) propagate, capture, purchase, transport or
24 sell any species of game or fish needed for restocking any
25 lands or streams of the state;

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1 (10) after reasonable notice and hearing,
2 suspend or revoke any license or permit issued pursuant to the
3 provisions of Chapter 17 NMSA 1978 and withhold license
4 privileges for a definite period not to exceed three years from
5 any person procuring a license through misrepresentation,
6 violating any provisions of Chapter 17 NMSA 1978 or hunting
7 without a proper license;

8 (11) adopt rules establishing procedures that
9 provide reasonable notice and a hearing before the [~~state game~~
10 ~~commission~~] director of the game and fish division for the
11 suspension, revocation or withholding of license privileges of
12 a person charged with violating the provisions of Chapter 17
13 NMSA 1978, subject to such judicial review as may be provided
14 by law;

15 (12) conduct studies of programs for the
16 management of endangered and nongame species of wildlife;

17 (13) establish licenses, permits and
18 certificates not otherwise provided for in Section 17-3-13 NMSA
19 1978 and charge and collect just and reasonable fees for them;
20 provided the fees shall not exceed the costs of administration
21 associated with the licenses, permits or certificates;

22 (14) permit, regulate or prohibit the commercial
23 taking or capturing of native, free-ranging amphibians or
24 reptiles not specifically protected by law, except for
25 rattlesnake roundups, collection of fish bait and lizard races;

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1 (15) adopt rules to control, eradicate or
2 prevent the spread of a contagious disease, pest or parasite,
3 including chronic wasting disease, to or among game animals.

4 The rules shall include provisions for:

5 (a) notification to the [~~department of game~~
6 ~~and fish~~] division of the diagnosis or suspected presence of a
7 contagious disease;

8 (b) examination by the state veterinarian or
9 the state veterinarian's designee of suspected infected game
10 animals;

11 (c) quarantine, treatment or destruction of
12 an infected game animal;

13 (d) disinfection and isolation of a licensed
14 private park where an infected game animal has been; and

15 (e) indemnification and destruction of a
16 protected game animal;

17 (16) as necessary, designate areas of the state
18 in which bear-proof garbage containers are required on public
19 and private lands to reduce potential human-bear interactions;
20 and

21 (17) pursuant to appropriation by the
22 legislature, expend money from the game protection fund and the
23 habitat management fund for the improvement, maintenance,
24 development and operation of property for fish and wildlife
25 habitat management.

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1 C. The director of the [~~department of~~] game and fish
2 division shall exercise all the powers and duties conferred
3 upon the state game and fish warden and the chair of the state
4 game commission by all previous statutes now in force not in
5 conflict with Chapter 17 NMSA 1978.

6 D. The [~~state game commission~~] game and fish division
7 shall have authority to prohibit all hunting in periods of
8 extreme forest fire danger, at such times and places as may be
9 necessary to reduce the danger of destructive forest fires.

10 E. The hunting, pursuing, capturing, killing or
11 wounding of any game animals, birds or fish in or upon any game
12 refuge, rest ground or closed water or closed area or during
13 any closed season established or proclaimed by the [~~state game~~
14 ~~commission~~] game and fish division in accordance with the
15 authority conferred in Chapter 17 NMSA 1978 constitutes a
16 misdemeanor and shall be punishable as prescribed in Chapter 17
17 NMSA 1978."

18 SECTION 18. Section 17-1-18 NMSA 1978 (being Laws 1964
19 (1st S.S.), Chapter 18, Section 3, as amended) is amended to
20 read:

21 "17-1-18. BONDING AUTHORITY.--Whenever the [~~state game~~
22 ~~commission, by vote of a majority of its full membership~~
23 ~~entered in its minutes~~] secretary of energy, minerals and
24 natural resources determines [~~by resolution~~], upon
25 recommendation of the director of the game and fish division of

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1 the energy, minerals and natural resources department, that it
2 is necessary to raise funds to provide for fish hatcheries and
3 rearing facilities, game and fish habitat acquisition,
4 development and improvement projects or other similar capital
5 outlay projects, the [~~commission~~] secretary may issue and sell
6 bonds of the state [~~of New Mexico~~] as provided in the Game and
7 Fish Bond Act, provided that the total amount of [~~such~~] bonds
8 issued under the authority of [~~this~~] the Game and Fish Bond Act
9 shall not exceed two million dollars (\$2,000,000). The
10 purposes stated by the [~~commission~~] secretary and the amount of
11 each bond issue shall be approved by the state board of finance
12 before issuance of the bonds. The [~~commission~~] secretary shall
13 report annually to the legislature any bonds issued pursuant to
14 [~~this~~] the Game and Fish Bond Act and the purpose for which
15 issued."

16 SECTION 19. Section 17-1-19 NMSA 1978 (being Laws 1964
17 (1st S.S.), Chapter 18, Section 4, as amended) is amended to
18 read:

19 "17-1-19. BONDS--FORM--TERMS.--Bonds issued under the
20 Game and Fish Bond Act shall be payable in consecutive order
21 over a period of not more than twenty years from the date of
22 issue. They shall be issued in denominations determined by the
23 [~~state game commission~~] secretary of energy, minerals and
24 natural resources and shall be sold at a net effective interest
25 rate not exceeding the maximum net effective interest rate

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1 permitted by the Public Securities Act, as hereafter amended
2 and supplemented. The form of the bonds shall be determined by
3 the ~~[state game commission]~~ secretary and, except with respect
4 to bonds issued in book entry or similar form without the
5 delivery of physical securities, signatures of the governor,
6 the state treasurer and the ~~[chairman of the state game~~
7 ~~commission]~~ secretary shall be affixed in compliance with the
8 Uniform Facsimile Signature of Public Officials Act. The form
9 and terms of the bonds shall be approved by the state board of
10 finance before issuance of the bonds."

11 SECTION 20. Section 17-1-20 NMSA 1978 (being Laws 1964
12 (1st S.S.), Chapter 18, Section 5, as amended) is amended to
13 read:

14 "17-1-20. SALE OF BONDS.--Bonds issued under the Game and
15 Fish Bond Act shall be sold at public or private sale as
16 determined by the ~~[state game commission]~~ secretary of energy,
17 minerals and natural resources. If sold at public sale, the
18 ~~[chairman of the commission]~~ secretary shall give notice of the
19 time, place and terms of the sale by publication in a newspaper
20 of general circulation published in Santa Fe, New Mexico, not
21 less than twenty days nor more than sixty days prior to the
22 sale date."

23 SECTION 21. Section 17-1-22 NMSA 1978 (being Laws 1964
24 (1st S.S.), Chapter 18, Section 7, as amended) is amended to
25 read:

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1 "17-1-22. SECURITY--RETIREMENT OF BONDS.--

2 A. There is created in the state treasury the "game
3 and fish bond retirement fund". The [~~state game commission~~]
4 game and fish division of the energy, minerals and natural
5 resources department shall place into the game and fish bond
6 retirement fund the sum of one dollar (\$1.00) from each license
7 enumerated in this subsection that is sold after April 1, 1976:

- 8 (1) resident, fishing;
9 (2) resident, small game;
10 (3) resident, deer;
11 (4) resident, general hunting;
12 (5) resident, general hunting and fishing;
13 (6) resident, trapper;
14 (7) nonresident, fishing;
15 (8) nonresident, small game;
16 (9) temporary fishing, five days; and
17 (10) nonresident, deer.

18 Such payments to the game and fish bond retirement fund shall
19 be effective for all bonds issued under the Game and Fish Bond
20 Act up to the maximum limitation on the amount of bonds
21 provided in that act.

22 B. Money in the game and fish bond retirement fund is
23 first pledged for the payment of principal and interest on all
24 state game commission bonds [~~which~~] that have been issued and
25 are outstanding [~~at the time of the effective date of this 1983~~

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1 ~~amendment]~~ prior to June 17, 1983. Money in the game and fish
2 bond retirement fund is further pledged for the payment of
3 principal and interest on all state game commission bonds
4 issued [~~after the effective date of this 1983 amendment]~~ as of
5 June 17, 1983. The issuance and sale of bonds under the Game
6 and Fish Bond Act [~~constitutes~~] constitute an irrevocable
7 contract between the [~~state game commission]~~ energy, minerals
8 and natural resources department and the owner of any bond, and
9 so long as any bond remains outstanding, the fees pledged for
10 payment shall not be reduced.

11 C. Bonds issued under the Game and Fish Bond Act are
12 payable solely from the game and fish bond retirement fund, and
13 they are not general obligations of the state.

14 D. The [~~state game commission]~~ game and fish division
15 shall continue to place in the game and fish bond retirement
16 fund the sum of one dollar (\$1.00) from each of the licenses
17 enumerated in Subsection A of this section, even after the fund
18 is sufficient to pay the principal and interest of the
19 outstanding bonds and after all bonds issued have been
20 retired."

21 SECTION 22. Section 17-1-22.1 NMSA 1978 (being Laws 1983,
22 Chapter 143, Section 2) is amended to read:

23 "17-1-22.1. GAME AND FISH CAPITAL OUTLAY FUND--CREATED--
24 TRANSFER OF MONEY--STATE BOARD OF FINANCE APPROVAL.--

25 A. There is created in the state treasury the "game
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1 and fish capital outlay fund".

2 B. Upon request of the [~~state game commission~~]
3 director of the game and fish division of the energy, minerals
4 and natural resources department, approved by the state board
5 of finance, the state treasurer shall transfer to the game and
6 fish capital outlay fund all money in the game and fish bond
7 retirement fund except the amount necessary to meet all
8 principal and interest payments on state game commission or
9 game and fish division bonds due in the ensuing twelve months.

10 C. Money in the game and fish capital outlay fund may
11 be expended by the [~~department of~~] game and fish division to
12 provide for fish hatcheries and rearing facilities, game and
13 fish habitat acquisition, development and improvements and
14 other similar capital projects.

15 D. Projects to be funded pursuant to Subsection C of
16 this section shall be approved by the [~~state game commission~~]
17 secretary of energy, minerals and natural resources and the
18 state board of finance prior to any money being encumbered for
19 the project.

20 E. At any time that the game and fish bond retirement
21 fund is insufficient to pay the principal and interest on all
22 bonds [~~which~~] that have been issued and are outstanding, the
23 unencumbered balance in the game and fish capital outlay fund
24 shall be transferred to the game and fish bond retirement
25 fund."

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1 SECTION 23. Section 17-1-23 NMSA 1978 (being Laws 1964
2 (1st S.S.), Chapter 18, Section 8) is amended to read:

3 "17-1-23. CONSTRUCTION.--The Game and Fish Bond Act is
4 full authority for authorization and issuance by the [~~state~~
5 ~~game commission~~] energy, minerals and natural resources
6 department of bonds authorized by the state board of finance,
7 and the [~~commission~~] department may do anything necessary to
8 carry out the powers granted by the Game and Fish Bond Act."

9 SECTION 24. Section 17-1-25 NMSA 1978 (being Laws 1964
10 (1st S.S.), Chapter 18, Section 10) is amended to read:

11 "17-1-25. REFUNDING.--Any bonds issued under the Game and
12 Fish Bond Act may be refunded under the terms of resolutions
13 adopted by the [~~state game commission~~] secretary of energy,
14 minerals and natural resources, subject to any contractual
15 limitations involved with any outstanding bonds, claims or
16 other obligations. The proceeds of refunding bonds shall be
17 applied to retirement of the bonds to be retired or refunded,
18 or placed in escrow to be applied to payment of the bonds upon
19 presentation for payment by the holders. Refunding bonds shall
20 be issued under all applicable conditions prescribed in the
21 Game and Fish Bond Act for issuance of the original bonds."

22 SECTION 25. Section 17-1-26 NMSA 1978 (being Laws 1931,
23 Chapter 117, Section 2, as amended) is amended to read:

24 "17-1-26. RULEMAKING POWER--PREDATOR ERADICATION.--

25 A. The [~~state game commission is hereby authorized~~

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1 ~~and directed to make such~~ game and fish division of the
2 energy, minerals and natural resources department shall
3 promulgate rules [~~and regulations~~] and establish [~~such service~~]
4 services as it may deem necessary to carry out all the
5 provisions and purposes of [~~this Act~~] Chapter 17 NMSA 1978 and
6 all other acts relating to game and fish [~~and~~]. In making such
7 rules [~~and regulations~~] and in providing when, to what extent,
8 if at all, and by what means game animals, birds and fish may
9 be hunted, taken, captured, killed, possessed, sold, purchased
10 and shipped, the [~~state game and Fish commission~~] division
11 shall give due regard to the zones of temperatures and to the
12 distribution, abundance, economic value and breeding habits of
13 [~~such~~] the game animals, birds and fish.

14 B. The [~~state game commission is hereby authorized~~
15 ~~to~~] game and fish division may spend such reasonable amounts as
16 in its judgment is [~~desirable and~~] necessary annually, from
17 [~~their~~] the division's funds not otherwise needed, for the
18 eradication of predatory animals."

19 **SECTION 26.** Section 17-1-27 NMSA 1978 (being Laws 1921,
20 Chapter 35, Section 10) is amended to read:

21 "17-1-27. RULES--NOTICE AND HEARING.--Whenever three
22 percent of the duly qualified electors of any county affected
23 by a rule [~~or regulation~~] promulgated by the [~~commission~~] game
24 and fish division of the energy, minerals and natural resources
25 department, concerning hunting or fishing within [~~said~~] that

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1 county, ~~[shall]~~ petition the ~~[commission]~~ division in writing
2 requesting a hearing, the ~~[commission]~~ division shall grant a
3 public hearing, the time, place and purpose of which shall be
4 set forth by advertising in one or more newspapers of general
5 circulation within the state not less than ten ~~(10)~~ days
6 before the date of ~~[such]~~ the hearing, and shall, on the date
7 of hearing, give full opportunity for all persons to be heard
8 on the point in controversy; ~~[but]~~ provided that nothing in
9 this section shall be construed as suspending or invalidating
10 any such rule ~~[or regulation]~~, unless it is suspended or
11 revoked by the ~~[commission]~~ division."

12 SECTION 27. Section 17-1-28 NMSA 1978 (being Laws 1939,
13 Chapter 19, Section 1) is amended to read:

14 "17-1-28. ASSENT TO ACT OF CONGRESS.--The state of New
15 Mexico hereby assents to the provisions of the act of congress
16 of the United States of America entitled "An act to provide
17 that the United States shall aid the states in wildlife
18 restoration projects, and for other purposes", approved
19 September [7] 2, 1937 (Public Number 415, 75th Congress), and
20 the ~~[state game commission]~~ game and fish division of the
21 energy, minerals and natural resources department is hereby
22 authorized and directed to perform all ~~[such]~~ acts as may be
23 necessary to the conduct and establishment of cooperative
24 wildlife restoration projects as defined by ~~[said]~~ that act of
25 congress and in compliance with ~~[said]~~ that act and rules and

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1 regulations promulgated by the secretary of [~~agriculture~~] the
2 interior thereunder."

3 SECTION 28. Section 17-1-29 NMSA 1978 (being Laws 1939,
4 Chapter 19, Section 2) is amended to read:

5 "17-1-29. DISTRIBUTION OF FEDERAL FUNDS.--The [~~state game~~
6 ~~commission~~] game and fish division of the energy, minerals and
7 natural resources department is authorized to receive any
8 [~~moneys~~] money to which the state [~~of New Mexico~~] may become
9 entitled under the [~~aforsaid act of congress~~] federal Wildlife
10 and Sport Fish Restoration Programs Improvement Act of 2000.
11 Such [~~moneys~~] money, when received, [~~to~~] shall be deposited
12 with the state treasurer [~~of the state of New Mexico~~] to the
13 credit of the [~~state~~] game protection fund, expended for the
14 purpose designated and withdrawn [~~and~~] as other [~~moneys are~~]
15 money is withdrawn from the [~~state~~] game protection fund."

16 SECTION 29. Section 17-2-1 NMSA 1978 (being Laws 1931,
17 Chapter 117, Section 3, as amended) is amended to read:

18 "17-2-1. [~~COMMISSION~~] DIVISION POWERS.--The [~~state game~~
19 ~~commission~~] game and fish division of the energy, minerals and
20 natural resources department, in addition to the powers now
21 vested in it and not as a limitation of those powers, is
22 expressly authorized and empowered by [~~regulation~~] rule adopted
23 and promulgated in the manner provided in Chapter 17 NMSA 1978
24 to:

25 A. define game birds, game animals and game fish;

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1 B. establish open and closed seasons for the killing
2 or taking of all kinds of game animals, game birds and game
3 fish and to change such open seasons from year to year and to
4 fix different seasons for different parts of the state;

5 C. establish bag limits covering all kinds of game
6 animals, game birds and game fish and the numbers thereof
7 [~~which~~] that may be killed or taken by any one person during
8 any one day or during any one open season;

9 D. authorize or prohibit the killing or taking of any
10 game animals, game birds or game fish of any kind or sex;

11 E. prescribe the manner, methods and devices [~~which~~]
12 that may be used in hunting, taking or killing game animals,
13 game birds and game fish;

14 F. prescribe rules [~~and regulations~~] to prohibit any
15 vehicle or vehicles used in transporting persons engaged in
16 hunting, taking or killing game animals, game birds and game
17 fish from leaving established roadways; and

18 G. appoint one or more advisory committees to furnish
19 advice, evaluations and recommendations for wildlife management
20 projects utilizing revenue derived from the sale of public land
21 management stamps. The advisory committees shall be created
22 pursuant to the procedures of Section 9-1-9 NMSA 1978, provided
23 that the restrictions on the life of advisory committees
24 contained in Subsection F of that section shall not be
25 applicable."

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1 SECTION 30. Section 17-2-2 NMSA 1978 (being Laws 1937,
2 Chapter 23, Section 1) is amended to read:

3 "17-2-2. GAME TO BE PROTECTED.--The game animals and
4 quadrupeds, game birds and fowl and game fish as [~~herein~~
5 defined in Chapter 17 NMSA 1978 shall be protected, and
6 hunting, taking, capturing, killing or possession of or attempt
7 to hunt, take, capture or kill [~~of~~] any or all species named
8 [~~herein~~] in that chapter shall be regulated by the [~~state game~~
9 ~~commission~~] game and fish division of the energy, minerals and
10 natural resources department under the authority of Chapter
11 [~~117 of the 1931 Session Laws of the State of New Mexico~~] 17
12 NMSA 1978."

13 SECTION 31. Section 17-2-4.2 NMSA 1978 (being Laws 2001,
14 Chapter 66, Section 2) is amended to read:

15 "17-2-4.2. AMPHIBIANS AND REPTILES--PROTECTED--
16 PERMITS--UNLAWFUL TAKING--MISDEMEANOR--PENALTIES.--

17 A. All species, except for those collected in
18 rattlesnake roundups, for fish bait or for lizard races, of
19 native, free-ranging amphibians and reptiles are hereby
20 classified as protected nongame animals for commercial taking
21 purposes. The commercial taking or capturing of native, free-
22 ranging amphibians and reptiles is prohibited except by a
23 permit issued by the [~~state game commission~~] game and fish
24 division of the energy, minerals and natural resources
25 department.

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1 B. The ~~[state game commission]~~ game and fish division
2 shall adopt rules necessary to administer Paragraph (14) of
3 Subsection A of Section 17-1-14 NMSA 1978 and this section to
4 assure that viable populations of native, free-ranging
5 amphibians and reptiles are maintained in the state.

6 C. If the ~~[state game commission]~~ game and fish
7 division determines that it will offer permits to take or
8 capture native, free-ranging amphibians or reptiles, the
9 ~~[commission]~~ division shall adopt a rule listing protected
10 native, free-ranging amphibians and reptiles that may be taken
11 or captured after taking into consideration any criteria that
12 can be shown to have an effect from commercial takings on the
13 viability of the species population in the state.

14 D. Unlawful taking of a native, free-ranging
15 amphibian or reptile consists of intentionally taking or
16 capturing, for commercial purposes, a regulated native, free-
17 ranging amphibian or reptile without a valid permit from the
18 ~~[state game commission]~~ game and fish division.

19 E. Amphibians and reptiles may be removed, captured
20 or destroyed without a permit, by any person, in emergency
21 situations involving an immediate threat to human life or
22 private property.

23 F. Whoever commits unlawful taking of a native, free-
24 ranging amphibian or reptile is guilty of a misdemeanor and
25 shall be fined not less than fifty dollars (\$50.00) per

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1 occurrence and not more than one thousand dollars (\$1,000) per
2 occurrence or be imprisoned for not more than one year or both.

3 G. As referred to in this section, "taking" means the
4 act of seizing amphibians or reptiles for a commercial
5 purpose."

6 SECTION 32. Section 17-2-7 NMSA 1978 (being Laws 1931,
7 Chapter 117, Section 8, as amended) is amended to read:

8 "17-2-7. UNLAWFUL HUNTING OR FISHING.--

9 A. Except as permitted by [~~regulations~~] rules adopted
10 by the [~~state game commission~~] game and fish division of the
11 energy, minerals and natural resources department or as
12 otherwise allowed by law, it is unlawful to:

13 (1) hunt, take, capture, kill or attempt to
14 take, capture or kill, at any time or in any manner, any game
15 animal, game bird or game fish in the state; or

16 (2) possess, offer for sale, sell, offer to
17 purchase or purchase in the state all or any part of any game
18 animal, game bird or game fish.

19 B. Notwithstanding any other law, the owner of
20 domestic livestock in this state or [~~his~~] the owner's regular
21 employee may hunt, take, capture or kill any cougar or bear
22 [~~which~~] that has killed domestic livestock. The owner of
23 livestock or [~~his~~] the owner's regular employee who takes
24 action under this provision [~~will~~] shall report this action to
25 the [~~department of~~] game and fish [~~who will~~] division, which

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1 shall verify the necessity of the action taken.

2 C. Violation of this section is a misdemeanor and
3 shall be punished as provided in Section 17-2-10 NMSA 1978.

4 D. The provisions of this section shall not be deemed
5 to prohibit the possession of game animals, birds or fish taken
6 legally in any other jurisdiction."

7 SECTION 33. Section 17-2-7.1 NMSA 1978 (being Laws 1993,
8 Chapter 94, Section 1) is amended to read:

9 "17-2-7.1. INTERFERENCE PROHIBITED--CRIMINAL PENALTIES--
10 CIVIL PENALTIES--REVOCAION OF LICENSE, CERTIFICATE OR
11 PERMIT.--

12 A. It is unlawful for a person to commit interference
13 with another person who is lawfully hunting, trapping or
14 fishing in an area where hunting, trapping or fishing is
15 permitted by a custodian of public property or an owner or
16 lessee of private property.

17 B. A person who commits a:

18 (1) first offense of interference is guilty of a
19 petty misdemeanor and shall be sentenced pursuant to the
20 provisions of Section 31-19-1 NMSA 1978; and

21 (2) second or subsequent offense of interference
22 is guilty of a misdemeanor and shall be sentenced pursuant to
23 the provisions of Section 31-19-1 NMSA 1978.

24 C. When a person who commits interference possesses a
25 license, certificate or permit issued to ~~him~~ the person by

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1 the ~~[state game commission]~~ game and fish division of the
2 energy, minerals and natural resources department, the license,
3 certificate or permit shall be subject to revocation by the
4 ~~[commission]~~ division pursuant to the provisions of Sections
5 17-1-14 and 17-3-34 NMSA 1978.

6 D. As used in this section, "interference" means:

7 (1) intentionally placing oneself in a location
8 where a human presence may affect the behavior of a game
9 animal, bird or fish or the feasibility of killing or taking a
10 game animal, bird or fish with the intent of interfering with
11 or harassing another person who is lawfully hunting, trapping
12 or fishing;

13 (2) intentionally creating a visual, aural,
14 olfactory or physical stimulus for the purpose of affecting the
15 behavior of a game animal, bird or fish with the intent of
16 interfering with or harassing another person who is lawfully
17 hunting, trapping or fishing; or

18 (3) intentionally affecting the condition or
19 altering the placement of personal property used for the
20 purpose of killing or taking a game animal, bird or fish.

21 E. Nothing in this section shall be construed to
22 include a farmer or rancher in pursuit of ~~[his]~~ normal farm or
23 ranch operation or a law enforcement officer in pursuit of
24 ~~[his]~~ official duties."

25 SECTION 34. Section 17-2-7.2 NMSA 1978 (being Laws 1997,

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1 Chapter 224, Section 3) is amended to read:

2 "17-2-7.2. LANDOWNER TAKING--CONDITIONS--~~[DEPARTMENT]~~
3 DIVISION RESPONSIBILITIES.--

4 A. A landowner or lessee, or an employee of either,
5 may take or kill an animal on private land, in which [~~they~~
6 ~~have~~] the landowner or lessee has an ownership or leasehold
7 interest, including game animals and other quadrupeds, game
8 birds and fowl, that presents an immediate threat to human life
9 or an immediate threat of damage to property, including crops;
10 provided, however, that the taking or killing is reported to
11 the [~~department of game and fish~~] division within twenty-four
12 hours and before the removal of the carcass of the animal
13 killed, in accordance with [~~regulations~~] rules adopted by the
14 [~~commission~~] division.

15 B. A landowner or lessee, or an employee of either,
16 may take or kill animals on private land, in which [~~they have~~]
17 the landowner or lessee has an ownership or leasehold interest,
18 including game animals and other quadrupeds, game birds and
19 fowl, that present a threat to human life or damage to
20 property, including crops, according to [~~regulations~~] rules
21 adopted by the [~~commission~~] division. The [~~regulations~~] rules
22 shall:

23 (1) provide a method for filing a complaint to
24 the [~~department~~] division by the landowner or lessee, or an
25 employee of either of them, of the existence of a depredation

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1 problem;

2 (2) provide for various [~~departmental~~]
3 interventions by the division, depending upon the type of
4 animal and depredation;

5 (3) require the [~~department~~] division to offer
6 at least three different interventions, if practical;

7 (4) require the [~~department~~] division to respond
8 to the initial and any subsequent complaints within ten days
9 with an intervention response to the complaint and to carry out
10 the intervention, if agreed upon between the [~~department~~]
11 division and the landowner, within five days of that agreement;

12 (5) permit the landowner or lessee to reject for
13 good cause the interventions offered by the [~~department~~]
14 division;

15 (6) require a landowner or lessee to demonstrate
16 that the property depredation is greater in value than the
17 value of any wildlife-related income or fee collected by the
18 landowner or lessee for permission to take or kill an animal of
19 the same species on the private property or portion of the
20 private property identified in the complaint as the location
21 where the depredation occurred; and

22 (7) permit the landowner, lessee or employee,
23 when interventions by the [~~department~~] division have not been
24 successful and after one year from the date of the filing of
25 the initial complaint, to kill or take an animal believed

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1 responsible for property depredation.

2 C. For purposes of this section:

3 [~~(1)~~ "commission" means the state game
4 commission;

5 ~~(2)~~ "department"] (1) "division" means the
6 [~~department of~~] game and fish division of the energy, minerals
7 and natural resources department; and

8 [~~(3)~~] (2) "intervention" means a solution
9 proposed by the [~~department~~] division to eliminate the
10 depredation."

11 SECTION 35. Section 17-2-8 NMSA 1978 (being Laws 1977,
12 Chapter 70, Section 1) is amended to read:

13 "17-2-8. WASTE OF GAME.--It is unlawful for any person:

14 A. who hunts or fishes and takes any game mammal
15 designated in [~~Paragraphs~~] Paragraph (2), (3) or (4) of
16 Subsection A of Section [~~53-2-3 NMSA 1953~~] 17-2-3 NMSA 1978,
17 any game bird or any game fish to fail to transport the edible
18 portions of the meat obtained to [~~his~~] the person's home for
19 human consumption or to provide for the human consumption
20 thereof under any [~~commission regulations~~] rules of the game
21 and fish division of the energy, minerals and natural resources
22 department pertaining to exportation, transportation and
23 donation of game; or

24 B. who wounds or may have wounded any game mammal
25 designated in [~~Paragraphs~~] Paragraph (2), (3) or (4) of

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1 Subsection A of Section [~~53-2-3 NMSA 1953~~] 17-2-3 NMSA 1978 to
2 fail to go to the place where the mammal sustained or may have
3 sustained the wound and make a reasonable attempt to track the
4 mammal and reduce it to possession."

5 SECTION 36. Section 17-2-9 NMSA 1978 (being Laws 1931,
6 Chapter 117, Section 9, as amended) is amended to read:

7 "17-2-9. JURISDICTION OF MAGISTRATE COURT.--The
8 magistrate court has jurisdiction in all cases arising under
9 Chapter [~~53-NMSA-1953~~] 17 NMSA 1978 and [~~regulations~~] rules
10 promulgated by the [~~state game commission~~] game and fish
11 division of the energy, minerals and natural resources
12 department. In addition to other jurisdiction, a magistrate
13 has jurisdiction over such cases arising in any magistrate
14 district adjoining at any point that in which [~~he~~] the
15 magistrate serves, with the consent of the accused."

16 SECTION 37. Section 17-2-10 NMSA 1978 (being Laws 1931,
17 Chapter 117, Section 7, as amended) is amended to read:

18 "17-2-10. VIOLATION OF GAME AND FISH LAWS OR
19 [~~REGULATIONS~~] RULES--PENALTIES.--

20 A. [~~Any~~] A person violating any of the provisions of
21 Chapter 17 NMSA 1978 or any [~~regulations~~] rules adopted by the
22 [~~state game commission~~] game and fish division of the energy,
23 minerals and natural resources department that relate to the
24 time, extent, means or manner that game animals, birds or fish
25 may be hunted, taken, captured, killed, possessed, sold,

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1 purchased or shipped is guilty of a misdemeanor and upon
2 conviction may be sentenced to imprisonment in the county jail
3 for a term not to exceed six months. In addition, the person
4 shall be sentenced to the payment of a fine in accordance with
5 the following schedule:

6 (1) for illegally taking, attempting to take,
7 killing, capturing or possessing of each deer, antelope,
8 javelina, bear or cougar during a closed season, a fine of four
9 hundred dollars (\$400);

10 (2) for illegally taking, attempting to take,
11 killing, capturing or possessing of each elk, bighorn sheep,
12 oryx, ibex or Barbary sheep, a fine of one thousand dollars
13 (\$1,000);

14 (3) for hunting big game without a proper and
15 valid license, lawfully procured, a fine of one hundred dollars
16 (\$100);

17 (4) for exceeding the bag limit of any big game
18 species, a fine of four hundred dollars (\$400);

19 (5) for attempting to exceed the bag limit of
20 any big game species by the hunting of any big game animal
21 after having tagged a similar big game species, a fine of two
22 hundred dollars (\$200);

23 (6) for signing a false statement to procure a
24 resident hunting or fishing license when the applicant is
25 residing in another state at the time of application for a

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1 license, a fine of four hundred dollars (\$400);

2 (7) for using a hunting or fishing license
3 issued to another person, a fine of one hundred dollars (\$100);

4 (8) for a violation of Section 17-2-31 NMSA
5 1978, a fine of three hundred dollars (\$300);

6 (9) for selling, offering for sale, offering to
7 purchase or purchasing any big game animal, unless otherwise
8 provided by Chapter 17 NMSA 1978, a fine of one thousand
9 dollars (\$1,000);

10 (10) for illegally taking, attempting to take,
11 killing, capturing or possessing of each jaguar, a fine of two
12 thousand dollars (\$2,000); and

13 (11) for a violation of the provisions of
14 Subsection A of Section 17-2A-3 NMSA 1978, a fine of five
15 hundred dollars (\$500).

16 B. A person convicted a second time for violating any
17 of the provisions of Chapter 17 NMSA 1978 or any [~~regulations~~]
18 rules adopted by the [~~state game commission~~] game and fish
19 division that relate to the time, extent, means or manner that
20 game animals, birds or fish may be hunted, taken, captured,
21 killed, possessed, sold, purchased or shipped is guilty of a
22 misdemeanor and upon conviction may be sentenced to
23 imprisonment in the county jail for a term of not more than
24 three hundred sixty-four days. In addition, the person shall
25 be sentenced to the payment of a fine in accordance with the

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1 following schedule:

2 (1) for illegally taking, attempting to take,
3 killing, capturing or possessing of each deer, antelope,
4 javelina, bear or cougar during a closed season, a fine of six
5 hundred dollars (\$600);

6 (2) for illegally taking, attempting to take,
7 killing, capturing or possessing of each elk, bighorn sheep,
8 oryx, ibex or Barbary sheep, a fine of one thousand five
9 hundred dollars (\$1,500);

10 (3) for hunting big game without a proper and
11 valid license, lawfully procured, a fine of four hundred
12 dollars (\$400);

13 (4) for exceeding the bag limit of any big game
14 species, a fine of six hundred dollars (\$600);

15 (5) for attempting to exceed the bag limit of
16 any big game species by the hunting of any big game animal
17 after having tagged a similar big game species, a fine of six
18 hundred dollars (\$600);

19 (6) for signing a false statement to procure a
20 resident hunting or fishing license when the applicant is
21 residing in another state at the time of application for a
22 license, a fine of six hundred dollars (\$600);

23 (7) for using a hunting or fishing license
24 issued to another person, a fine of two hundred fifty dollars
25 (\$250);

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1 (8) for a violation of Section 17-2-31 NMSA
2 1978, a fine of five hundred dollars (\$500);

3 (9) for selling, offering for sale, offering to
4 purchase or purchasing any big game animal, unless otherwise
5 provided by Chapter 17 NMSA 1978, a fine of one thousand five
6 hundred dollars (\$1,500);

7 (10) for illegally taking, attempting to take,
8 killing, capturing or possessing of each jaguar, a fine of four
9 thousand dollars (\$4,000); and

10 (11) for a violation of the provisions of
11 Subsection A of Section 17-2A-3 NMSA 1978, a fine of one
12 thousand dollars (\$1,000).

13 C. Notwithstanding the provisions of Section 31-18-13
14 NMSA 1978, a person convicted a third or subsequent time for
15 violating any of the provisions of Chapter 17 NMSA 1978 or any
16 [~~regulations~~] rules adopted by the [~~state game commission~~] game
17 and fish division that relate to the time, extent, means or
18 manner that game animals, birds or fish may be hunted, taken,
19 captured, killed, possessed, sold, purchased or shipped is
20 guilty of a misdemeanor and upon conviction may be sentenced to
21 imprisonment in the county jail for a term of not less than
22 ninety days, which shall not be suspended or deferred, and not
23 more than three hundred sixty-four days. In addition, the
24 person shall be sentenced to the payment of a fine in
25 accordance with the following schedule:

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1 (1) for illegally taking, attempting to take,
2 killing, capturing or possessing of each deer, antelope,
3 javelina, bear or cougar during a closed season, a fine of one
4 thousand two hundred dollars (\$1,200);

5 (2) for illegally taking, attempting to take,
6 killing, capturing or possessing of each elk, bighorn sheep,
7 oryx, ibex or Barbary sheep, a fine of three thousand dollars
8 (\$3,000);

9 (3) for hunting big game without a proper and
10 valid license, lawfully procured, a fine of one thousand
11 dollars (\$1,000);

12 (4) for exceeding the bag limit of any big game
13 species, a fine of one thousand two hundred dollars (\$1,200);

14 (5) for attempting to exceed the bag limit of
15 any big game species by the hunting of any big game animal
16 after having tagged a similar big game species, a fine of one
17 thousand dollars (\$1,000);

18 (6) for signing a false statement to procure a
19 resident hunting or fishing license when the applicant is
20 residing in another state at the time of application for a
21 license, a fine of one thousand two hundred dollars (\$1,200);

22 (7) for using a hunting or fishing license
23 issued to another person, a fine of one thousand dollars
24 (\$1,000);

25 (8) for a violation of Section 17-2-31 NMSA

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1 1978, a fine of one thousand dollars (\$1,000);

2 (9) for selling, offering for sale, offering to
3 purchase or purchasing any big game animal, unless otherwise
4 provided by Chapter 17 NMSA 1978, a fine of three thousand
5 dollars (\$3,000);

6 (10) for illegally taking, attempting to take,
7 killing, capturing or possessing of each jaguar, a fine of six
8 thousand dollars (\$6,000); and

9 (11) for a violation of the provisions of
10 Subsection A of Section 17-2A-3 NMSA 1978, a fine of two
11 thousand dollars (\$2,000).

12 D. ~~Any~~ A person who is convicted of a violation of
13 any ~~regulations~~ rules adopted by the ~~[state game commission]~~
14 game and fish division that relate to the time, extent, means
15 or manner that game animals, birds or fish may be hunted,
16 taken, captured, killed, possessed, sold, purchased or shipped
17 or of a violation of any of the provisions of Chapter 17 NMSA
18 1978, for which a punishment is not set forth under this
19 section, shall be fined not less than fifty dollars (\$50.00) or
20 more than five hundred dollars (\$500) or imprisoned not more
21 than six months or both.

22 E. The provisions of this section shall not be
23 interpreted to prevent, constrain or penalize a Native American
24 for engaging in activities for religious purposes, as provided
25 in Section 17-2-14 or 17-2-41 NMSA 1978.

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1 F. The provisions of this section shall not apply to
2 a landowner or lessee, or an employee of either of them, who
3 kills an animal on private land, in which they have an
4 ownership or leasehold interest, that is threatening human life
5 or damaging or destroying property, including crops; provided,
6 however, that the killing is reported to the [~~department of~~]
7 game and fish division within twenty-four hours and before the
8 removal of the carcass of the animal killed; and provided
9 further that all actions authorized in this subsection are
10 carried out according to [~~regulations~~] rules of the
11 [~~department~~] division."

12 SECTION 38. Section 17-2-10.1 NMSA 1978 (being Laws 1995,
13 Chapter 177, Section 1) is amended to read:

14 "17-2-10.1. GAME AND FISH PENALTY ASSESSMENT
15 MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

16 A. As used in Chapter 17 NMSA 1978, "penalty
17 assessment misdemeanor" means a violation of any of the
18 following listed sections of the NMSA 1978 for which the listed
19 penalty assessment is established:

20 COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
21 Fishing without a license	17-3-17	\$ 75.00
22 Hunting small game without		
23 a license	17-3-1	\$100.00.

24 B. When an alleged violator of a penalty assessment
25 misdemeanor elects to accept a notice to appear in lieu of a

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1 notice of penalty assessment, no fine imposed upon later
2 conviction shall exceed the penalty assessment established for
3 the particular penalty assessment misdemeanor.

4 C. With the penalty assessment collected for each
5 penalty assessment misdemeanor pursuant to this section, there
6 shall be assessed and collected the cost of the appropriate
7 license that the violator failed to produce. Upon presentation
8 of proof of payment of the penalty assessment, the director of
9 the [~~department of~~] game and fish division of the energy,
10 minerals and natural resources department shall issue the
11 appropriate license."

12 SECTION 39. Section 17-2-10.2 NMSA 1978 (being Laws 1995,
13 Chapter 177, Section 2) is amended to read:

14 "17-2-10.2. GAME AND FISH PENALTY ASSESSMENT--PAYMENT.--

15 A. Unless a warning notice is given to an alleged
16 violator, at the time the alleged violator is charged with a
17 penalty assessment misdemeanor, the conservation officer shall
18 offer the alleged violator the option of accepting a penalty
19 assessment. The signature of the alleged violator on the
20 penalty assessment notice constitutes an acknowledgment of
21 guilt of the offense stated in the notice. The acknowledgment
22 shall be included in accrual of points toward revocation of
23 licenses as provided for in Section 17-3-34 NMSA 1978 or in
24 [~~regulations~~] rules adopted to implement that section.

25 B. Payment of [~~any~~] a penalty assessment, including

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1 cost of the appropriate license, shall be mailed to the [~~state~~
2 ~~game commission~~] game and fish division of the energy, minerals
3 and natural resources department within thirty days from the
4 date of charge. Payment of penalty assessments are timely if
5 postmarked within thirty days from the date of the charge. The
6 [~~commission~~] division may issue a receipt when a penalty
7 assessment is paid by currency, but checks tendered by the
8 violator upon which payment is received are sufficient receipt.

9 C. No record of [~~any~~] a penalty assessment payment is
10 admissible as evidence in court in [~~any~~] a civil action."

11 SECTION 40. Section 17-2-10.3 NMSA 1978 (being Laws 1995,
12 Chapter 177, Section 3) is amended to read:

13 "17-2-10.3. GAME AND FISH PENALTY ASSESSMENT--LICENSE
14 REVOCATION.--

15 A. The [~~state game commission~~] game and fish division
16 of the energy, minerals and natural resources department is
17 authorized to revoke the hunting or fishing license, or both,
18 of a person who fails to pay a penalty assessment or who fails
19 to appear, after proper notice, for hearings as required by law
20 or [~~regulation~~] rule.

21 B. The [~~state game commission~~] game and fish division
22 may revoke the hunting or fishing license, or both, of any
23 person, resident or nonresident, who is convicted in another
24 state of any single offense that, if committed in New Mexico,
25 would be grounds for revocation of license."

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1 SECTION 41. Section 17-2-11 NMSA 1978 (being Laws 1912,
2 Chapter 85, Section 40, as amended) is amended to read:

3 "17-2-11. [~~GAME--FISH~~] PROSECUTIONS--~~[ACCOMPLICES MAY~~
4 ~~TESTIFY--EVIDENCE]~~ ACCOMPLICE TESTIMONY--IMMUNITY.--[SEC. 40.]

5 In any prosecution under [~~this~~] Chapter 17 NMSA 1978, any
6 participant in a violation thereof, when so requested by the
7 district attorney, [~~State Warden~~] director of the game and fish
8 division of the energy, minerals and natural resources
9 department or other officer instituting the prosecution, may
10 testify as a witness against any other person charged with
11 violating the same, and [~~his~~] the accomplice's evidence so
12 given shall not be used against [~~him~~] the accomplice in any
13 prosecution for [~~such~~] that violation."

14 SECTION 42. Section 17-2-12 NMSA 1978 (being Laws 1937,
15 Chapter 23, Section 3, as amended) is amended to read:

16 "17-2-12. REFUGES--FIREARMS [~~ON~~] PROHIBITED--
17 EXCEPTIONS.--It is unlawful for any person to carry, transport
18 or have in [~~his~~] the person's possession bows, arrows,
19 crossbows or firearms of any kind or description within or upon
20 any game refuge or to discharge any firearm or arrow into or
21 within any state game refuge in New Mexico; provided that this
22 section shall not apply to any county, state or federal officer
23 in the discharge of [~~his~~] official duties [~~nor~~] or to persons
24 crossing refuges over public roads and trails with firearms
25 unloaded or taken down; and provided further that permits may

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1 be issued by the director of the game and fish division of the
2 energy, minerals and natural resources department to stockmen,
3 trappers, ranchers and property owners, or their employees, to
4 carry firearms while engaged in the discharge of their
5 legitimate affairs on or within game refuges."

6 SECTION 43. Section 17-2-13 NMSA 1978 (being Laws 1912,
7 Chapter 85, Section 55, as amended) is amended to read:

8 "17-2-13. SONGBIRDS--TRAPPING, KILLING OR INJURING
9 PROHIBITED.--It [~~shall be~~] is unlawful for any person to shoot,
10 ensnare or trap for the purpose of killing or in any other
11 manner to injure or destroy any songbird or birds whose
12 principal food consists of insects, comprising all the species
13 and varieties of birds represented by the several families of
14 bluebirds, including the western and mountain bluebirds; also
15 bobolinks, catbirds, chickadees, cuckoos, which includes the
16 chaparral bird or roadrunner (*Geococcyx novo mexicanus*),
17 flickers, flycatchers, grosbeaks, hummingbirds, kinglets,
18 martins, meadowlarks, nighthawks or bull bats, nuthatches,
19 orioles, robins, shrikes, swallows, swifts, tanagers, titmice,
20 thrushes, vireos, warblers, waxwings, [~~whippoorwills~~]
21 whippoorwills, woodpeckers, wrens and all other perching birds
22 [~~which~~] that feed entirely or chiefly on insects. This section
23 does not prohibit the killing of such birds for scientific
24 purposes under permits from the [~~department of~~] game and fish
25 division of the energy, minerals and natural resources

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1 department."

2 SECTION 44. Section 17-2-14 NMSA 1978 (being Laws 1973,
3 Chapter 104, Section 1, as amended) is amended to read:

4 "17-2-14. HAWKS, VULTURES AND OWLS--TAKING, POSSESSING,
5 TRAPPING, DESTROYING, MAIMING OR SELLING PROHIBITED--EXCEPTION
6 BY PERMIT--PENALTY.--

7 A. It is unlawful for any person to take, attempt to
8 take, possess, trap or ensnare or in any manner to injure, maim
9 or destroy birds of the order Falconiformes, comprising all of
10 the species and varieties of birds represented by the several
11 families of vultures and hawks, and all of the order
12 Stringiformes, comprising all of the species and varieties of
13 owls. It is also unlawful to purchase, sell or trade, or to
14 possess for the purpose of selling or trading, any parts of
15 these birds.

16 B. The director of the [~~department of~~] game and fish
17 division of the energy, minerals and natural resources
18 department may issue permits to allow any person to take,
19 possess, trap, ensnare or destroy any bird protected by this
20 section or to possess, give, purchase, sell or trade, or to
21 possess for the purpose of selling or trading, any parts of any
22 birds protected by this section. Permits shall be granted for
23 the following purposes:

- 24 (1) Indian religious purposes;
25 (2) scientific purposes in accordance with law

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1 and the [~~regulations~~] rules of the [~~department of~~] game and
2 fish division; or

3 (3) falconry purposes in accordance with law and
4 the [~~regulations~~] rules of the [~~department~~] division.

5 C. Notwithstanding any other law, any person engaged
6 in the commercial raising of poultry or game birds may take,
7 capture or kill any hawk, owl or vulture that has killed such
8 poultry or game birds. The owner of [~~such~~] a game or poultry
9 farm who takes action under this provision shall report this
10 action to the [~~department of~~] game and fish division, which
11 shall verify the necessity of the action taken.

12 D. Any person violating the provisions of this
13 section is guilty of a petty misdemeanor."

14 SECTION 45. Section 17-2-17 NMSA 1978 (being Laws 1912,
15 Chapter 85, Section 26, as amended) is amended to read:

16 "17-2-17. GAME AND FISH--[~~HELD IN~~] STORAGE [WHEN
17 ~~LAWFUL~~].--[~~SEC. 26.~~] No game or fish shall be received or held
18 in storage except as follows [~~namely~~]:

19 [(1)] A. during the open season [~~therefor~~] for such
20 game and fish and for five days thereafter when the [~~same~~] game
21 or fish is stored for the person lawfully in possession of [~~the~~
22 ~~same~~] it;

23 [(2)] B. at any time of the year when there is
24 attached [~~thereto~~] to the game or fish a proper and valid
25 officer's invoice as provided in [~~this~~] Chapter 17 NMSA 1978

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1 relating to the seizure of game and fish, for not more than
2 thirty days after the date of [~~such~~] that invoice; or

3 [~~(3)~~] C. when there is attached [~~thereto~~] to the game
4 or fish a proper and valid certificate or permit signed by the
5 [~~State Warden or deputy~~] director of the game and fish division
6 of the energy, minerals and natural resources department or
7 conservation officer and on its face authorizing storage of the
8 [~~article named therein~~] game or fish listed in the certificate
9 or permit and during the period [~~therein stated~~] listed on the
10 certificate or permit."

11 SECTION 46. Section 17-2-19 NMSA 1978 (being Laws 1912,
12 Chapter 85, Section 57, as amended) is amended to read:

13 "17-2-19. ENFORCEMENT OF GAME LAWS--POWERS OF
14 CONSERVATION OFFICERS.--

15 A. The director of the [~~department of~~] game and fish
16 division of the energy, minerals and natural resources
17 department, each conservation officer, each sheriff in [~~his~~]
18 the sheriff's respective county and each member of the New
19 Mexico state police shall enforce Chapter 17 NMSA 1978 and
20 shall:

21 (1) seize any game or fish held in violation of
22 that chapter;

23 (2) with or without warrant, arrest any person
24 whom [~~he~~] the director, conservation officer, sheriff or state
25 police officer knows to be guilty of a violation of that

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1 chapter; and

2 (3) open, enter and examine all camps, wagons,
3 cars, tents, packs, boxes, barrels and packages where [~~he has~~]
4 there is reason to believe any game or fish taken or held in
5 violation of that chapter is to be found, and seize it.

6 B. Any warrant for the arrest of a person shall be
7 issued upon sworn complaint, the same as in other criminal
8 cases, and any search warrant shall issue upon a written
9 showing of probable cause, supported by oath or affirmation,
10 describing the places to be searched or the persons or things
11 to be seized.

12 C. Conservation officers may, under the direction of
13 the [~~state game commission and the~~] director of the [~~department~~
14 ~~of~~] game and fish division:

15 (1) establish [~~from time to time, as needed for~~
16 ~~the proper functioning of the game and fish research and~~
17 ~~management division~~] checking stations at points along
18 established roads, or roadblocks, for the purpose of collecting
19 biological information or detecting and apprehending persons
20 violating the game and fish laws and the [~~regulations~~] rules
21 referred to in Section 17-2-10 NMSA 1978;

22 (2) under emergency circumstances and while on
23 official duty only enforce the provisions of the Criminal Code
24 and the Motor Vehicle Code; and

25 (3) while on official duty only, enforce the

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1 provisions of:

2 (a) Sections 30-14-1 and 30-14-1.1
3 NMSA 1978 pertaining to criminal trespass;

4 (b) Section 30-7-4 NMSA 1978 pertaining to
5 negligent use of a deadly weapon;

6 (c) Section 30-15-1 NMSA 1978 pertaining to
7 criminal damage to property;

8 (d) Section 30-22-1 NMSA 1978 pertaining to
9 resisting, evading or obstructing an officer; and

10 (e) Section 72-1-8 NMSA 1978 pertaining to
11 camping next to a manmade water hole."

12 SECTION 47. Section 17-2-20 NMSA 1978 (being Laws 1912,
13 Chapter 85, Section 31, as amended) is amended to read:

14 "17-2-20. [~~PUBLIC NUISANCE--NETS, TRAPS, EXPLOSIVES--WHEN~~
15 ~~DEEMED TO BE--PROVISO~~] UNLAWFUL DEVICES--SEIZURE AND
16 DESTRUCTION.--[SEC. 31.] Every net, trap, explosive, poisonous
17 or stupefying substance or device used or intended for use in
18 taking or killing game or fish in violation of [~~this~~] Chapter
19 17 NMSA 1978 and set, kept or found in or upon any of the
20 streams or waters in this state or upon the shores thereof, and
21 every trap, device, blind or deadfall found baited in violation
22 of [~~this~~] that chapter, is declared to be a public nuisance and
23 may be abated and summarily destroyed by any person [~~and~~]. It
24 [~~shall be~~] is the duty of every officer authorized to enforce
25 [~~this~~] that chapter to seize and summarily destroy the same,

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1 and no prosecution or suit shall be maintained for such
2 destruction; provided that nothing in [~~this~~] that chapter shall
3 be construed as affecting the right of the [~~State Warden~~]
4 director of the game and fish division of the energy, minerals
5 and natural resources department to use such means as may be
6 proper for the promotion of game and fish propagation and
7 culture [~~nor~~] or as authorizing the seizure or destruction of
8 firearms."

9 SECTION 48. Section 17-2-20.3 NMSA 1978 (being Laws 1979,
10 Chapter 321, Section 3) is amended to read:

11 "17-2-20.3. PENALTIES.--The following violations [~~shall~~]
12 constitute a misdemeanor:

13 A. illegal possession or transportation of big game
14 during closed season;

15 B. taking or attempting to take big game during
16 closed season;

17 C. taking or attempting to take big game by the use
18 of spotlight or artificial light;

19 D. selling or attempting to sell big game or parts
20 thereof, except as permitted by [~~regulation~~] rules of the
21 [~~state game commission~~] game and fish division of the energy,
22 minerals and natural resources department; and

23 E. exceeding the bag limit on any big game species
24 during open season."

25 SECTION 49. Section 17-2-21 NMSA 1978 (being Laws 1912,

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1 Chapter 85, Section 23, as amended) is amended to read:

2 "17-2-21. GAME AND FISH--SEIZED BY OFFICERS--DISPOSAL
3 [~~OF~~]--PROCEEDS.--[~~SEC. 23.~~] All game and fish seized under the
4 game laws shall without unnecessary delay be sold by the
5 officer making [~~such~~] the seizure or by the [~~State Warden~~]
6 director of the game and fish division of the energy, minerals
7 and natural resources department, except when such sale is
8 impracticable or likely to incur expenses exceeding the
9 proceeds, in which case the [~~same~~] game or fish shall be
10 donated to some charitable institution or needy person not
11 concerned in the unlawful killing or possession thereof. The
12 officer making [~~such~~] the seizure shall sign and give to each
13 purchaser or donee an invoice stating the time and place of
14 disposition, the kind and weight as near as may be of the game
15 or fish disposed of and the name of the purchaser or donee.
16 [~~Such~~] The invoice [~~shall authorize~~] authorizes possession,
17 transportation and use within the state and storage for thirty
18 days from date. The proceeds from [~~such~~] the sale, after
19 deducting the cost of seizure and sale, shall, if made by the
20 [~~State Warden~~] director of the division or any [~~deputy~~]
21 conservation officer under salary, be paid into the game
22 protection fund, but if made by a [~~deputy warden~~] conservation
23 officer not under salary, or any other officer, the proceeds
24 shall be paid one-half to the officer making [~~such~~] the
25 seizure."

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1 SECTION 50. Section 17-2-26 NMSA 1978 (being Laws 1912,
2 Chapter 85, Section 45, as amended) is amended to read:

3 "17-2-26. CIVIL LIABILITY.--

4 A. The director of the [~~department of~~] game and fish
5 division of the energy, minerals and natural resources
6 department, or any other officer charged with enforcement of
7 the laws relating to game and fish if so directed by the
8 director, may bring a civil action in the name of the state
9 against any person unlawfully wounding or killing, or
10 unlawfully in possession of, any game quadruped, bird or fish,
11 or part thereof, and recover judgment for the following minimum
12 sums as damages for the taking, killing or injuring:

13	for each elk-----	\$ 500.00
14	for each deer-----	250.00
15	for each antelope-----	250.00
16	for each mountain sheep-----	1,000.00
17	for each Barbary sheep-----	250.00
18	for each black bear-----	500.00
19	for each cougar-----	500.00
20	for each bison-----	600.00
21	for each ibex-----	1,000.00
22	for each oryx-----	1,000.00
23	for each javelina-----	100.00
24	for each beaver-----	65.00
25	for each bird-----	20.00

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- 1 for each fish----- 5.00
- 2 for each endangered species----- 500.00
- 3 for each raptor----- 200.00
- 4 for each turkey----- 150.00
- 5 for each jaguar----- 2,000.00.

6 B. Notwithstanding the provisions of Subsection A of
7 this section, the [~~state game commission~~] game and fish
8 division shall establish damages recoverable by civil judgment
9 on a game animal, bird or fish designated to be a trophy animal
10 by [~~commission~~] division rule.

11 C. Damages recovered pursuant to this section are
12 intended to compensate the state for the loss of unique public
13 resources and shall not be limited or reduced by the extent of
14 fines assessed pursuant to any criminal statute. The
15 [~~department of~~] game and fish division shall not award or issue
16 a license, permit or certificate to a debtor owing damages
17 pursuant to this section until the judgment has been paid in
18 full to the [~~department~~] division.

19 D. No verdict or judgment recovered by the state in
20 an action shall be for less than the sum fixed in this section.
21 The action for damages may be joined with an action for
22 possession, and recovery may be had for the possession as well
23 as the damages.

24 E. The pendency or determination of an action for
25 damages or payment of a judgment, or the pendency or

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1 determination of a criminal prosecution for the same taking,
2 wounding, killing or possession, is not a bar to the other, nor
3 does either affect the right of seizure under any other
4 provision of the laws relating to game and fish.

5 F. The provisions of this section shall not be
6 interpreted to prevent, constrain or penalize a Native American
7 for engaging in activities for religious purposes, as provided
8 in Section 17-2-14 or 17-2-41 NMSA 1978.

9 G. The provisions of this section shall not apply to
10 a landowner or lessee, or employee of either, who kills an
11 animal, on private land in which the person has an ownership or
12 leasehold interest, that is threatening human life or damaging
13 or destroying property, including crops; provided, however,
14 that the killing is reported to the [~~department of~~] game and
15 fish division within twenty-four hours and before the removal
16 of the carcass of the animal killed; and provided further that
17 all actions authorized in this subsection are carried out
18 according to rules of the [~~department~~] division."

19 SECTION 51. Section 17-2-33 NMSA 1978 (being Laws 1971,
20 Chapter 61, Section 2) is amended to read:

21 "17-2-33. USE OF FIREARMS BY MINORS.--

22 A. It is unlawful after April 1, 1972 for any person
23 born after January 1, 1958 to hunt with or shoot a firearm,
24 unless the person:

25 (1) [~~he~~] is supervised by a parent, legal

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1 guardian or a responsible adult designated by the parent or
2 guardian; [~~or~~]

3 (2) [~~he~~] carries a certificate indicating that
4 [~~he~~] the person has successfully completed the New Mexico
5 hunter training course or the hunter training course of another
6 state [~~which~~] that is approved by the [~~New Mexico department~~
7 ~~of~~] game and fish division of the energy, minerals and natural
8 resources department; or

9 (3) [~~he~~] is eighteen years of age or older.

10 B. It is unlawful after April 1, 1976 for any person
11 under the age of eighteen years to hunt with or shoot a firearm
12 unless [~~he~~] the person is carrying a certificate indicating
13 that [~~he~~] the person has successfully completed the New Mexico
14 hunter training course or a hunter training course of another
15 state [~~which~~] that is approved by the [~~New Mexico department~~
16 ~~of~~] game and fish division.

17 C. Any person violating the [~~provisions~~] provisions
18 of this section is guilty of a petty misdemeanor."

19 SECTION 52. Section 17-2-34 NMSA 1978 (being Laws 1971,
20 Chapter 61, Section 3) is amended to read:

21 "17-2-34. HUNTER TRAINING PROGRAM--INSTRUCTOR
22 CERTIFICATION--CERTIFICATE OF COMPETENCY.--

23 A. The [~~department of~~] game and fish division of the
24 energy, minerals and natural resources department shall provide
25 a course of instruction in the safe handling of firearms for

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1 individuals interested in obtaining a certificate of competency
2 in the safe handling of firearms. The [~~department~~] division
3 may cooperate with the [~~superintendent~~] secretary of public
4 [~~instruction~~] education or any reputable association or
5 organization as determined by the [~~department~~] division and
6 having as one of its objectives the promotion of safety in
7 firearm handling.

8 B. The [~~department of~~] game and fish division shall
9 prescribe the type of instruction and the qualifications of
10 instructors and shall designate annually those persons
11 qualified to give instruction in the safe handling of firearms.
12 Persons designated by the [~~department of game and fish~~]
13 division to be instructors are authorized to give the course of
14 instruction in the safe handling of firearms to all interested
15 persons. Upon the completion of the course and certification
16 to the [~~department~~] division by the instructor, the
17 [~~department~~] division shall cause to be issued, to the person
18 instructed, a certificate of competency in the safe handling of
19 firearms, which shall be valid unless revoked by the
20 [~~department of game and fish~~] division for such cause as
21 determined by [~~regulation~~] rule of the [~~department~~] division to
22 be unsafe handling of a firearm.

23 C. The [~~department of~~] game and fish division shall
24 promulgate rules [~~and regulations~~] to implement the provisions
25 of the Hunter Training Act."

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1 SECTION 53. Section 17-2-38 NMSA 1978 (being Laws 1974,
2 Chapter 83, Section 2, as amended) is amended to read:

3 "17-2-38. DEFINITIONS.--As used in the Wildlife
4 Conservation Act:

5 ~~[A. "commission" means the state game commission;~~

6 ~~B.]~~ A. "director" means the director of the
7 ~~[department of game and fish]~~ division;

8 B. "division" means the game and fish division of the
9 energy, minerals and natural resources department;

10 C. "ecosystem" means a system of living organisms and
11 their environment;

12 D. "endangered species" means any species of fish or
13 wildlife whose prospects of survival or recruitment within the
14 state are in jeopardy due to any of the following factors:

15 (1) the present or threatened destruction,
16 modification or curtailment of its habitat;

17 (2) overutilization for scientific, commercial
18 or sporting purposes;

19 (3) the effect of disease or predation;

20 (4) other natural or man-made factors affecting
21 its prospects of survival or recruitment within the state; or

22 (5) any combination of the foregoing factors.

23 The term may also include any species of fish or wildlife
24 appearing on the United States list of endangered native and
25 foreign fish and wildlife as set forth in Section 4 of the

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1 federal Endangered Species Act of 1973 as endangered species,
2 provided that the [~~commission~~] division adopts those lists in
3 whole or in part. The term shall not include any species
4 covered by the provisions of 16 U.S.C. 1331 through 1340 (1971)
5 and shall not include any species of the class insecta
6 determined by the director to constitute a pest whose
7 protection under the Wildlife Conservation Act would present an
8 overwhelming and overriding risk to man;

9 E. "investigation" means a process pursuant to
10 Subsections B through L of Section 17-2-40 NMSA 1978 undertaken
11 whenever the [~~director~~] secretary suspects that a species may
12 be threatened or endangered and [~~which~~] that consists of a
13 formal review of existing data and studies and may include
14 additional field research to determine whether a species is
15 threatened or endangered;

16 F. "land or aquatic habitat interests" means
17 interests in real property or water rights consisting of fee
18 simple title, easements in perpetuity, time certain easements,
19 long-term leases and short-term leases;

20 G. "management" means the collection and application
21 of biological information for the purposes of establishing and
22 maintaining a congruous relationship between individuals within
23 species and populations of wildlife and the carrying capacity
24 of their habitat. The term includes the entire range of
25 activities that constitutes a full scientific resource program

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1 [of], including [~~but not limited to~~] research, census, law
2 enforcement, propagation, acquisition or maintenance of land or
3 aquatic habitat interests appropriate for recovery of the
4 species; improvement and maintenance, education and related
5 activities; [~~or~~] and protection and regulated taking;

6 H. "recovery plan" means a designated program or
7 methodology reasonably expected to lead to restoration and
8 maintenance of a species and its habitat;

9 I. "peer review panel" means an advisory panel of
10 scientists, each of whom possesses expertise relevant to the
11 proposed investigation and at least one of whom is a wildlife
12 biologist, convened to review the scientific methodology for
13 collection and analysis of data by a researcher based on
14 commonly accepted scientific peer review;

15 J. "secretary" means the secretary of energy,
16 minerals and natural resources;

17 [~~J.~~] K. "species" means any species or subspecies;

18 [~~K.~~] L. "substantial public interest" means a
19 nonfrivolous claim indicated by a broad-based expression of
20 public concern;

21 [~~L.~~] M. "take" or "taking" means to harass, hunt,
22 capture or kill any wildlife or attempt to do so;

23 [~~M.~~] N. "threatened species" means any species that
24 is likely to become an endangered species within the
25 foreseeable future throughout all or a significant portion of

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1 its range in New Mexico; the term may also include any species
2 of fish or wildlife appearing on the United States list of
3 endangered native and foreign fish and wildlife as set forth in
4 Section 4 of the federal Endangered Species Act of 1973 as
5 threatened species, provided that the [~~commission~~] division
6 adopts the list in whole or in part; and

7 [N.] O. "wildlife" means any nondomestic mammal,
8 bird, reptile, amphibian, fish, mollusk or crustacean or any
9 part, egg or offspring or the dead body or parts thereof."

10 SECTION 54. Section 17-2-40 NMSA 1978 (being Laws 1974,
11 Chapter 83, Section 4, as amended) is amended to read:

12 "17-2-40. BIENNIAL REVIEW--INVESTIGATIONS--
13 RECOMMENDATIONS OF THE [~~DIRECTOR~~] SECRETARY--PROCEDURES.--

14 A. The secretary, in consultation with the director,
15 shall conduct a biennial review of all species of wildlife
16 named on the list required by Section 17-2-41 NMSA 1978. The
17 [~~director~~] secretary may conduct investigations at any time of
18 those other species of wildlife indigenous to the state that
19 are suspected of being threatened or endangered in order to
20 develop information relating to population, distribution,
21 habitat needs, limiting factors and other biological and
22 ecological data to determine [~~his~~] recommendations for listing
23 or not listing a species and management measures and
24 requirements necessary for [~~their~~] its survival. The
25 [~~director~~] secretary shall also conduct, within a reasonable

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1 time, an investigation to support listing or delisting ~~[of]~~ a
2 species based upon new evidence or ~~[with the advice and consent~~
3 ~~of the commission, based upon]~~ substantial public interest.

4 Upon completion of an investigation ~~[or investigations, he]~~,
5 the secretary shall ~~[make written recommendations to the~~
6 ~~commission]~~ determine whether to list or not list any unlisted
7 species or to delist any listed species investigated. In
8 conducting any investigation for new listing or delisting
9 required or undertaken pursuant to this subsection, the
10 ~~[director]~~ secretary shall comply with the procedures
11 established in Subsections B through L of this section.

12 Species listed as threatened or endangered on the state list
13 through adoption of the United States list pursuant to
14 Subsections D and M of Section 17-2-38 NMSA 1978 shall not be
15 subject at the time of adoption to the listing procedures
16 established in Subsections B through K of this section.

17 B. The secretary, in consultation with the director,
18 shall select a researcher to conduct an investigation pursuant
19 to Subsection A of this section and request the appointment of
20 a peer review panel composed of one qualified individual from
21 each of the four-year state universities to be appointed by the
22 presidents of the respective universities. The peer review
23 panel shall be requested to submit comments according to a
24 schedule determined by the ~~[director]~~ secretary. The
25 researcher shall submit ~~[his]~~ the research design to the peer

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1 review panel.

2 C. When additional field research is undertaken as
3 part of an investigation, the peer review panel shall examine
4 the proposed research design for methodology for collection and
5 analysis of data. Upon receipt of the peer review panel's
6 submitted comments, the researcher shall initiate the field
7 research regarding the designated species.

8 D. To the extent practicable, as part of [~~his~~] the
9 researcher's investigation, the researcher shall meet and
10 consult with private landowners, lessees and land and resource
11 managers who are or may be affected by or have information
12 pertinent to the investigation.

13 E. When the researcher initiates [~~his~~] the
14 investigation, the [~~director~~] secretary shall:

15 (1) create a public repository file in which
16 copies of all documents filed with the [~~director~~] secretary
17 pertaining to the investigation or a potential recovery plan,
18 to be developed pursuant to Section 17-2-40.1 NMSA 1978,
19 including all peer review comments, shall be maintained;

20 (2) mail a notice of the initiation of the
21 investigation to federal and state agencies, local and tribal
22 governments that are or may be affected by the results of the
23 investigation and individuals and organizations that have
24 requested notification of [~~department~~] division actions
25 regarding threatened or endangered species;

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1 (3) notify the general public of the initiation
2 of the investigation by information releases to the media in
3 the area of the state affected;

4 (4) indicate, in all notices and information
5 releases, where and until what date information may be
6 submitted for inclusion in the public repository file;

7 (5) accept data, views or information about the
8 biological or ecological status of the species for use in both
9 the investigation and the development of the potential recovery
10 plan; and

11 (6) accept data, views and information on the
12 potential economic or social impacts or opportunities of a
13 change in the legal status of the species for inclusion in the
14 recovery plan.

15 F. The ~~[director]~~ secretary shall file all written
16 comments, data, views and information furnished pursuant to
17 Subsection ~~[D]~~ E of this section in the public repository file
18 and shall preserve that file for use in connection with the
19 listing process and development of any recovery plan developed
20 pursuant to the provisions of Section 17-2-40.1 NMSA 1978. The
21 ~~[director]~~ secretary shall file in the public repository file
22 all records indicating contact by the director, the researcher,
23 employees or contractors with landowners or public or private
24 resource managers affected by the potential action.

25 G. Information from the public repository file

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1 relating to social and economic impacts shall not be considered
2 by the [~~director~~] secretary in making [~~his recommendation or~~
3 ~~the commission in making its~~] a decision to list, delist, not
4 list, continue to list, upgrade or downgrade a species, but
5 shall be considered only in the development of any recovery
6 plan for the species.

7 H. The [~~commission~~] division shall [~~adopt,~~
8 ~~notwithstanding the provisions of Section 14-2-1 NMSA 1978,~~
9 ~~regulations by January 1, 1996~~] promulgate rules governing the
10 confidentiality of data from an investigation.

11 I. The researcher shall prepare and submit draft
12 reports to the peer review panel and to the public repository
13 file. The peer review panel will be requested to examine and
14 comment on the draft report in a timely manner.

15 J. After consideration of the peer review panel's
16 submitted comments on the draft reports, the researcher shall
17 prepare final reports and file them and all peer review panel
18 comments with the [~~director~~] secretary and in the public
19 repository file. The peer review panel shall not be compelled
20 to attend any hearing before the [~~commission~~] division.

21 K. Upon receipt of the researcher's final reports,
22 the [~~director~~] secretary shall [~~make recommendations to the~~
23 ~~commission to list, not list or delist the species based upon~~
24 ~~criteria listed in Subsection L of this section. The~~
25 ~~commission shall~~] establish dates and locations for public

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1 hearings on the recommended actions and give notice of the
2 public hearings in the same manner and to the same persons as
3 notice was given of the initiation of the investigation and, in
4 addition, publish legal notice in a newspaper of general
5 circulation in the area affected at least ninety days before
6 the date set for the hearing. Public hearings shall be held at
7 a place within any quadrant of the state affected by the
8 recommended actions when the ~~[director]~~ secretary determines
9 that there is substantial public interest indicated in holding
10 a hearing in that quadrant. All hearings on the recommended
11 actions shall be held within six months of the date the
12 ~~[director makes his recommendations]~~ researcher files the final
13 report with the secretary. The notice shall:

14 (1) include the date, time and location of all
15 hearings on the matter;

16 (2) include a statement of the recommended
17 action;

18 (3) include an indication of the location and
19 availability of the public repository file;

20 (4) indicate where and by what date written
21 comments and testimony to be included in the hearing record may
22 be filed;

23 (5) indicate that views, data and comments
24 pertaining to the final report may be presented orally at or in
25 writing to the hearing;

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1 (6) specify that notice of intent to present
2 technical and scientific testimony and a written copy of the
3 testimony to be presented shall be submitted to the
4 [~~commission~~] secretary not less than thirty days prior to the
5 initial hearing; and

6 (7) specify that the public record shall remain
7 open for comments for thirty days after the date of the final
8 hearing.

9 L. The [~~commission~~] secretary shall make [~~its~~
10 ~~decisions~~] a decision and take action based upon relevant and
11 reliable evidence to list, not list or delist a species [~~at its~~
12 ~~next regularly scheduled meeting within~~] no more than thirty
13 days after the close of the hearing record. The [~~commission~~]
14 secretary shall:

15 (1) list or maintain a species as endangered and
16 shall not delist a species if [~~it~~] the secretary finds that the
17 species' prospects for survival or recruitment within the state
18 are in jeopardy based upon the biological and ecological
19 evidence in the public repository file and based upon
20 biological and ecological evidence received in the public
21 hearings; and

22 (2) list or maintain a species as threatened and
23 shall not delist a species if [~~it~~] the secretary finds that the
24 species' prospects for survival or recruitment within the state
25 are likely within the foreseeable future to be in jeopardy

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1 based upon the biological and ecological evidence in the public
2 repository file and biological and ecological evidence received
3 in public hearings.

4 M. Whenever the [~~director~~] secretary finds that there
5 is an emergency posing a significant risk to the well-being of
6 any species and that risk is likely to jeopardize the continued
7 survival or recruitment of the species within the state, the
8 [~~director~~] secretary shall [~~recommend to the commission that~~
9 ~~the species should be listed as endangered. The commission~~
10 ~~shall act upon the director's recommendation~~] immediately [~~and~~
11 ~~shall~~] either list or not list the species by [~~regulation~~] rule
12 based upon the evidence supporting the recommendation if [~~it~~]
13 the secretary finds that the continued survival of the species
14 is in jeopardy. If the [~~commission~~] secretary lists the
15 species as endangered, [~~it shall waive~~] the requirements of
16 Subsections A through L of this section shall be waived.

17 Whenever the [~~commission~~] secretary adopts a [~~regulation~~] rule
18 listing a species as endangered pursuant to this subsection, it
19 shall give notice of the listing in the same manner and to the
20 same persons as notice is given in the initiation of
21 investigations and in addition shall publish legal notice in a
22 newspaper of general circulation in the area affected. The
23 emergency listing shall cease to have force and effect at the
24 close of a three-year period following the date of the finding
25 unless, during the three-year period, the procedures for

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1 listing pursuant to Subsections B through L of this section or
2 continuing to list pursuant to [~~commission regulations~~] rules
3 for the biennial review are completed."

4 SECTION 55. Section 17-2-40.1 NMSA 1978 (being Laws 1995,
5 Chapter 145, Section 5) is amended to read:

6 "17-2-40.1. RECOVERY PLANS--PROCEDURES.--

7 A. To the extent practicable, a recovery plan shall
8 be developed pursuant to Subsections B through G of this
9 section for any species listed as threatened or endangered. If
10 indicated, the director shall conduct a social and economic
11 analysis and, if adverse impacts are found, develop a social or
12 economic mitigation plan.

13 B. To the extent practicable, the director shall
14 develop recovery plans that include several threatened or
15 endangered species that utilize similar habitats or share a
16 common threat or both. A multiple-species recovery plan shall
17 be designed to accomplish recovery of the shared habitat or
18 reduce a common threat or both.

19 C. As the initial action in the development of a
20 recovery plan, the director shall, within one year of listing,
21 schedule a public information meeting in each of the quadrants
22 of the state determined by the director to be affected by the
23 development of a recovery plan. These meetings shall be held
24 in a manner calculated to provide a reasonable opportunity for
25 individuals and private and public entities to participate and

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1 express their views about the development of a recovery plan
2 for one or more species and the attendant adverse social or
3 economic impacts, if any, that may result from implementation
4 of a recovery plan. At these meetings, the director shall
5 present background information about the basis of the listing,
6 an explanation of the process to develop a recovery plan and
7 the probable content in general terms, if known, of the
8 recovery plan and if needed, the process to develop a social
9 and economic mitigation plan.

10 D. Upon completion of the public information [~~meeting~~
11 ~~or~~] meetings on a recovery plan, the director shall consult and
12 cooperate with other states or countries when appropriate and
13 shall solicit interest from representatives of affected local
14 governments, tribal governments, landowners, state and federal
15 agencies and other interested individuals and organizations to
16 serve on an advisory committee. [~~He~~] The director shall
17 appoint to the advisory committee all of those who are willing
18 to participate in the development of the recovery plan. When
19 necessary, [~~he~~] the director may appoint from the membership of
20 the advisory committee a working group reflecting the diversity
21 of the advisory committee.

22 E. With the assistance of the advisory committee, the
23 director shall develop a draft recovery plan to achieve the
24 following objectives:

- 25 (1) restoration and maintenance of a viable

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1 population of the threatened or endangered species and its
2 habitat reasonably expected to lead to the delisting of the
3 species;

4 (2) avoidance or mitigation of adverse social or
5 economic impacts;

6 (3) identification of social or economic
7 benefits and opportunities; and

8 (4) use of volunteer resources and existing
9 economic recovery and assistance programs and funding available
10 from public and private sources to implement the plan.

11 F. The director shall mail the draft recovery plan to
12 federal and state agencies, local and tribal governments that
13 are or may be affected by the recovery plan and individuals and
14 organizations that have requested notification of [~~department~~]
15 division actions regarding threatened or endangered species.

16 G. [~~The final recovery plan shall be presented to the~~
17 ~~commission for its consideration not later than two years from~~
18 ~~the date the species was listed.~~] If, after receiving comment
19 from the entities listed in Subsection F of this section, the
20 [~~commission~~] director determines that the proposed plan has
21 achieved the objectives set forth in Subsection E of this
22 section, [~~it~~] the director shall approve the recovery plan or
23 approve with conditions. After approval of the plan, the
24 director shall seek cooperation with other states and
25 countries, when appropriate, and landowners, state and federal

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1 agencies and local and tribal governments for implementation of
2 the recovery plan and when appropriate submit the recovery plan
3 to the secretary of the interior for approval pursuant to the
4 federal Endangered Species Act of 1973."

5 SECTION 56. Section 17-2-41 NMSA 1978 (being Laws 1974,
6 Chapter 83, Section 5, as amended) is amended to read:

7 "17-2-41. ENDANGERED SPECIES.--

8 A. On the basis of investigations concerning
9 wildlife, other available scientific and commercial data and
10 after consultation with wildlife agencies in other states,
11 appropriate federal agencies, local and tribal governments and
12 other interested persons and organizations, the ~~[commission]~~
13 division shall by ~~[regulation]~~ rule develop a list of those
14 species of wildlife indigenous to the state that are determined
15 to be threatened or endangered within the state, giving their
16 common and scientific names by species and subspecies.

17 B. The director shall conduct a review of the state
18 list of threatened or endangered species ~~[and shall present]~~
19 biennially to ~~[the commission his recommendations for~~
20 appropriate] determine what action ~~[The commission shall act on~~
21 ~~the director's biennial recommendations at its next regularly~~
22 ~~scheduled meeting. The commission shall adopt, no later than~~
23 ~~January 1, 1996, regulations providing procedures for~~
24 ~~commission actions on the director's recommendations to~~
25 ~~continue to list or to upgrade or downgrade a species]~~ to take

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1 relating to the upgrade or downgrade of a species.

2 C. Except as otherwise provided in the Wildlife
3 Conservation Act, it is unlawful for any person to take,
4 possess, transport, export, process, sell or offer for sale or
5 ship any species of wildlife appearing on any of the following
6 lists:

7 (1) the list of wildlife indigenous to the state
8 determined to be endangered within the state as set forth by
9 [~~regulations~~] rules of the [~~commission~~] division; and

10 (2) the United States lists of endangered native
11 and foreign fish and wildlife as set forth in Section 4 of the
12 federal Endangered Species Act of 1973 as endangered or
13 threatened species, but only to the extent that those lists are
14 adopted for this purpose by [~~regulations~~] rules of the
15 [~~commission~~] division; provided that any species of wildlife
16 appearing on any of the lists set forth in this subsection,
17 transported into the state from another state or from a point
18 outside the territorial limits of the United States and [~~which~~]
19 that is destined for a point beyond the state, may be
20 transported across the state without restriction in accordance
21 with the terms of any federal permit or permit issued under the
22 laws or [~~regulations~~] rules of another state or otherwise in
23 accordance with the laws of another state.

24 D. The provisions of Subsection C of this section
25 shall not apply to a taking of wildlife by a Native American

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1 for religious purposes, unless it materially and negatively
2 affects an endangered species or threatened species."

3 SECTION 57. Section 17-2-42 NMSA 1978 (being Laws 1974,
4 Chapter 83, Section 6) is amended to read:

5 "17-2-42. MANAGEMENT PROGRAMS.--

6 A. The director shall establish such programs,
7 including programs for research and the acquisition of land or
8 aquatic habitat, as authorized and deemed necessary [~~by the~~
9 ~~commission~~] for the management of endangered species.

10 B. In carrying out programs authorized by the
11 Wildlife Conservation Act, the director may enter into
12 agreements with federal agencies, political subdivisions of the
13 state or with private persons for administration and management
14 of any program established under this section or utilized for
15 management of endangered species.

16 C. The director may authorize by permit the taking,
17 possession, transportation, exportation or shipment of species
18 or subspecies [~~which~~] that have been deemed [~~by the commission~~]
19 to be in need of management as provided in the Wildlife
20 Conservation Act, so long as such use is for scientific,
21 zoological or educational purposes, for propagation in
22 captivity of such wildlife or to protect private property.

23 D. Endangered species may be removed, captured or
24 destroyed where necessary to alleviate or prevent damage to
25 property or to protect human health. Such removal, capture or

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1 destruction may be carried out only by prior authorization by
2 permit from the director, unless otherwise provided by law;
3 provided that endangered species may be removed, captured or
4 destroyed without permit by any person in emergency situations
5 involving an immediate threat to human life or private
6 property. [~~Regulations~~] Rules governing the removal, capture
7 or destruction of endangered species shall be [~~adopted~~]
8 promulgated by the [~~commission within one year after the~~
9 ~~effective date of the Wildlife Conservation Act~~] division."

10 SECTION 58. Section 17-2-43 NMSA 1978 (being Laws 1974,
11 Chapter 83, Section 7) is amended to read:

12 "17-2-43. [~~COMMISSION~~] DIVISION--POWER TO REGULATE.--The
13 [~~commission~~] division is authorized and directed to establish
14 such [~~regulations~~] rules as it may deem necessary to carry out
15 all the provisions and purposes of the Wildlife Conservation
16 Act."

17 SECTION 59. Section 17-2-43.1 NMSA 1978 (being Laws 1995,
18 Chapter 145, Section 8, as amended) is amended to read:

19 "17-2-43.1. JUDICIAL REVIEW--ADMINISTRATIVE ACTIONS.--

20 A. Any person adversely affected by an order of the
21 [~~commission~~] division or secretary may appeal to the district
22 court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

23 B. Any person adversely affected by a [~~regulation~~]
24 rule adopted by the [~~commission~~] division or secretary may
25 appeal to the court of appeals. All appeals shall be upon the

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1 record made at the hearing or contained in the public
2 repository file and shall be taken to the court of appeals
3 within thirty days following the date of the filing of the
4 [~~regulation~~] rule by the [~~commission~~] division pursuant to the
5 provisions of the State Rules Act.

6 C. Upon appeal, the court of appeals shall set aside
7 the [~~regulation~~] rule only if it is found to be:

- 8 (1) arbitrary, capricious or an abuse of
9 discretion;
- 10 (2) not supported by substantial evidence in the
11 record; or
- 12 (3) otherwise not in accordance with law.

13 D. After a hearing and a showing of good cause by the
14 appellant, a stay of the [~~regulation~~] rule being appealed may
15 be granted:

- 16 (1) by the [~~commission~~] division; or
- 17 (2) by the court of appeals if the [~~commission~~]
18 division denies a stay or fails to act upon an application for
19 a stay within sixty days after receipt of the application.

20 E. The appellant shall pay all costs for any appeal
21 found to be frivolous by the court of appeals."

22 SECTION 60. Section 17-2A-2 NMSA 1978 (being Laws 1996,
23 Chapter 89, Section 4) is amended to read:

24 "17-2A-2. STATEWIDE SYSTEM FOR HUNTING ACTIVITIES.--The
25 [~~state game commission~~] game and fish division of the energy,

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1 minerals and natural resources department shall develop a
2 statewide system for hunting activities that increases
3 participation by New Mexico residents and considers hunter
4 safety, quality hunts, high demand areas, guides and
5 outfitters, quotas and local and financial interests."

6 SECTION 61. Section 17-3-7 NMSA 1978 (being Laws 1912,
7 Chapter 85, Section 48, as amended) is amended to read:

8 "17-3-7. BLANK FORMS--LICENSE ISSUED ONLY ON
9 APPLICATION--FALSE STATEMENT VOIDS LICENSE--RECORDS--REPORTS--
10 ACCOUNTING FOR FEES COLLECTED--REFUND OF FEES--TRANSFER OF
11 HUNTING LICENSE.--

12 A. The director of the [~~department of~~] game and fish
13 division of the energy, minerals and natural resources
14 department shall prescribe and procure the printing of all
15 forms and blanks that may be required to carry out the intent
16 of Chapter 17 NMSA 1978. All necessary blanks shall be
17 furnished by the director to the license collectors. No
18 license shall be issued except as provided in Section 17-3-5
19 NMSA 1978. Any false statement in any application shall render
20 the license issued void.

21 B. A license collector shall keep a correct and
22 complete record of licenses issued, which record shall remain
23 in the license collector's office and be open to inspection by
24 the public at all times.

25 C. A license collector may collect and retain a

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1 vendor fee for each license or permit issued; provided the fee
2 shall be just and reasonable, as determined by [~~regulation~~]
3 rule of the [~~state game commission~~] game and fish division, and
4 shall not exceed one dollar (\$1.00) for each license or permit
5 issued; and provided further that no such fee shall be
6 collected by the [~~department of game and fish~~] division from
7 the purchaser of a special license. "Special license" includes
8 those licenses for the following species: antelope, elk,
9 Barbary sheep, bighorn sheep, bison, oryx, ibex, gazelle and
10 javelina.

11 D. A license collector shall remit to the director of
12 the [~~department of~~] game and fish division the statutory fee of
13 all licenses and permits sold on or before the tenth day of the
14 month following and shall by the same time report the number
15 and kind of licenses issued.

16 E. Except as provided in Section 17-1-14 NMSA 1978,
17 the director of the [~~department of~~] game and fish division
18 shall turn over all money so received to the state treasurer to
19 be credited to the game protection fund.

20 F. The director of the [~~department of~~] game and fish
21 division, in the director's sole discretion, may authorize a
22 refund of the amount of a hunting license fee from the game and
23 fish suspense fund if:

24 (1) upon written application by the licensee,
25 prior to the time of the hunt for which the license has been

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1 issued, the director finds that:

2 (a) the licensee has a disability, due to a
3 verified injury or life-threatening illness, that prohibits the
4 licensee from hunting during the period that the license is
5 valid; or

6 (b) the licensee has been deployed by the
7 military and the deployment prevents the licensee from
8 traveling to the hunt during the period that the license is
9 valid; or

10 (2) upon written application by a personal
11 representative of a licensee's estate, the director finds that
12 the licensee died prior to the time of the hunt for which the
13 license was issued.

14 G. The director of the [~~department of~~] game and fish
15 division, in the director's sole discretion, may authorize a
16 transfer of a hunting license:

17 (1) to the licensee's designee if, upon written
18 application by the licensee, prior to the time of the hunt for
19 which the license has been issued, the director finds that:

20 (a) the licensee has a disability, due to a
21 verified injury or life-threatening illness, that prohibits the
22 licensee from hunting during the period that the license is
23 valid; or

24 (b) the licensee has been deployed by the
25 military and the deployment prevents the licensee from

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1 traveling to the hunt during the period that the license is
2 valid;

3 (2) to the designee of the licensee's estate if,
4 upon written application by the personal representative of the
5 licensee's estate, the director finds that the licensee died
6 prior to the time of the hunt for which the license was issued;
7 or

8 (3) upon written application by a licensee, to a
9 nonprofit organization approved by the [~~state game commission~~]
10 division.

11 H. The [~~state game commission~~] game and fish division
12 may prescribe, by rule, the documentation necessary for a
13 finding pursuant to Subsection F or G of this section."

14 SECTION 62. Section 17-3-12 NMSA 1978 (being Laws 1959,
15 Chapter 144, Section 6) is amended to read:

16 "17-3-12. ACCOUNTING FOR LICENSES.--When a license vendor
17 is unable to account for hunting and fishing licenses issued to
18 [~~him~~] the license vendor, the [~~state game commission~~] game and
19 fish division of the energy, minerals and natural resources
20 department shall determine the extent of liability of the
21 vendor, and the decision of the [~~commission~~] division shall be
22 final."

23 SECTION 63. Section 17-3-13.5 NMSA 1978 (being Laws 2003,
24 Chapter 290, Section 1) is amended to read:

25 "17-3-13.5. ELK LICENSES RESERVED.--The [~~state game~~

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1 ~~commission]~~ game and fish division of the energy, minerals and
2 natural resources department shall reserve no more than two elk
3 licenses a year for sale to persons under the age of twenty-one
4 who have been determined by a licensed physician to have a
5 life-threatening illness and who have been qualified through a
6 nonprofit wish-granting organization approved by the
7 [~~commission]~~ division."

8 SECTION 64. Section 17-3-14.1 NMSA 1978 (being Laws 1989,
9 Chapter 86, Section 1) is amended to read:

10 "17-3-14.1. LANDOWNER PERMITS FOR ELK.--The director of
11 the [~~department of]~~ game and fish division of the energy,
12 minerals and natural resources department shall issue landowner
13 permits for the lawful taking of elk in accordance with
14 [~~regulations]~~ rules of the [~~state game commission]~~ division."

15 SECTION 65. Section 17-3-14.2 NMSA 1978 (being Laws 1998,
16 Chapter 12, Section 1) is amended to read:

17 "17-3-14.2. LANDOWNER PERMITS--MANAGEMENT OF CERTAIN BIG
18 GAME SPECIES.--The director of the [~~department of]~~ game and
19 fish division of the energy, minerals and natural resources
20 department may issue landowner permits for the lawful taking of
21 elk, antelope, oryx and deer. The permits may be issued when,
22 in the determination of the director, they are necessary to
23 effectively reduce conflicts between humans and wildlife and
24 provide sport-hunting opportunities in accordance with
25 [~~regulations]~~ rules of the [~~state game commission]~~ division."

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1 SECTION 66. Section 17-3-15 NMSA 1978 (being Laws 1964
2 (1st S.S.), Chapter 17, Section 6, as amended) is amended to
3 read:

4 "17-3-15. ADDITIONAL DEER LICENSE.--

5 A. It is a misdemeanor for any person to procure or
6 use more than one license to hunt big game in one year, except
7 as provided in this section, or to use any tag after it has
8 been used once.

9 B. For the purpose of effectuating better game
10 management and control, the [~~state game commission~~] game and
11 fish division of the energy, minerals and natural resources
12 department may by [~~regulation~~] rule authorize the sale of not
13 more than one additional deer license each year to any person
14 holding a license that entitled the person to hunt deer during
15 that year. The fee for an additional deer license shall be the
16 resident or nonresident deer license fee pursuant to Section
17 17-3-13 NMSA 1978.

18 C. It is a misdemeanor for any person to take or
19 attempt to take a deer with an additional deer license unless
20 the person has the additional deer license and the other
21 license that entitled the person to hunt deer for that year in
22 the person's possession. Possession of an additional deer
23 license without the other license that entitled the person to
24 hunt deer for that year is prima facie evidence of violation of
25 this section."

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1 SECTION 67. Section 17-3-16.1 NMSA 1978 (being Laws 1989,
2 Chapter 384, Section 1, as amended) is amended to read:

3 "17-3-16.1. BIGHORN SHEEP ENHANCEMENT PERMITS--ISSUANCE--
4 USE.--

5 A. The ~~[state game commission shall direct the~~
6 ~~department of]~~ game and fish ~~[to]~~ division of the energy,
7 minerals and natural resources department shall authorize not
8 more than two of the permits available for issuance in the
9 license year for the taking of two bighorn rams for the purpose
10 of raising funds for programs and projects to benefit bighorn
11 sheep.

12 B. The ~~[state game commission]~~ game and fish division
13 shall prescribe by ~~[regulation]~~ rule the form, design and
14 manner of issuance of the bighorn sheep enhancement permits.
15 The issuance of one permit shall be subject to auction by the
16 ~~[department]~~ division or by an incorporated nonprofit
17 organization dedicated to conservation of wildlife, as
18 determined by the ~~[commission]~~ division and shall be sold to
19 the highest bidder. The issuance of the other permit shall be
20 subject to a lottery by the ~~[department]~~ division, or by an
21 incorporated nonprofit organization dedicated to conservation
22 of wildlife, as determined by the ~~[commission]~~ division.

23 C. All money collected from the issuance and sale of
24 the bighorn sheep enhancement permits shall be credited to the
25 game protection fund to be used exclusively for bighorn sheep

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1 preservation, restoration and management."

2 SECTION 68. Section 17-3-16.2 NMSA 1978 (being Laws 1999,
3 Chapter 69, Section 1) is amended to read:

4 "17-3-16.2. ELK ENHANCEMENT PERMIT--ISSUANCE--USE.--

5 A. The [~~state game commission shall direct the~~
6 ~~department of~~] game and fish [~~to~~] division of the energy,
7 minerals and natural resources department shall authorize two
8 elk enhancement permits each license year for the taking of two
9 elk bulls to raise funds for programs and projects to better
10 manage elk.

11 B. The [~~state game commission~~] game and fish division
12 shall prescribe by rule the form, design and manner of issuance
13 of the two elk enhancement permits. The issuance of one permit
14 shall be subject to auction by the [~~department~~] division or by
15 an incorporated nonprofit organization dedicated to
16 conservation of wildlife, as determined by the [~~commission~~]
17 division, and shall be sold to the highest bidder. The
18 issuance of the other permit shall be subject to a lottery by
19 the [~~department~~] division or by an incorporated nonprofit
20 organization dedicated to conservation of wildlife, as
21 determined by the [~~commission~~] division.

22 C. All money collected from the issuance and sale of
23 the elk enhancement permits shall be credited to the game
24 protection fund to be used exclusively for elk restoration and
25 management."

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1 SECTION 69. Section 17-3-16.3 NMSA 1978 (being Laws 2003,
2 Chapter 69, Section 1) is amended to read:

3 "17-3-16.3. LIEUTENANT GOVERNOR'S DEER ENHANCEMENT
4 PERMITS--ISSUANCE--USE.--

5 A. The [~~state game commission shall direct the~~
6 ~~department of~~] game and fish [~~to~~] division of the energy,
7 minerals and natural resources department shall authorize two
8 deer enhancement permits each license year for the taking of
9 two deer to raise funds for programs and projects to better
10 manage deer.

11 B. The [~~state game commission~~] game and fish division
12 shall prescribe by rule the form, design and manner of issuance
13 of the two deer enhancement permits. The issuance of one
14 permit shall be subject to auction by the [~~department~~] division
15 or by an incorporated nonprofit organization dedicated to
16 conservation of wildlife, as determined by the [~~commission~~]
17 division, and shall be sold to the highest bidder. The
18 issuance of the other permit shall be subject to a lottery by
19 the [~~department~~] division or by an incorporated nonprofit
20 organization dedicated to conservation of wildlife, as
21 determined by the [~~commission~~] division.

22 C. All money collected from the issuance and sale
23 of the lieutenant governor's deer enhancement permits shall
24 be credited to the game protection fund to be used
25 exclusively for deer restoration and management."

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1 SECTION 70. Section 17-3-16.4 NMSA 1978 (being Laws
2 2005, Chapter 149, Section 1) is amended to read:

3 "17-3-16.4. GOULD'S TURKEY ENHANCEMENT PERMITS--
4 ISSUANCE--USE.--

5 A. The [~~state game commission may direct the~~
6 ~~department of~~] game and fish [~~to~~] division of the energy,
7 minerals and natural resources department may authorize
8 Gould's turkey enhancement permits for the taking of Gould's
9 turkeys, Meleagris gallopavo mexicana, to raise funds for
10 programs and projects to better manage the Gould's turkey
11 population in New Mexico.

12 B. The [~~state game commission~~] game and fish
13 division shall prescribe by rule the form, design and manner
14 of issuance of the Gould's turkey enhancement permits. The
15 issuance of the permits shall be subject to a lottery or
16 auction. Such allotment of the permits may be conducted by
17 an incorporated nonprofit organization dedicated to
18 conservation of wildlife, in cooperation with and overseen by
19 the [~~commission and the department of game and fish~~]
20 division.

21 C. The [~~state game commission~~] game and fish
22 division shall [~~direct the department of game and fish to~~]
23 authorize Gould's turkey enhancement permits only after the
24 [~~department~~] division has documented that the issuance of
25 each enhancement permit will not jeopardize the prospects for

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1 the survival and recruitment of the Gould's turkey within New
2 Mexico.

3 D. Gould's turkey enhancement permits shall be
4 authorized only when doing so does not conflict with the
5 Wildlife Conservation Act or any rules implementing that act.

6 E. Money collected from the issuance and sale of
7 the Gould's turkey enhancement permits shall be credited to
8 the game protection fund to be used exclusively for the
9 restoration and management of Gould's turkeys and Gould's
10 turkey habitats, which support a variety of other unique and
11 rare wildlife of southwestern New Mexico."

12 SECTION 71. Section 17-3-16.5 NMSA 1978 (being Laws
13 2007, Chapter 105, Section 1) is amended to read:

14 "17-3-16.5. HUNTING AND FISHING AUTHORIZATIONS--
15 GOVERNOR'S SPECIAL EVENTS.--The director of the [~~department~~
16 ~~of~~] game and fish division of the energy, minerals and
17 natural resources department may annually make available to
18 the governor no more than twelve big game special
19 authorizations and twelve game bird or trophy fish special
20 authorizations. The authorizations shall be allocated by
21 auction in conjunction with special events called by the
22 governor to raise money for fish and wildlife conservation.
23 Any auction used to allocate an authorization shall comply
24 with rules adopted by the [~~state game commission~~] division.
25 Each authorization shall allow the holder to purchase a

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1 license to hunt or fish for the species indicated on the
2 authorization during dates and times at locations specified
3 by the [~~state game commission~~] division. The director may
4 designate the species allowable for each authorization, but
5 no more than three authorizations shall be issued for any one
6 species each year. Money collected pursuant to the special
7 authorizations of the governor shall be deposited in the game
8 protection fund."

9 SECTION 72. Section 17-3-16.6 NMSA 1978 (being Laws
10 2007, Chapter 243, Section 1) is amended to read:

11 "17-3-16.6. ENHANCEMENT AUTHORIZATION PACKAGES--HABITAT
12 ENHANCEMENT.--The [~~state game commission~~] game and fish
13 division of the energy, minerals and natural resources
14 department shall adopt rules [~~for the department of game and~~
15 ~~fish~~] to issue enhancement authorization packages each
16 license year for the taking of one each of elk, deer, oryx,
17 ibex and pronghorn antelope. Each enhancement authorization
18 package shall be auctioned by the [~~department of game and~~
19 ~~fish~~] division or by an incorporated nonprofit organization
20 dedicated to the conservation of wildlife and sold to the
21 highest bidder. Money collected from the enhancement
22 authorization packages shall be deposited in the game
23 protection fund and shall be used exclusively for big game
24 habitat enhancement, conservation and protection."

25 SECTION 73. Section 17-3-17 NMSA 1978 (being Laws 1964

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1 (1st S.S.), Chapter 17, Section 8, as amended) is amended to
2 read:

3 "17-3-17. FISHING WITHOUT LICENSE--EXCEPTIONS.--

4 A. It is a misdemeanor for any person, except
5 children who have not reached their twelfth birthday, to take
6 or attempt to take any game fish from any public stream or
7 water in this state without ~~[having on his person]~~ carrying a
8 proper fishing license as provided by law. The presence of
9 any person, except children who have not reached their
10 twelfth birthday, along any public stream or water in this
11 state with fishing rod, hook or line, without ~~[having on his~~
12 ~~person]~~ carrying a proper fishing license, is prima facie
13 evidence of the violation of this section. The director of
14 the ~~[department of]~~ game and fish division of the energy,
15 minerals and natural resources department or any conservation
16 officer may require any person along any public stream or
17 water in this state with fishing rod, hook or line to exhibit
18 ~~[his]~~ the person's license.

19 B. The director ~~[with the approval of the state~~
20 ~~game commission]~~ of the game and fish division may designate
21 no more than two nonconsecutive Saturdays in each year as
22 free fishing days. During the free fishing days, residents
23 and nonresidents may exercise the privileges of holders of
24 proper fishing licenses without having proper fishing
25 licenses and without payment of any license fees, subject to

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1 all limitations, restrictions, conditions, laws and rules
2 [~~and regulations~~] applicable to holders of proper fishing
3 licenses."

4 SECTION 74. Section 17-3-21 NMSA 1978 (being Laws 1949,
5 Chapter 149, Section 3) is amended to read:

6 "17-3-21. FISHING LAWS APPLICABLE TO SPECIAL
7 LICENSEES.--All fishing under the privileges granted to the
8 holders of [~~such~~] special licenses issued pursuant to Section
9 17-3-19 NMSA 1978 shall be in accordance with the seasons and
10 bag limits and other [~~regulations~~] rules established by the
11 [~~state game commission~~] game and fish division of the energy,
12 minerals and natural resources department."

13 SECTION 75. Section 17-3-24 NMSA 1978 (being Laws 1951,
14 Chapter 60, Section 2) is amended to read:

15 "17-3-24. FISHING SUPERVISION AT BOYS' SCHOOL.--
16 [~~Provided however, that such~~] Fishing by [~~said wards~~]
17 resident children as provided by Section [~~1 of this act~~]
18 17-3-23 NMSA 1978 shall be done under the supervision of the
19 officials of [~~said~~] the New Mexico [~~Industrial~~] boys' school
20 and in conformity with seasons and bag limits established by
21 the [~~state game commission~~] game and fish division of the
22 energy, minerals and natural resources department."

23 SECTION 76. Section 17-3-26 NMSA 1978 (being Laws 1939,
24 Chapter 27, Section 1, as amended) is amended to read:

25 "17-3-26. TAKING MINNOWS AND NONGAME FISH TO SELL AS

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1 BAIT--LICENSE REQUIRED--EXCEPTION.--It is unlawful for any
2 person, except children under the age of twelve years, to
3 take from the streams or public waters of this state minnows
4 and nongame fish for the purpose of sale to fishermen or
5 others for bait without having first procured from the [~~state~~
6 ~~game commission~~] game and fish division of the energy,
7 minerals and natural resources department a license therefor
8 as provided in Sections 17-3-26 through 17-3-28 NMSA 1978."

9 SECTION 77. Section 17-3-27 NMSA 1978 (being Laws 1939,
10 Chapter 27, Section 2, as amended) is amended to read:

11 "17-3-27. BAIT LICENSE--BOND--FEE--ISSUANCE.--Any
12 person desiring to procure a license for the purpose of
13 engaging in the business of selling minnows and nongame fish
14 for bait or taking minnows and nongame fish from the streams
15 of this state for the purpose of sale to others shall apply
16 to the [~~state game commission~~] game and fish division of the
17 energy, minerals and natural resources department for a
18 license. The application shall be upon forms provided by the
19 [~~commission~~] division and shall set forth the public streams
20 or waters out of which the applicant intends to take the
21 minnows and nongame fish and the place at which they are to
22 be sold. The application shall be accompanied by a just and
23 reasonable fee as determined by [~~regulation~~] rule of the
24 [~~state game commission~~] division. Upon receipt of the
25 application, it [~~shall be~~] is the duty of the [~~state game~~

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1 ~~commission or, when it is not in session, the~~ director of
2 the ~~[department of game and fish]~~ division to pass upon the
3 application and to issue a license authorizing the taking and
4 the manner of taking of the minnows and nongame fish by the
5 applicant from those waters in the state as in the opinion of
6 the ~~[state game commission or]~~ director will not be
7 detrimental to the public or injurious to protected fish.
8 The license when so issued shall specify the manner of taking
9 and the waters from which the applicant is permitted to take
10 minnows and nongame fish for sale for bait."

11 SECTION 78. Section 17-3-28 NMSA 1978 (being Laws 1939,
12 Chapter 27, Section 3) is amended to read:

13 "17-3-28. EXCEPTIONS--PROHIBITIONS.--Nothing in [~~this~~
14 ~~act~~] Sections 17-3-26 through 17-3-28 NMSA 1978 shall be
15 construed to prevent licensed fishermen from taking minnows
16 and other nongame fish for [~~his~~] their own use for bait or to
17 prevent any minor under fifteen [~~(15)~~] years of age from
18 taking minnows not for resale; provided, however, that it
19 shall be unlawful for licensed fishermen or any other person
20 using nongame fish for bait to place any of [~~such~~] the
21 nongame fish [~~which~~] that are not used for bait in any waters
22 stocked or reserved for game fish by the [~~state game~~
23 ~~commission of the state of New Mexico~~] game and fish division
24 of the energy, minerals and natural resources department."

25 SECTION 79. Section 17-3-29 NMSA 1978 (being Laws 1912,

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1 Chapter 85, Section 42, as amended) is amended to read:

2 "17-3-29. PERMIT TO TAKE GAME, BIRDS OR FISH AS
3 SPECIMENS OR FOR SCIENTIFIC OR PROPAGATING PURPOSES--
4 ELIGIBILITY--ISSUANCE--CONTENTS--NONASSIGNABLE--SALE FOR FOOD
5 PURPOSES PROHIBITED.--The [~~state~~] director of the game and
6 fish division of the energy, minerals and natural resources
7 department may issue permits to any person to take, capture,
8 kill or transport within or out of the state any game, birds
9 or fish mentioned in [~~this~~] Chapter 17 NMSA 1978 at any time
10 when satisfied that [~~such~~] the person desires the [~~same~~]
11 game, birds or fish exclusively as specimens or for
12 scientific or propagating purposes. [~~Such~~] The permit shall
13 be in writing and shall state the kind and number to be taken
14 and the manner of taking, the name of the person to whom
15 issued, the name of the place to which the [~~same is~~] game,
16 birds or fish are to be transported and the name of the
17 persons shipping [~~such~~] the game, birds or fish, and shall be
18 signed by [~~him. —Such~~] the person. The permit shall not be
19 transferable, nor shall it be lawful to sell or barter any of
20 the [~~animals~~] game, birds or fish taken or exported under
21 [~~such~~] the permit for food purposes, and the holder [~~such~~] of
22 the permit shall be liable to the penalties provided in
23 [~~this~~] Chapter 17 NMSA 1978 if [~~he~~] the person violates any
24 of its provisions."

25 SECTION 80. Section 17-3-30 NMSA 1978 (being Laws 1912,

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1 Chapter 85, Section 43, as amended) is amended to read:

2 "17-3-30. GAME AND FISH [~~WARDEN MAY TRANSMIT SPECIMENS~~]
3 FURNISHED TO OTHER STATES.--[~~SEC. 43.~~] The [~~State Warden~~]
4 director of the game and fish division of the energy,
5 minerals and natural resources department may, upon
6 application from the game and fish warden or corresponding
7 officer of any other state, procure and transmit to [~~such~~]
8 that officer alive specimens of the game animals, birds and
9 fish of this state to be used for scientific or propagating
10 purposes."

11 SECTION 81. Section 17-3-34 NMSA 1978 (being Laws 1912,
12 Chapter 85, Section 35, as amended) is amended to read:

13 "17-3-34. REVOCATION OF LICENSE, CERTIFICATE OR PERMIT
14 FOR VIOLATION OF LAW--NOTICE AND HEARING--JUDICIAL REVIEW.--

15 A. If the holder of [~~any~~] a license, certificate or
16 permit persistently, flagrantly or knowingly violates or
17 countenances the violation of any of the provisions of
18 Chapter 17 NMSA 1978 or of any [~~regulations~~] rules referred
19 to in Section 17-2-10 NMSA 1978, the license, certificate or
20 permit shall be revoked by the [~~state game commission~~] game
21 and fish division of the energy, minerals and natural
22 resources department after reasonable notice given the
23 accused of the alleged violation and after the accused is
24 afforded an opportunity to appear and show cause against the
25 charges.

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1 B. At the hearing, the [~~state game commission~~] game
2 and fish division shall cause a record of the hearing to be
3 made and shall allow the person charged to examine witnesses
4 testifying at the hearing. [~~Any~~] A person whose license,
5 certificate or permit has been revoked by the [~~commission~~]
6 division may appeal to the district court pursuant to the
7 provisions of Section 39-3-1.1 NMSA 1978."

8 **SECTION 82.** Section 17-3-35 NMSA 1978 (being Laws 1957,
9 Chapter 194, Section 1) is amended to read:

10 "17-3-35. SHORT TITLE.--[~~This act~~] Sections 17-3-35
11 through 17-3-42 NMSA 1978 may be cited as the "Regulated
12 Shooting Preserve Act"."

13 **SECTION 83.** Section 17-3-36 NMSA 1978 (being Laws 1957,
14 Chapter 194, Section 2, as amended) is amended to read:

15 "17-3-36. REGULATED SHOOTING PRESERVES--FEES.--The
16 [~~state game commission~~] game and fish division of the energy,
17 minerals and natural resources department may issue licenses
18 authorizing the establishment and operation of regulated
19 propagated game bird shooting preserves on private lands when
20 in the judgment of the [~~commission~~] division such areas will
21 not conflict with any reasonable prior interest. The
22 [~~commission~~] division shall govern and prescribe by
23 [~~regulation~~] rule the following:

24 A. the minimum and maximum size of the areas,
25 including the type of fences and signs;

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1 B. the method of hunting;

2 C. the open and closed seasons, which need not
3 conform to the regular hunting seasons;

4 D. the releasing, possession and use of legally
5 propagated pen-raised game birds on the preserves; and

6 E. the fee for the licenses, which shall be just
7 and reasonable."

8 SECTION 84. Section 17-3-38 NMSA 1978 (being Laws 1957,
9 Chapter 194, Section 4) is amended to read:

10 "17-3-38. TAGS.--All game birds taken from preserves
11 shall be tagged, with tags to be furnished by the
12 [~~commission~~] game and fish division of the energy, minerals
13 and natural resources department at a reasonable fee, before
14 being transported."

15 SECTION 85. Section 17-3-39 NMSA 1978 (being Laws 1957,
16 Chapter 194, Section 5) is amended to read:

17 "17-3-39. SPECIAL NONRESIDENT LICENSES.--The
18 [~~commission~~] game and fish division of the energy, minerals
19 and natural resources department may issue special
20 nonresident bird licenses to nonresidents to hunt on
21 regulated shooting preserves with the owner's consent for
22 legally propagated game birds upon the payment of a license
23 fee of five dollars [~~and~~] twenty-five cents (\$5.25). The
24 license must be carried on the person at all times when
25 hunting on private shooting preserves.

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1 Five dollars (\$5.00) of the special nonresident bird
2 license fee is to be paid to the [~~state game and fish~~
3 ~~department~~] division. Twenty-five cents (\$.25) of the fee is
4 to be retained by the issuing agent."

5 **SECTION 86.** Section 17-3-42 NMSA 1978 (being Laws 1957,
6 Chapter 194, Section 8) is amended to read:

7 "17-3-42. REVOCATION OF PERMITS.--Any permit issued
8 under the [~~Private~~] Regulated Shooting Preserve Act may be
9 revoked for a violation of any provision or any [~~regulation~~]
10 rule made by the [~~commission~~] game and fish division of the
11 energy, minerals and natural resources department relating to
12 [~~the~~] that act."

13 **SECTION 87.** Section 17-3-49 NMSA 1978 (being Laws 2006,
14 Chapter 86, Section 1) to read:

15 "17-3-49. COMPUTER-ASSISTED REMOTE HUNTING PROHIBITED--
16 PENALTIES.--

- 17 A. A person shall not:
- 18 (1) engage in computer-assisted remote
19 hunting;
 - 20 (2) provide or operate facilities for the
21 purpose of computer-assisted remote hunting;
 - 22 (3) create, maintain, provide, advertise or
23 sell computer software or an internet web site for the
24 purpose of computer-assisted remote hunting; or
 - 25 (4) entice, possess or confine an animal or

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1 bird for the purpose of computer-assisted remote hunting.

2 B. A person who violates the provisions of this
3 section shall be sentenced in accordance with the provisions
4 of Section 17-2-10 NMSA 1978.

5 C. When a person who violates the provisions of
6 this section possesses a license, certificate or permit
7 issued by the [~~state game commission~~] game and fish division
8 of the energy, minerals and natural resources department, the
9 license, certificate or permit shall be subject to revocation
10 by the [~~commission~~] division pursuant to Sections 17-1-14 and
11 17-3-34 NMSA 1978.

12 D. As used in this section:

13 (1) "computer-assisted remote hunting" means
14 the use of a computer or other electronic device, equipment
15 or software to access the internet and remotely control the
16 aiming and discharge of a bow, crossbow or firearm of any
17 kind for the purpose of hunting, taking or capturing an
18 animal or bird; and

19 (2) "facilities for computer-assisted remote
20 hunting" means the real property and improvements on the
21 property associated with computer-assisted remote hunting,
22 including hunting blinds, offices and rooms equipped to
23 facilitate computer-assisted remote hunting."

24 **SECTION 88.** Section 17-4-1 NMSA 1978 (being Laws 1939,
25 Chapter 223, Section 1, as amended) is amended to read:

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1 "17-4-1. POWER TO ACQUIRE LAND.--The [~~state game~~
2 ~~commission of the state of New Mexico~~] game and fish division
3 of the energy, minerals and natural resources department is
4 [~~hereby~~] authorized and empowered to acquire by purchase,
5 gift, bequest or lease, and to hold, develop and improve,
6 lands for fish hatcheries, game farms, game refuges, bird
7 refuges, resting and nesting grounds, field stations, dams,
8 lakes, ditches, flumes, waterways, pipelines, canals, rights
9 of way, trails, roads and for all purposes incidental to the
10 propagation, preservation, protection and management of the
11 game, birds, fish and wildlife of the state [~~of New Mexico~~]."

12 **SECTION 89.** Section 17-4-2 NMSA 1978 (being Laws 1939,
13 Chapter 223, Section 2, as amended) is amended to read:

14 "17-4-2. EMINENT DOMAIN POWER--ABANDONMENT OR
15 RELINQUISHMENT OF PROPERTY ACQUIRED.--Any property or rights
16 of way required for use by the [~~state game commission~~] game
17 and fish division of the energy, minerals and natural
18 resources department may be acquired as for a public purpose
19 and as a matter of public necessity under the power of
20 eminent domain, by and with the written approval of the board
21 of county commissioners of the county in which the property
22 or rights of way sought are located, in an action instituted
23 and prosecuted in the name of the state, according to the
24 procedure for condemnation provided by the Eminent Domain
25 Code; provided, nevertheless, that any property right

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1 acquired under the provisions of this section, if and when
2 the use for which it was acquired has been abandoned for
3 three years or otherwise relinquished, shall revert to the
4 grantor from whom it was derived."

5 SECTION 90. Section 17-4-3 NMSA 1978 (being Laws 1939,
6 Chapter 223, Section 3, as amended) is amended to read:

7 "17-4-3. SALE, EXCHANGE OR LEASE OF LANDS--PROCEEDS.--

8 The ~~[state game commission]~~ game and fish division of the
9 energy, minerals and natural resources department, except as
10 ~~[herein]~~ limited in this section, is authorized to exchange,
11 sell, lease, sublease or assign any interest in any lands and
12 leases heretofore or hereafter acquired, including but not
13 limited to the sale or lease of timber, oil, gas, minerals or
14 any other severable product of or interest in real estate,
15 when in the ~~[judgement]~~ judgment of ~~[said commission such]~~
16 the division the transaction will be in the interest of the
17 ~~[state game commission]~~ division and ~~[said]~~ the lands,
18 leases, products or severable parts thereof are in the
19 opinion of ~~[such commission]~~ the division no longer necessary
20 for the purposes for which ~~[such]~~ the lands were acquired or
21 where ~~[such]~~ the lease or sublease will not materially
22 interfere ~~[with]~~ or conflict with the use of ~~[such]~~ the lands
23 for the purpose for which they were acquired. The proceeds
24 of any such sale, exchange, lease or assignment shall be
25 converted into the game protection fund and disbursed as the

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1 other ~~[moneys]~~ money in ~~[said]~~ the fund ~~[are]~~ is disbursed."

2 SECTION 91. Section 17-4-12 NMSA 1978 (being Laws 1912,
3 Chapter 85, Section 63, as amended) is amended to read:

4 "17-4-12. LICENSE--APPLICATION--CONTENTS--LIMITS.--Any
5 person having already established or desiring to establish or
6 maintain a park or lake for the purpose of keeping or
7 propagating and selling the game or game fish ~~[therein]~~ in
8 the park or lake, or to be placed therein, shall apply in
9 writing to the ~~[Warden]~~ director of the game and fish
10 division of the energy, minerals and natural resources
11 department, stating the name, location, extent and
12 proprietorship of the ~~[same]~~ park or lake and the kind and,
13 as near as may be, the number of game or game fish kept or
14 desired to be kept therein and the term for which the license
15 is desired and ~~[inclosing]~~ enclosing the fee ~~[therefor, and]~~
16 for the license. If upon examination by the ~~[Warden]~~
17 director it ~~[shall appear]~~ appears that the application is in
18 good faith and in other respects proper and reasonable, ~~[he]~~
19 the director shall grant to ~~[such]~~ the applicant a license
20 therefor; provided that the maximum area that may be included
21 within any park shall not exceed three thousand two hundred
22 acres and that every park shall be enclosed by a game-proof
23 fence ~~[which]~~ that shall conform to specifications required
24 by the ~~[state game commission]~~ division."

25 SECTION 92. Section 17-4-13 NMSA 1978 (being Laws 1912,

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1 Chapter 85, Section 64, as amended) is amended to read:

2 "17-4-13. LICENSE--~~[SEC. 63]~~ FORM ~~[OF]~~.--~~[SEC. 64.]~~

3 Such license shall be substantially in the following form:

4 GAME AND FISH

5 STATE OF NEW MEXICO

6 ~~[DEPARTMENT OF]~~ GAME AND FISH DIVISION

7 LICENSED PARKS AND LAKES

8 No. _____ Class A. Santa Fe _____ [~~19~~] 20

9 This certifies that _____
10 proprietor of a (public or private) (park or lake)
11 called _____ and situated on
12 _____ Sec _____ Twp
13 _____ Range _____ in
14 _____ county, New Mexico, is hereby
15 authorized to keep and propagate [~~therein~~] and dispose
16 of as provided by law the following (game quadrupeds,
17 birds or fish), viz: _____ together
18 with such additions thereto (with the natural increase
19 of all) as may be hereafter lawfully acquired. This
20 license expires _____ years after date.
21 _____ [~~Warden~~] Director."

22 SECTION 93. Section 17-4-16 NMSA 1978 (being Laws
23 1912, Chapter 85, Section 67, as amended) is amended to
24 read:

25 "17-4-16. GAME OR FISH FROM PARKS OR LAKES--SALE ~~[OF]~~--

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1 ~~OWNER--DUTY]~~--INVOICE--FORM [~~WARDEN~~].--~~[SEC. 67.]~~ When the
2 proprietor of any licensed park or lake of Class A shall
3 sell or dispose of any game or game fish as [~~herein~~]
4 provided [~~he~~] in Sections 17-4-8 through 17-4-28 NMSA 1978,
5 the proprietor shall at the same time deliver to the
6 purchaser or donee or attach thereto an invoice signed by
7 [~~such~~] the proprietor or [~~his~~] the proprietor's agent,
8 stating the number of the license and name of [~~such~~] the
9 park or lake, the date of disposition, the kind and as near
10 as practicable the number and weight of [~~such~~] the game or
11 fish and the name and address of the purchaser, consignee
12 or donee. [~~Such~~] The invoice shall authorize
13 transportation within this state, possession and use for
14 thirty days after its date and shall be substantially in
15 the following form:

STATE OF NEW MEXICO

~~[DEPARTMENT OF]~~ GAME AND FISH DIVISION

PRIVATE PARKS AND LAKES--INVOICE

19 Name of park or
20 lake _____ Class A No. of
21 license _____ Date _____ [~~19~~] 20
22 _____ Kind and number of game and
23 fish _____ Weight of same _____
24 lbs. Name of consignee _____
25 Address of consignee _____

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1 This authorizes transportation within this state,
2 possession and sale for thirty days after date if
3 attached to article.

4 _____ Proprietor _____
5 By _____ Agent.

6 [~~Such~~] The proprietor or [his] the proprietor's agent
7 shall at the same time mail, postpaid, a duplicate of [~~such~~]
8 the invoice to the [Warden] director of the game and fish
9 division of the energy, minerals and natural resources
10 department at Santa Fe."

11 SECTION 94. Section 17-4-30 NMSA 1978 (being Laws 1951,
12 Chapter 66, Section 1) is amended to read:

13 "17-4-30. FEDERAL AID.--The state of New Mexico hereby
14 assents to the provisions of the act of congress of the
15 United States [~~of America~~] entitled "An Act to Provide That
16 The United States Shall Aid The States In Fish Restoration
17 And Management Projects, And For Other Purposes", approved
18 August 9, 1950 (Public Law 681, 81st Congress), and the
19 [~~state game commission~~] game and fish division of the
20 energy, minerals and natural resources department is hereby
21 authorized and directed to perform all [~~such~~] acts as may be
22 necessary to the conduct and establishment of cooperative
23 fish restoration and management projects as defined by
24 [~~said~~] that act of congress and in compliance with [~~said~~]
25 that act and rules and regulations promulgated by the

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1 secretary of [~~Agriculture~~] the interior thereunder."

2 SECTION 95. Section 17-4-31 NMSA 1978 (being Laws 1951,
3 Chapter 66, Section 2) is amended to read:

4 "17-4-31. FEDERAL FUNDS--DISBURSEMENT.--The [~~state game~~
5 ~~commission~~] game and fish division of the energy, minerals
6 and natural resources department is authorized to receive
7 any [~~moneys~~] money to which the state [~~of New Mexico~~] may
8 become entitled under the [~~aforesaid~~] act of congress set
9 forth in Section 17-4-30 NMSA 1978, such [~~moneys~~] money when
10 received to be deposited with the state treasurer [~~of the~~
11 ~~state of New Mexico~~] to the credit of the [~~State~~] game
12 protection fund, expended for the purpose designated and
13 withdrawn as other [~~moneys are~~] money is withdrawn from the
14 [~~State~~] game protection fund."

15 SECTION 96. Section 17-4-32 NMSA 1978 (being Laws 1965,
16 Chapter 73, Section 1) is amended to read:

17 "17-4-32. DESTRUCTION OF BOUNDARY MARKERS.--Every
18 person who shall [~~wilfully~~] willfully, maliciously and
19 without cause break down, injure, remove or destroy any
20 sign, marker or poster erected for the purpose of
21 designating the boundaries of any tract of land, refuge or
22 sanctuary for wildlife, or for the purpose of designating
23 the boundaries of a hunting area set forth by [~~the state~~
24 ~~game commission~~] or under the direction of the director of
25 the [~~department of~~] game and fish division of the energy,

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1 minerals and natural resources department, shall upon
2 conviction thereof be deemed guilty of a petty misdemeanor."

3 SECTION 97. Section 17-4-33 NMSA 1978 (being Laws 2005,
4 Chapter 173, Section 1) is amended to read:

5 "17-4-33. GAINING ACCESS INTO NATURE PROGRAM--POLICY--
6 ADDITIONAL POWERS OF [~~STATE GAME COMMISSION~~] GAME AND FISH
7 DIVISION.--

8 A. It is the policy of the state [~~of New Mexico~~] to
9 encourage and promote wildlife-associated recreation in New
10 Mexico and to provide for public participation in the use of
11 available natural resources in a manner that will benefit the
12 general public in its enjoyment of public assets and the state
13 and its political subdivisions in increased economic
14 development.

15 B. To implement the state policy, the [~~state game~~
16 ~~commission~~] game and fish division of the energy, minerals and
17 natural resources department shall develop and administer a
18 "gaining access into nature program" pursuant to the provisions
19 of this section.

20 C. In addition to its other powers, in order to
21 develop and administer the gaining access into nature program,
22 the [~~state game commission~~] game and fish division may:

23 (1) designate areas and properties under its
24 control where activities other than hunting, fishing and
25 trapping are available to the public;

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1 (2) designate activities that may take place on
2 properties under its control and designate conditions and
3 qualifications for the activities;

4 (3) enter into partnership and joint powers
5 agreements, leases and other contractual arrangements with
6 other state agencies, private landowners and other private
7 entities to jointly administer, promote and expand the gaining
8 access into nature program;

9 (4) issue permits, special use licenses and
10 other authorizations for access to individuals and
11 organizations to access [~~state game commission~~] division
12 properties for purposes of participating in gaining access into
13 nature programs and charge fees for the access privileges;
14 provided that the fees do not exceed the reasonable costs
15 associated with developing and administering the gaining access
16 into nature program;

17 (5) engage in public outreach programs to
18 identify through public meetings, surveys and educational
19 programs the interests of the public that may be best served by
20 the gaining access into nature program;

21 (6) adopt such rules as it deems necessary for
22 programs, events or other activities to properly implement the
23 goals and the administration of the gaining access into nature
24 program; and

25 (7) subject to appropriation by the legislature,

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1 expend money from the game protection fund necessary to develop
2 and administer the gaining access into nature program,
3 including:

4 (a) the reasonable costs of improving
5 habitat and properties in order to make them suitable for the
6 public uses intended;

7 (b) costs of personnel necessary to service
8 the properties being used for the program and to provide
9 informational and interpretive services on the properties;

10 (c) the reasonable costs of maintenance and
11 repair of habitat and properties being used for public access
12 under the provisions of this section; and

13 (d) costs associated with issuing permits,
14 licenses and other authorizations for access.

15 D. All money collected from issuing and selling
16 gaining access into nature permits, licenses and other
17 authorizations for access shall be deposited in the game
18 protection fund."

19 SECTION 98. Section 17-4-34 NMSA 1978 (being Laws 2005,
20 Chapter 177, Section 2) is amended to read:

21 "17-4-34. HABITAT MANAGEMENT STAMP--FUND--EXPENDITURE
22 FOR HABITAT MANAGEMENT--EXCEPTION.--

23 A. On and after April 1, 2006, each of the
24 following licenses or permits shall include a habitat
25 management stamp. The fee for a habitat management stamp

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1 shall be three dollars (\$3.00). Each of the following
2 licenses or permits shall not be considered to be a proper
3 and valid license unless the licensee can demonstrate, by a
4 stamp, check off or other official mark, that the fee for the
5 habitat management stamp has been paid, provided that an
6 individual purchaser shall be required to purchase only one
7 stamp each license year, regardless of the number of licenses
8 or permits purchased by that purchaser:

9 (1) a resident or nonresident license
10 specified in Section 17-3-13 NMSA 1978; or

11 (2) a wildlife-associated recreation permit
12 issued by the [~~state game commission~~] game and fish division
13 of the energy, minerals and natural resources department
14 pursuant to Section [~~17-1-4~~] 17-1-14 NMSA 1978.

15 B. Revenue from the sale of habitat management
16 stamps shall be deposited in the "habitat management fund",
17 hereby created in the state treasury. The fund shall consist
18 of money appropriated and transferred to the fund and revenue
19 from the sale of habitat management stamps deposited in the
20 fund. Earnings from investment of the fund shall be credited
21 to the fund. Any unexpended or unencumbered balance
22 remaining at the end of a fiscal year shall not revert.
23 Disbursements from the fund shall be made upon warrants drawn
24 by the secretary of finance and administration pursuant to
25 vouchers signed by the director of the [~~department of~~] game

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1 and fish division.

2 C. Upon appropriation by the legislature, money in
3 the habitat management fund may be expended by the [~~state~~
4 ~~game commission~~] game and fish division only for the
5 improvement, maintenance, development and operation of
6 property for fish and wildlife habitat management.

7 D. A habitat management stamp shall not be required
8 for persons under the age of eighteen."

9 SECTION 99. Section 17-4-35 NMSA 1978 (being Laws 2009,
10 Chapter 38, Section 1, as amended) is amended to read:

11 "17-4-35. AQUATIC INVASIVE SPECIES CONTROL.--

12 A. Based on a determination of credible scientific
13 evidence, the director, after consulting with the secretary
14 of energy, minerals and natural resources and with the
15 concurrence of the director of the New Mexico department of
16 agriculture, is authorized to designate:

17 (1) species of exotic or nonnative animals or
18 plants as aquatic invasive species;

19 (2) water bodies within the state as infested
20 waters; and

21 (3) specific requirements to decontaminate
22 conveyances and equipment.

23 B. Prior to entering a conveyance or equipment into
24 any water body in the state, the owner or person in control
25 of a warning-tagged conveyance or warning-tagged equipment or

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~~[bracketed material]~~ = delete

1 a conveyance or equipment that has been in an infested water
2 body in New Mexico or elsewhere shall:

3 (1) have the conveyance or equipment
4 decontaminated by a person or entity approved by the director
5 to effect decontamination, and only the person legally
6 effecting the decontamination is authorized to remove a
7 warning tag and provide certification that the conveyance or
8 equipment is free from infestation; or

9 (2) have the conveyance or equipment inspected
10 and certified as free from infestation by trained personnel
11 prior to entering a water body or if certification or other
12 documentation of decontamination is not available, otherwise
13 demonstrate compliance with the decontamination requirements
14 established by the director.

15 C. A law enforcement officer may impound a
16 conveyance or equipment if the person transporting the
17 conveyance or equipment refuses to submit to an inspection
18 authorized by this section and the officer has reason to
19 believe that an aquatic invasive species may be present, or
20 if the conveyance or equipment has a warning tag affixed and
21 the operator of the conveyance is attempting to enter a state
22 water body and cannot provide evidence that the conveyance or
23 equipment has been decontaminated. A law enforcement officer
24 shall take action to prevent equipment or conveyances
25 believed or known to contain an aquatic invasive species and

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~~[bracketed material]~~ = delete

1 warning-tagged equipment or conveyances from entering a state
2 water body.

3 D. The impoundment of a conveyance or equipment may
4 continue for a reasonable period necessary to inspect and
5 decontaminate the conveyance or equipment.

6 E. Notwithstanding any provision to the contrary,
7 no motor vehicle that is drawing a conveyance shall be
8 impounded pursuant to this section.

9 F. Trained personnel may:

10 (1) establish, operate and maintain aquatic
11 invasive species check stations and conduct inspections at or
12 adjacent to the entrance to any state-controlled water body
13 or, pursuant to a cooperative agreement, at or adjacent to
14 any county, municipal or federally or privately controlled
15 water body or at or adjacent to the exit point of an infested
16 water body or at a location agreed to by the owner of the
17 conveyance or equipment in order to inspect conveyances and
18 equipment prior to a conveyance or equipment entering, being
19 launched onto or being directly exposed to water bodies of
20 the state or upon the conveyance's or equipment's departure
21 from infested waters;

22 (2) affix a warning tag to equipment or a
23 conveyance where the presence of an aquatic invasive species
24 has been found;

25 (3) affix a warning tag to a conveyance or

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1 equipment upon the conveyance or equipment leaving an
2 infested water; or

3 (4) affix a warning tag to a conveyance or
4 equipment that the trained personnel have reason to believe
5 is infested with an aquatic invasive species based on its
6 point of origin or use.

7 G. Except for state, local, tribal or federal
8 agencies and their respective agents, employees and
9 contractors while performing their duties or contractual
10 obligations specific to management or control of an aquatic
11 invasive species, it is unlawful for a person to:

12 (1) knowingly possess, import, export, ship or
13 transport an aquatic invasive species into, within or from
14 the state;

15 (2) knowingly release, place, plant or cause
16 to be released, placed or planted an aquatic invasive species
17 into a water body or adjacent to a water body where it
18 reasonably might be anticipated to be introduced into a water
19 body that is not infested;

20 (3) remove a warning tag other than as
21 provided pursuant to this section;

22 (4) introduce any tagged conveyance or
23 equipment or any equipment or conveyance from which a warning
24 tag has been unlawfully removed into a water body without
25 first having that conveyance or equipment decontaminated and

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1 certified pursuant to the provisions of this section; or
2 (5) knowingly introduce into any water body a
3 conveyance or equipment that has been exposed to an infested
4 water body or a water body in any other state known to
5 contain aquatic invasive species without first being
6 decontaminated and certified pursuant to the provisions of
7 this section.

8 H. Knowingly or willfully violating any provision
9 of this section as a first offense is a petty misdemeanor. A
10 second or subsequent violation of any provision of this
11 section is a misdemeanor. Any violation is punishable
12 pursuant to Section 31-19-1 NMSA 1978.

13 I. The director or the director's designee shall
14 coordinate the monitoring of the water bodies of the state
15 for the presence of aquatic invasive species, including
16 privately controlled waters if the director has authorized
17 access to them or has received permission to monitor them
18 from the persons controlling access to such waters.

19 J. Upon determination of an infested water body in
20 New Mexico, the director shall immediately recommend to the
21 person in control of the infested water body actions to limit
22 access or take other actions to prevent the potential spread
23 of an aquatic invasive species to other water bodies.

24 K. The [~~commission~~] division is authorized to adopt
25 rules pursuant to Section 17-1-26 NMSA 1978, and the

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1 secretary of energy, minerals and natural resources is
2 authorized to adopt rules pursuant to Section 16-2-32 NMSA
3 1978 as necessary to implement and enforce the provisions of
4 this section.

5 L. The director may enter into cooperative
6 agreements with any federal, state, county or municipal
7 authority or private entity that may be in control of a water
8 body potentially affected by aquatic invasive species.

9 M. As used in this section:

10 (1) "aquatic invasive species" means quagga
11 mussels and zebra mussels and other exotic or nonnative
12 aquatic animals, including invertebrates but excluding those
13 species listed as protected in Chapter 17 NMSA 1978, or any
14 plant or animal species whose introduction into an aquatic
15 ecosystem is determined by the director, after consulting
16 with the secretary of energy, minerals and natural resources
17 and with the concurrence of the director of the New Mexico
18 department of agriculture, to cause or be likely to cause
19 harm to the economy, environment or human health or safety;

20 [~~(2) "commission" means the state game~~
21 ~~commission;~~

22 ~~(3)] (2) "conveyance" means a motor vehicle,
23 vessel, trailer or any associated equipment or containers,
24 including, but not limited to, live wells, fish-hauling
25 tanks, ballast tanks, motorized skis and bilge areas that may~~

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1 contain or carry an aquatic invasive species or any other
2 equipment by which aquatic invasive species may be introduced
3 into an aquatic ecosystem;

4 [(-4)] (3) "decontaminate" means to wash,
5 drain, dry or otherwise treat a conveyance in accordance with
6 guidelines established by the director in order to remove or
7 destroy an aquatic invasive species;

8 [(-5)] (4) "director" means the director of the
9 [~~department of game and fish~~] division;

10 (5) "division" means the game and fish
11 division of the energy, minerals and natural resources
12 department;

13 (6) "equipment" means an article, a tool, an
14 implement, a device or a piece of clothing, including boots
15 and waders, that is capable of containing or transporting
16 water;

17 (7) "infested water" means a geographic
18 region, water body or water supply system or facility within
19 the state that the director, after consulting with the
20 secretary of energy, minerals and natural resources and with
21 the concurrence of the director of the New Mexico department
22 of agriculture, identifies as carrying or containing an
23 aquatic invasive species or a water body outside the state
24 that has been identified as carrying or containing an aquatic
25 invasive species;

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1 (8) "inspect" means to examine a conveyance or
2 equipment to determine whether an aquatic invasive species is
3 present;

4 (9) "law enforcement officer" means a state or
5 federal certified law enforcement officer;

6 (10) "trained personnel" means individuals who
7 have successfully completed the United States fish and
8 wildlife service's aquatic invasive species watercraft
9 inspection and decontamination training, level I or level II,
10 or an equivalent training recognized by the director;

11 (11) "warning tag" means a tag that is affixed
12 to equipment or a conveyance upon the equipment or conveyance
13 leaving an infested water or upon an inspection determining
14 that the equipment or conveyance contains an aquatic invasive
15 species that requires the equipment or conveyance to be
16 decontaminated; and

17 (12) "water body" means a natural or impounded
18 surface water, including a stream, river, spring, lake,
19 reservoir, pond, wetland, tank or fountain."

20 SECTION 100. Section 17-5-3 NMSA 1978 (being Laws 1939,
21 Chapter 178, Section 3, as amended) is amended to read:

22 "17-5-3. SEASONS--SPECIAL PERMITS TO TAKE ANIMALS DOING
23 DAMAGE.--Fur-bearing animals as defined in Section 17-5-2
24 NMSA 1978 shall be taken only during the seasons declared by
25 [~~regulation~~] rule of the [~~state game commission~~] game and

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1 fish division of the energy, minerals and natural resources
2 department promulgated as provided in Section 17-5-4 NMSA
3 1978. The director of the division may, however, issue
4 permits at any time for the taking of fur-bearing animals
5 doing damage to game, private property, poultry or
6 livestock."

7 SECTION 101. Section 17-5-4 NMSA 1978 (being Laws 1939,
8 Chapter 178, Section 4, as amended) is amended to read:

9 "17-5-4. [~~STATE GAME COMMISSION~~] GAME AND FISH DIVISION
10 TO ADMINISTER ACT--RULES [~~AND REGULATIONS~~].--The [~~state game~~
11 ~~commission~~] game and fish division of the energy, minerals
12 and natural resources department is authorized and directed
13 to administer the provisions of Sections 17-5-1 through
14 17-5-9 NMSA 1978 and to make such rules [~~and regulations~~] and
15 establish such [~~service~~] services as it may deem necessary to
16 carry out all the provisions and purposes of those sections.
17 In making [~~such~~] rules [~~and regulations~~] and providing when
18 and by what means fur-bearing animals may be hunted, taken,
19 captured, possessed or killed, the [~~state game commission~~]
20 division shall give due regard to the zones of temperatures
21 and to the distribution, abundance, economic value and
22 breeding habits of [~~such~~] the animals. Provided, nothing in
23 Sections 17-5-1 through 17-5-9 NMSA 1978 shall interfere with
24 the authority granted to the president of New Mexico state
25 university under Sections 77-15-1 through 77-15-5 NMSA 1978

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1 or ~~[shall]~~ prevent livestock producers without a permit from
2 the taking of bobcats that are doing damage to livestock."

3 SECTION 102. Section 17-5-5 NMSA 1978 (being Laws 1939,
4 Chapter 178, Section 5, as amended) is amended to read:

5 "17-5-5. TRAPPER'S LICENSES.--

6 A. No resident who has reached ~~[his twelfth~~
7 ~~birthday]~~ the age of twelve shall capture, trap or possess
8 any fur-bearing animal or attempt to do so without first
9 procuring a resident trapper's license; or, in the case of a
10 resident who has reached ~~[his twelfth birthday]~~ the age of
11 twelve but not ~~[his eighteenth birthday]~~ the age of eighteen,
12 a resident junior trapper's license.

13 B. No nonresident shall capture, trap or possess
14 any fur-bearing animal or skunk or coyote or attempt to do so
15 without first procuring a nonresident trapper's license.

16 C. No nonresident who resides in a state that does
17 not permit New Mexico residents to procure nonresident
18 trapper's licenses may purchase a New Mexico nonresident
19 trapper's license.

20 D. Trappers shall release all fur-bearing animals
21 trapped during closed seasons, and resident trappers who
22 release all fur-bearing animals during open seasons need not
23 procure a trapper's license.

24 E. Trappers on official business, paid from state
25 and federal funds and under supervision of the ~~[department~~

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1 ~~of~~] game and fish division of the energy, minerals and
2 natural resources department, the New Mexico department of
3 agriculture or the United States fish and wildlife service
4 need not purchase a trapper's license.

5 F. Trapping of animals, both fur-bearing and
6 nongame, by a resident in order to protect [~~his~~] livestock or
7 domesticated animals or fowl shall not be subject to rules
8 [~~and regulations~~] on trapping made pursuant to Section 17-5-4
9 NMSA 1978 or to licensing requirements provided in this
10 section.

11 G. The [~~state game commission~~] game and fish
12 division may by [~~regulation~~] rule require holders of
13 trapper's licenses to use bobcat pelt tags and may specify
14 the conditions for use of the tags."

15 SECTION 103. Section 17-5-8 NMSA 1978 (being Laws 1939,
16 Chapter 178, Section 9) is amended to read:

17 "17-5-8. OFFICERS AUTHORIZED TO ENFORCE ACT.--All peace
18 officers, [~~Port of Entry~~] employees of the motor
19 transportation division of the department of public safety
20 and [~~deputy game wardens~~] conservation officers are hereby
21 authorized and required to cooperate fully with the [~~state~~
22 ~~game commission~~] game and fish division of the energy,
23 minerals and natural resources department in the enforcement
24 of [~~this Act~~] Sections 17-5-1 through 17-5-9 NMSA 1978. It
25 shall be the duty of all [~~such~~] those persons to make

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1 searches, seizures and arrests as in the case of other
2 misdemeanors."

3 SECTION 104. Section 17-6-1 NMSA 1978 (being Laws 1973,
4 Chapter 242, Section 1) is amended to read:

5 "17-6-1. SHORT TITLE.--~~[This act]~~ Chapter 17, Article 6
6 NMSA 1978 may be cited as the "Habitat Protection Act"."

7 SECTION 105. Section 17-6-2 NMSA 1978 (being Laws 1973,
8 Chapter 242, Section 2) is amended to read:

9 "17-6-2. DEFINITIONS.--As used in the Habitat
10 Protection Act:

11 A. [~~"commission"~~] "division" means the [~~state game~~
12 ~~commission~~] game and fish division of the energy, minerals
13 and natural resources department;

14 B. "cross-country" means travel over the
15 countryside other than by road;

16 C. "vehicle" means any motor-powered mechanical
17 device used for conveyance; and

18 D. "road" means any maintained or unmaintained
19 right of way that has been utilized by the public, and
20 includes roads, streets, highways and state scenic,
21 recreation or historical trails."

22 SECTION 106. Section 17-6-3 NMSA 1978 (being Laws 1973,
23 Chapter 242, Section 3, as amended) is amended to read:

24 "17-6-3. RESTRICTIONS ON MOTOR VEHICLE USE--
25 RECOMMENDATIONS--RULES [~~AND REGULATIONS~~].--

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1 A. When the [~~commission~~] division determines that
2 the operation of vehicles within a certain area is or may be
3 damaging to wildlife reproduction, wildlife management or the
4 wildlife habitat of the area, the [~~department~~] division, with
5 the concurrence of the private land owner or the land
6 management agency involved, after proper notice, shall hold
7 public meetings in the area affected on the necessity and
8 desirability of closing such lands to the operation of any
9 vehicles for a stated definite period. Upon finding, after
10 public meetings, that the use of vehicles on such lands is or
11 may be damaging to wildlife reproduction or habitat and that
12 it is necessary and desirable to close such lands to vehicles
13 in order to avoid such damage, the [~~commission~~] division
14 shall make and publish an order closing such lands to vehicle
15 operation except on established roads that are marked by
16 appropriate signs.

17 B. The [~~commission~~] division may also recommend to
18 the appropriate land management agency or the legislature
19 that particular areas of land be set aside or made available
20 for recreational vehicles.

21 C. The [~~commission~~] division may also enter into
22 agreements with or recommend to public land management
23 agencies that certain areas be closed to camping during
24 particular open hunting seasons or that camping be permitted
25 only in designated areas during such open hunting seasons.

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1 D. The [~~commission~~] division may enter into
2 agreements with private landowners and land management
3 agencies controlling areas that the [~~commission~~] division has
4 made recommendations on pursuant to Subsection B of this
5 section. Any such agreement shall stipulate the
6 restrictions, prohibitions and permitted uses of vehicles in
7 such area and the duties of the [~~commission~~] division and
8 such private landowner or land management agency relating to
9 the enforcement of the terms of such agreement. Agreements
10 with private landowners may also include provisions for
11 sharing costs of performing any of the functions as set forth
12 in Section [~~53-6-7 NMSA 1953~~] 17-6-7 NMSA 1978.

13 E. The [~~commission~~] division shall adopt and file,
14 in accordance with the State Rules Act, rules [~~and~~
15 ~~regulations~~] necessary to carry out the provisions of the
16 Habitat Protection Act, including [~~regulations~~] rules setting
17 out procedures for hearings and notice."

18 SECTION 107. Section 17-6-4 NMSA 1978 (being Laws 1973,
19 Chapter 242, Section 4) is amended to read:

20 "17-6-4. NOTICES OF RESTRICTIONS--POSTING--
21 PUBLICATION.--

22 A. For all areas closed to vehicles pursuant to
23 Section [~~53-6-3 NMSA 1953~~] 17-6-3 NMSA 1978, the [~~commission~~]
24 division shall cause notices of the restrictions,
25 prohibitions or permitted uses of such areas to be posted

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1 prior to their effective date on the main traveled roads
2 entering such areas and at such other locations as the
3 [~~commission~~] division deems appropriate.

4 B. In addition to the public meetings required by
5 Section [~~53-6-3 NMSA 1953~~] 17-6-3 NMSA 1978 and posted
6 notices required by Subsection A of this section, the
7 [~~commission~~] division shall publish a notice of such
8 restrictions, prohibitions or permitted uses, together with a
9 description of the area, in a newspaper of general
10 circulation in the area of the state affected for three
11 consecutive weeks prior to the effective date of such
12 restrictions, prohibitions or permitted uses. Copies of the
13 notices of restrictions, prohibitions or permitted uses
14 together with a description or appropriate map of the area
15 affected by the notices shall be made available to the public
16 by the [~~commission~~] division."

17 SECTION 108. Section 17-6-7 NMSA 1978 (being Laws 1973,
18 Chapter 242, Section 7) is amended to read:

19 "17-6-7. EXPENDITURE OF FUNDS--FUNCTIONS.--The
20 [~~commission~~] division may expend such funds as become
21 available from the game protection fund, state or federal
22 grants or other sources to carry out the provisions of the
23 Habitat Protection Act, including but not limited to:

24 A. investigations and surveys of actual or possible
25 wildlife habitat damage by vehicles and the study of areas to

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1 be recommended for recreational vehicle use;

2 B. posting notices of restrictions, prohibitions
3 and permitted use of vehicles;

4 C. providing maps and other necessary information
5 to the public;

6 D. an informational and educational program on
7 wildlife habitat preservation and restoration; or

8 E. the enforcement of the provisions of the Habitat
9 Protection Act."

10 SECTION 109. Section 17-6-8 NMSA 1978 (being Laws 1973,
11 Chapter 242, Section 8) is amended to read:

12 "17-6-8. LIMITATION OF LIABILITY ON LANDOWNERS.--No
13 person or corporation, or their successors in interest, [~~who~~]
14 that has granted a right of way or easement across [~~his~~] the
15 person's land to the [~~commission~~] division for use under the
16 Habitat Protection Act shall be liable to any user of the
17 land for injuries suffered on [~~said~~] the right of way or
18 easement unless the injuries are caused by the willful or
19 wanton misconduct of the grantor."

20 SECTION 110. Section 17-7-1 NMSA 1978 (being Laws 1976
21 (S.S.), Chapter 43, Section 1) is amended to read:

22 "17-7-1. SHORT TITLE.--~~[This act]~~ Chapter 17, Article 7
23 NMSA 1978 may be cited as the "Shooting Range Fund Act"."

24 SECTION 111. Section 17-7-2 NMSA 1978 (being Laws 1976
25 (S.S.), Chapter 43, Section 2, as amended) is amended to

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1 read:

2 "17-7-2. FUND CREATED.--There is created in the state
3 treasury a special fund to be known as the "shooting range
4 fund". All money appropriated to this fund or accruing to it
5 as a result of gift, deposit or from other sources, except
6 interest earned on the fund ~~[which]~~ that shall be credited to
7 the general fund, shall not be transferred to another fund or
8 encumbered or disbursed in any manner except as provided in
9 the Shooting Range Fund Act. Appropriated money in the fund
10 shall not revert to the general fund. Money in the fund
11 shall be used for construction or improvement of public
12 shooting ranges pursuant to the Shooting Range Fund Act.
13 Disbursements from the fund shall be made only upon warrant
14 drawn by the secretary of finance and administration pursuant
15 to vouchers signed by the director of the ~~[department of]~~
16 game and fish division of the energy, minerals and natural
17 resources department."

18 SECTION 112. Section 17-7-3 NMSA 1978 (being Laws 1976
19 (S.S.), Chapter 43, Section 3) is amended to read:

20 "17-7-3. ADMINISTRATION.--

21 A. The ~~[state game commission]~~ game and fish
22 division of the energy, minerals and natural resources
23 department shall administer the provisions of the Shooting
24 Range Fund Act and shall, pursuant to the State Rules Act,
25 adopt such rules ~~[and regulations]~~ as deemed necessary to

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1 carry out the provisions of the Shooting Range Fund Act.

2 B. Rules [~~and regulations~~] shall include:

3 (1) a method for the determination of a county
4 or municipality eligibility for grants from the shooting
5 range fund;

6 (2) procedures for applications, approvals and
7 rejections of grant proposals;

8 (3) a requirement that a county or
9 municipality contribute at least twenty-five percent of the
10 cost necessary to complete a shooting range grant proposal;

11 (4) a requirement that one-half of the local
12 contribution required by Paragraph (3) of this subsection is
13 to be money;

14 (5) a requirement that a shooting range
15 project shall be undertaken in accordance with specifications
16 determined by the [~~department of~~] game and fish division.

17 Such specifications may provide for pistol, rifle, shotgun
18 and archery facilities; and

19 (6) provisions for the operation and
20 maintenance of shooting range facilities.

21 C. Grants from the shooting range fund shall be
22 awarded by the [~~state game commission~~] game and fish division
23 only for new public shooting range construction or for
24 improvements to existing public shooting ranges. No funds
25 shall be approved for maintenance of shooting ranges [~~nor~~] or

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1 for shooting range renovation prior to 1980. No grant from
2 the money appropriated to the shooting range fund shall
3 exceed:

4 (1) twenty-five percent of the cost of any one
5 project; ~~not~~ or

6 (2) more than ten percent of the amount
7 appropriated to the shooting range fund by the Shooting Range
8 Fund Act.

9 D. The ~~[state game commission]~~ game and fish
10 division may expend not more than five percent of the
11 appropriated money in the shooting range fund each fiscal
12 year for administrative purposes to carry out the provisions
13 of the Shooting Range Fund Act."

14 SECTION 113. Section 29-4A-3 NMSA 1978 (being Laws
15 1995, Chapter 59, Section 3, as amended) is amended to read:

16 "29-4A-3. DEFINITIONS.--As used in the Peace Officers'
17 Survivors Supplemental Benefits Act:

18 A. "fund" means the peace officers' survivors fund;

19 B. "peace officer" means any full-time salaried and
20 commissioned or certified law enforcement officer of a police
21 or sheriff's department or a conservation officer of the
22 energy, minerals and natural resources department ~~[of game~~
23 ~~and fish]~~ as used in Chapter 17 NMSA 1978 that is part of or
24 administered by the state or any political subdivision of the
25 state; and

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1 C. "secretary" means the secretary of public
2 safety."

3 SECTION 114. Section 30-8-5 NMSA 1978 (being Laws 1975,
4 Chapter 199, Section 2) is amended to read:

5 "30-8-5. ENFORCEMENT.--The [~~state game commission~~] game
6 and fish division of the energy, minerals and natural
7 resources department may designate trained employees of the
8 [~~commission~~] division vested with police powers to enforce
9 the provisions of Section [~~40A-8-4 NMSA 1953~~] 30-8-4 NMSA
10 1978. In addition, members of the state police, county
11 sheriffs and their deputies, police officers and those
12 employees of the state [~~park and recreation commission~~] parks
13 division of the energy, minerals and natural resources
14 department vested with police powers shall enforce the
15 provisions of that section."

16 SECTION 115. Section 30-8-7 NMSA 1978 (being Laws 1975,
17 Chapter 199, Section 4) is amended to read:

18 "30-8-7. PUBLIC EDUCATION.--The [~~state game commission,~~
19 ~~the state highway~~] department of transportation, the state
20 [~~park and recreation commission~~] parks division and the game
21 and fish division of the energy, minerals and natural
22 resources department and the environmental improvement
23 [~~agency~~] division of the department of environment are
24 encouraged to institute public education programs through the
25 news media in order to inform the public of the litter

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1 problem in New Mexico and of individual efforts that can be
2 made to assist in the abatement of the problem. In addition,
3 these agencies are authorized to work with industry
4 organizations in a joint anti-litter campaign so that
5 additional effect may be given to the anti-litter effort in
6 New Mexico."

7 SECTION 116. Section 30-14-1 NMSA 1978 (being Laws
8 1963, Chapter 303, Section 14-1, as amended) is amended to
9 read:

10 "30-14-1. CRIMINAL TRESPASS.--

11 A. Criminal trespass consists of knowingly entering
12 or remaining upon posted private property without possessing
13 written permission from the owner or person in control of the
14 land. The provisions of this subsection do not apply if:

15 (1) the owner or person in control of the land
16 has entered into an agreement with the [~~department of~~] game
17 and fish division of the energy, minerals and natural
18 resources department granting access to the land to the
19 general public for the purpose of taking any game animals,
20 birds or fish by hunting or fishing; or

21 (2) a person is in possession of a landowner
22 license given to [~~him~~] the person by the owner or person in
23 control of the land that grants access to that particular
24 private land for the purpose of taking any game animals,
25 birds or fish by hunting or fishing.

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1 B. Criminal trespass also consists of knowingly
2 entering or remaining upon the unposted lands of another
3 knowing that such consent to enter or remain is denied or
4 withdrawn by the owner or occupant [~~thereof~~] of the lands.
5 Notice of no consent to enter shall be deemed sufficient
6 notice to the public and evidence to the courts, by the
7 posting of the property at all vehicular access entry ways.

8 C. Criminal trespass also consists of knowingly
9 entering or remaining upon lands owned, operated or
10 controlled by the state or any of its political subdivisions
11 knowing that consent to enter or remain is denied or
12 withdrawn by the custodian [~~thereof~~] of the lands.

13 D. Any person who enters upon the lands of another
14 without prior permission and injures, damages or destroys any
15 part of the realty or its improvements, including buildings,
16 structures, trees, shrubs or other natural features, is
17 guilty of a misdemeanor and [~~he~~] shall be liable to the
18 owner, lessee or person in lawful possession for civil
19 damages in an amount equal to double the value of the damage
20 to the property injured or destroyed.

21 E. [~~Whoever~~] Any person who commits criminal
22 trespass is guilty of a misdemeanor. Additionally, any
23 person who violates the provisions of Subsection A, B or C of
24 this section, when in connection with hunting, fishing or
25 trapping activity, shall have [~~his~~] the person's hunting or

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1 fishing license revoked by the [~~state game commission~~] game
2 and fish division for a period of not less than three years,
3 pursuant to the provisions of Section 17-3-34 NMSA 1978.

4 F. [~~Whoever~~] Any person who knowingly removes,
5 tampers with or destroys any "no trespass" sign is guilty of
6 a petty misdemeanor; except when the damage to the sign
7 amounts to more than one thousand dollars (\$1,000), [~~he or~~
8 ~~she~~] the person is guilty of a misdemeanor and shall be
9 subject to imprisonment in the county jail for a definite
10 term less than one year or a fine not more than one thousand
11 dollars (\$1,000) or to both such imprisonment and fine in the
12 discretion of the judge.

13 G. This section, as amended, shall be published in
14 all issues of "Big Game Hunt Proclamation" as published by
15 the [~~department of~~] game and fish division."

16 **SECTION 117.** Section 30-32-3 NMSA 1978 (being Laws
17 1921, Chapter 33, Section 6, as amended) is amended to read:

18 "30-32-3. ARREST FOR VIOLATIONS.--All peace officers of
19 the state, including [~~department of game and fish~~]
20 conservation officers of the game and fish division of the
21 energy, mineral and natural resources department, have the
22 power to make arrests on warrant issued by any magistrate of
23 the state for violation of any of the state forest fire laws,
24 including Chapter 68, Article 2 NMSA 1978, rules implementing
25 Chapter 68, Article 2 NMSA 1978 or fire restrictions issued

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1 pursuant to such rules, or without warrant for violations of
2 those laws committed in their presence, and shall not be
3 liable to civil action for trespass for acts done in the
4 discharge of their duties."

5 SECTION 118. Section 35-7-6 NMSA 1978 (being Laws 1968,
6 Chapter 62, Section 101) is amended to read:

7 "35-7-6. MAGISTRATE ADMINISTRATION--CURRENT STATUTES.--

8 A. Each magistrate shall obtain without cost:

9 (1) the volume of compiled laws relating to
10 magistrates, along with current [~~pocket~~] supplements, from
11 the New Mexico compilation commission;

12 (2) all current laws relating to motor
13 vehicles from the [~~commissioner~~] director of the motor
14 [~~vehicles~~] vehicle division of the taxation and revenue
15 department;

16 (3) all current laws relating to game animals
17 and fish [~~along with all regulations of the state game~~
18 ~~commission~~] from the [~~department of~~] game and fish division
19 of the energy, minerals and natural resources department; and

20 (4) all current laws relating to motor
21 carriers, along with all regulations of the [~~state~~
22 ~~corporation~~] public regulation commission relating to motor
23 carriers, from the [~~state corporation~~] public regulation
24 commission.

25 B. These materials remain the property of the state

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1 and shall be delivered by each magistrate to [~~his~~] the
2 magistrate's successor in office or to the administrative
3 office of the courts. Each magistrate is responsible for the
4 care of the materials and for the cost of replacement in case
5 of loss, damage or if not disposed of as required in this
6 section."

7 SECTION 119. Section 40-5A-1 NMSA 1978 (being Laws
8 1995, Chapter 25, Section 1) is amended to read:

9 "40-5A-1. SHORT TITLE.--~~[This act]~~ Chapter 40, Article
10 5A NMSA 1978 may be cited as the "Parental Responsibility
11 Act"."

12 SECTION 120. Section 40-5A-3 NMSA 1978 (being Laws
13 1995, Chapter 25, Section 3, as amended) is amended to read:

14 "40-5A-3. DEFINITIONS.--As used in the Parental
15 Responsibility Act:

16 A. "applicant" means an obligor who is applying for
17 issuance of a license;

18 B. "board" means:

19 (1) the construction industries commission,
20 the construction industries division and the electrical
21 bureau, mechanical bureau and general construction bureau of
22 the construction industries division of the regulation and
23 licensing department;

24 (2) the manufactured housing committee and
25 manufactured housing division of the regulation and licensing

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1 department;

2 (3) a board, commission or agency that
3 administers a profession or occupation licensed pursuant to
4 Chapter 61 NMSA 1978;

5 (4) any other state agency to which the
6 Uniform Licensing Act is applied by law;

7 (5) a licensing board or other authority that
8 issues a license, certificate, registration or permit to
9 engage in a profession or occupation regulated in New Mexico;

10 (6) the [~~department of~~] game and fish division
11 of the energy, minerals and natural resources department;

12 (7) the motor vehicle division of the taxation
13 and revenue department; or

14 (8) the alcohol and gaming division of the
15 regulation and licensing department;

16 C. "certified list" means a verified list that
17 includes the names, social security numbers and last known
18 addresses of obligors not in compliance;

19 D. "compliance" means that:

20 (1) an obligor is no more than thirty days in
21 arrears in payment of amounts required to be paid pursuant to
22 an outstanding judgment and order for support; and

23 (2) an obligor has, after receiving
24 appropriate notice, complied with subpoenas or warrants
25 relating to paternity or child support proceedings;

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1 E. "department" means the human services
2 department;

3 F. "judgment and order for support" means the
4 judgment entered against an obligor by the district court or
5 a tribal court in a case enforced by the department pursuant
6 to Title IV-D of the Social Security Act;

7 G. "license" means a liquor license or other
8 license, certificate, registration or permit issued by a
9 board that a person is required to have to engage in a
10 profession or occupation in New Mexico; "license" includes a
11 commercial driver's license, driver's license and
12 recreational licenses, including hunting, fishing or trapping
13 licenses;

14 H. "licensee" means an obligor to whom a license
15 has been issued; and

16 I. "obligor" means the person who has been ordered
17 to pay child or spousal support pursuant to a judgment and
18 order for support."

19 SECTION 121. Section 60-2C-10 NMSA 1978 (being Laws
20 1989, Chapter 346, Section 10) is amended to read:

21 "60-2C-10. PENALTY--CRIMINAL.--

22 A. ~~Any~~ An individual, firm, partnership or
23 corporation that violates ~~any~~ a provision of the Fireworks
24 Licensing and Safety Act is guilty of a misdemeanor and upon
25 conviction shall be punished by a fine of not more than one

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1 thousand dollars (\$1,000) or imprisonment for not more than
2 one year, or both.

3 B. Nothing in the Fireworks Licensing and Safety
4 Act shall apply to or prohibit [~~any~~] employees of the energy,
5 minerals and natural resources department [~~of game and fish~~]
6 or the United States fish and wildlife service from
7 possessing fireworks for control of game birds and animals or
8 to prohibit [~~any~~] a law enforcement officer from possessing
9 fireworks in the performance of [~~his~~] the officer's duties or
10 to prohibit [~~any~~] a municipality or civic organization
11 [~~therein~~] from sponsoring and conducting in connection with
12 [~~any~~] a public celebration an officially supervised and
13 controlled fireworks display."

14 SECTION 122. Section 66-3-1001.1 NMSA 1978 (being Laws
15 2005, Chapter 325, Section 1, as amended) is amended to read:

16 "66-3-1001.1. DEFINITIONS.--As used in the Off-Highway
17 Motor Vehicle Act:

18 A. "board" means the off-highway motor vehicle
19 advisory board;

20 B. "department" means the [~~department of~~] game and
21 fish division of the energy, minerals and natural resources
22 department;

23 C. "division" means the motor vehicle division of
24 the taxation and revenue department;

25 D. "fund" means the trail safety fund;

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1 E. "off-highway motor vehicle" means a motor
2 vehicle designed by the manufacturer for operation
3 exclusively off the highway or road and includes:

4 (1) "all-terrain vehicle", which means a motor
5 vehicle fifty inches or less in width, having an unladen dry
6 weight of one thousand pounds or less, traveling on three or
7 more low-pressure tires and having a seat designed to be
8 straddled by the operator and handlebar-type steering
9 control;

10 (2) "off-highway motorcycle", which means a
11 motor vehicle traveling on not more than two tires and having
12 a seat designed to be straddled by the operator and that has
13 handlebar-type steering control;

14 (3) "snowmobile", which means a motor vehicle
15 designed for travel on snow or ice and steered and supported
16 in whole or in part by skis, belts, cleats, runners or low-
17 pressure tires;

18 (4) "recreational off-highway vehicle", which
19 means a motor vehicle designed for travel on four or more
20 non-highway tires, for recreational use by one or more
21 persons, and having:

22 (a) a steering wheel for steering control;
23 (b) non-straddle seating;
24 (c) maximum speed capability greater than
25 thirty-five miles per hour;

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1 (d) gross vehicle weight rating no greater
2 than one thousand seven hundred fifty pounds;

3 (e) less than eighty inches in overall
4 width, exclusive of accessories;

5 (f) engine displacement of less than one
6 thousand cubic centimeters; and

7 (g) identification by means of a
8 seventeen-character vehicle identification number; or

9 (5) by rule of the department, any other
10 vehicles that may enter the market that fit the general
11 profile of vehicles operated off the highway for recreational
12 purposes;

13 F. "staging area" means a parking lot, trailhead or
14 other location to or from which an off-highway motor vehicle
15 is transported so that it may be placed into operation or
16 removed from operation; and

17 G. "unpaved public roadway" means a dirt graveled
18 street or road that is constructed, signed and maintained for
19 regular passenger-car use by the general public."

20 SECTION 123. Section 66-3-1017 NMSA 1978 (being Laws
21 2005, Chapter 325, Section 19, as amended) is amended to
22 read:

23 "66-3-1017. OFF-HIGHWAY MOTOR VEHICLE ADVISORY BOARD
24 CREATED--MEMBERS--COMPENSATION.--

25 A. The "off-highway motor vehicle advisory board"

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1 is created to advise the department on matters related to
2 administration of the Off-Highway Motor Vehicle Act. The
3 board shall consist of the following seven members appointed
4 by the governor:

5 (1) one landowner living near a national
6 forest or bureau of land management property that is used
7 extensively for recreational off-highway vehicle activity;

8 (2) one producer or one grazing permittee on
9 public lands from the farming or livestock industry;

10 (3) one person from the off-highway motor
11 vehicle industry;

12 (4) one off-highway motor vehicle user;

13 (5) one hunter or angler;

14 (6) one quiet recreationalist, such as a
15 hiker, backpacker, birdwatcher, equestrian, mountain biker,
16 rock climber or archaeological enthusiast; and

17 (7) one member with expertise in injury
18 prevention or treatment.

19 B. The board shall select a chair and a vice chair.

20 C. The board shall meet at the call of the chair
21 but not less than twice annually.

22 D. Members shall be appointed to staggered terms of
23 two years each; provided that no more than four terms expire
24 in any one year. The board members shall select by lot four
25 members to serve initial terms of three years each. A

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1 vacancy shall be filled by appointment of the governor for
2 the remainder of the unexpired term. Members of the board
3 shall not be ~~[entitled to reimbursement pursuant to the Per~~
4 ~~Diem and Mileage Act]~~ paid and shall not receive per diem."

5 SECTION 124. A new section of the Off-Highway Motor
6 Vehicle Act is enacted to read:

7 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
8 REPEAL.--The off-highway motor vehicle advisory board is
9 terminated on July 1, 2013 pursuant to the provisions of the
10 Sunset Act. The board shall continue to operate according to
11 the provisions of Section 66-3-1017 NMSA 1978 until July 1,
12 2014. Effective July 1, 2014, Section 66-3-1017 NMSA 1978 is
13 repealed."

14 SECTION 125. Section 68-2-29 NMSA 1978 (being Laws
15 1990, Chapter 96, Section 1) is amended to read:

16 "68-2-29. SHORT TITLE.--Sections ~~[1 through 5 of this~~
17 ~~act]~~ 68-2-29 through 68-2-33 NMSA 1978 may be cited as the
18 "New Mexico Forest Re-Leaf Act"."

19 SECTION 126. A new section of the New Mexico Forest
20 Re-Leaf Act is enacted to read:

21 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
22 REPEAL.--The tree planting advisory committee is terminated
23 on July 1, 2015 pursuant to the provisions of the Sunset Act.
24 The committee shall continue to operate according to the
25 provisions of Section 68-2-33 NMSA 1978 until July 1, 2016.

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1 Effective July 1, 2016, Section 68-2-33 NMSA 1978 is
2 repealed."

3 SECTION 127. A new section of the Mining Safety Act is
4 enacted to read:

5 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
6 REPEAL.--The mining safety board is terminated on July 1,
7 2017 pursuant to the provisions of the Sunset Act. The board
8 shall continue to operate according to the provisions of
9 Sections 69-8-3 through 69-8-4.1 NMSA 1978 until July 1,
10 2018. Effective July 1, 2018, Sections 69-8-3 through
11 69-8-4.1 NMSA 1978 are repealed."

12 SECTION 128. Section 69-25A-3 NMSA 1978 (being Laws
13 1979, Chapter 291, Section 3, as amended) is amended to read:

14 "69-25A-3. DEFINITIONS.--As used in the Surface Mining
15 Act:

16 A. "commission" means the [~~coal-surface~~] mining
17 commission;

18 B. "director", when used without further
19 qualification, means the director of the mining and minerals
20 division of the energy, minerals and natural resources
21 department or [~~his~~] the director's designee;

22 C. "alluvial valley floors" means the
23 unconsolidated stream-laid deposits holding streams where
24 water availability is sufficient for subirrigation or flood
25 irrigation agricultural activities, but does not include

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1 upland areas [~~which~~] that are generally overlain by a thin
2 veneer of colluvial deposits composed chiefly of debris from
3 sheet erosion, deposits by unconcentrated runoff or slope
4 wash, together with talus, other mass movement accumulation
5 and windblown deposits;

6 D. "approximate original contour" means that
7 surface configuration achieved by backfilling and grading of
8 the mined area so that the reclaimed area, including any
9 terracing or access roads, closely resembles the general
10 surface configuration of the land prior to mining and blends
11 into and complements the drainage pattern of the surrounding
12 terrain with all highwalls and spoil piles eliminated; water
13 impoundments may be permitted where the director determines
14 that they are in compliance with Paragraph (8) of Subsection
15 B of Section 69-25A-19 NMSA 1978;

16 E. "imminent danger to the health and safety of the
17 public" means the existence of any condition or practice, or
18 any violation of a permit or other requirement of the Surface
19 Mining Act, in a surface coal mining and reclamation
20 operation, which condition, practice or violation could
21 reasonably be expected to cause substantial physical harm to
22 persons outside the permit area before the condition,
23 practice or violation can be abated. A reasonable
24 expectation of death or serious injury before abatement
25 exists if a rational person, subjected to the same conditions

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1 or practices giving rise to the peril, would not [~~expose~~
2 ~~himself~~] agree to be exposed to the danger during the time
3 necessary for abatement;

4 F. "operator" means any person engaged in coal
5 mining who removes or intends to remove more than two hundred
6 fifty tons of coal from the earth by coal mining within
7 twelve consecutive calendar months in any one location;

8 G. "other minerals" means clay, stone, sand,
9 gravel, metalliferous and nonmetalliferous ores and any other
10 solid material or substances of commercial value excavated in
11 solid form from natural deposits on or in the earth,
12 exclusive of coal, and those minerals [~~which~~] that occur
13 naturally in liquid or gaseous form;

14 H. "permit" means a permit to conduct surface coal
15 mining and reclamation operations issued by the director
16 pursuant to the Surface Mining Act;

17 I. "permit applicant" or "applicant" means a person
18 applying for a permit;

19 J. "permit area" means the area of land indicated
20 on the approved map submitted by the operator with [~~his~~] the
21 operator's application, which area of land is to be covered
22 by the operator's bond as required by Section 69-25A-13 NMSA
23 1978 and shall be readily identifiable by appropriate markers
24 on the site;

25 K. "permittee" means a person holding a permit;

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1 L. "person" means an individual, partnership,
2 association, society, joint stock company, firm, company,
3 corporation or other business organization;

4 M. the term "prime farmland" is to be defined by
5 ~~[regulation]~~ rule of the commission after considering such
6 factors as moisture availability, temperature regime,
7 chemical balance, permeability, surface layer composition,
8 susceptibility to flooding, erosion characteristics, history
9 of use for intensive agricultural purposes and regulations
10 issued by the United States secretary of agriculture;

11 N. "reclamation plan" means a plan submitted by an
12 applicant for a permit ~~[which]~~ that sets forth a plan for
13 reclamation of the proposed surface coal mining operations
14 pursuant to Section 69-25A-12 NMSA 1978;

15 O. "surface coal mining and reclamation operations"
16 means surface coal mining operations and all activities
17 necessary and incident to the reclamation of those operations
18 after the date of enactment of the Surface Mining Act;

19 P. "surface coal mining operations" means:

20 (1) activities conducted on the surface of
21 lands in connection with a surface coal mine or activities
22 subject to the requirements of Section 69-25A-20 NMSA 1978
23 relating to surface operations and surface impacts incident
24 to an underground coal mine. The activities include
25 excavation for the purpose of obtaining coal, including such

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1 common methods as contour, strip, auger, mountaintop removal,
2 box cut, open pit and area mining. These activities also
3 include uses of explosives and blasting and in situ
4 distillation or retorting, leaching or other chemical or
5 physical processing and the cleaning, concentrating or other
6 processing or preparation, including loading of coal at or
7 near the mine site; ~~Provided~~ however, ~~that~~ such
8 activities do not include the extraction of coal incidental
9 to the extraction of other minerals where coal does not
10 exceed sixteen and two-thirds percent of the tonnage of
11 minerals removed for purposes of commercial use or sale or
12 coal exploration subject to Section 69-25A-16 NMSA 1978; and

13 (2) the areas upon which these activities
14 occur or where the activities disturb the natural land
15 surface. These areas also include any adjacent land, the use
16 of which is incidental to any of the activities, all lands
17 affected by the construction of new roads or the improvement
18 or use of existing roads to gain access to the site of these
19 activities and for haulage and excavations, workings,
20 impoundments, dams, ventilation shafts, entryways, refuse
21 banks, dumps, stockpiles, overburden piles, spoil banks, culm
22 banks, tailings, holes or depressions, repair areas, storage
23 areas, processing areas, shipping areas and other areas upon
24 which are sited structures, facilities or other property or
25 materials on the surface, resulting from or incident to these

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1 activities;

2 Q. "unwarranted failure to comply" means the
3 failure of a permittee to prevent the occurrence of any
4 violation of [~~his~~] the permittee's permit or any requirement
5 of the Surface Mining Act due to indifference, lack of
6 diligence or lack of reasonable care, or the failure to abate
7 any violation of the permit or the Surface Mining Act due to
8 indifference, lack of diligence or lack of reasonable care;
9 and

10 R. "lignite coal" means consolidated lignitic coal
11 [~~having~~] that has less than eight thousand three hundred BTUs
12 per pound and that is moisture- and mineral-matter-free."

13 SECTION 129. A new section of the Surface Mining Act is
14 enacted to read:

15 "[NEW MATERIAL] DUTIES OF COAL SURFACE MINING COMMISSION
16 TO MINING COMMISSION.--Beginning July 1, 2011, the mining
17 commission shall assume the duties of the coal surface mining
18 commission. All rules of the coal surface mining commission
19 shall remain in force unless the mining commission repeals or
20 amends them."

21 SECTION 130. Section 69-36-1 NMSA 1978 (being Laws
22 1993, Chapter 315, Section 1) is amended to read:

23 "69-36-1. SHORT TITLE.--~~[This act]~~ Chapter 69, Article
24 36 NMSA 1978 may be cited as the "New Mexico Mining Act"."

25 SECTION 131. Section 69-36-3 NMSA 1978 (being Laws

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1 1993, Chapter 315, Section 3) is amended to read:

2 "69-36-3. DEFINITIONS.--As used in the New Mexico Mining
3 Act:

4 A. "affected area" means the area outside of the
5 permit area where the land surface, surface water, ground water
6 and air resources are impacted by mining operations within the
7 permit area;

8 B. "commission" means the mining commission
9 [~~established in the New Mexico Mining Act~~];

10 C. "director" means the director of the division or
11 [~~his~~] the director's designee;

12 D. "division" means the mining and minerals division
13 of the energy, minerals and natural resources department;

14 E. "existing mining operation" means an extraction
15 operation that produced marketable minerals for a total of at
16 least two years between January 1, 1970 and [~~the effective date~~
17 ~~of the New Mexico Mining Act~~] June 18, 1993;

18 F. "exploration" means the act of searching for or
19 investigating a mineral deposit, including sinking shafts,
20 tunneling, drilling core and bore holes, digging pits, making
21 cuts and other works for the purpose of extracting samples
22 prior to commencement of development or extraction operations
23 and the building of roads, access ways and other facilities
24 related to such work; however, activities that cause no or very
25 little surface disturbance, such as airborne surveys and

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1 photographs, use of instruments or devices that are hand
2 carried or otherwise transported over the surface to perform
3 magnetic, radioactive or other tests and measurements, boundary
4 or claim surveying, location work or other work that causes no
5 greater disturbance than is caused by ordinary lawful use of
6 the area by persons not engaged in exploration, are excluded
7 from the meaning of "exploration";

8 G. "mineral" means a nonliving commodity that is
9 extracted from the earth for use or conversion into a
10 [~~saleable~~] salable or usable product, but does not include
11 clays, adobe, flagstone, potash, sand, gravel, caliche, borrow
12 dirt, quarry rock used as aggregate for construction, coal,
13 surface water or subsurface water, geothermal resources, oil
14 and natural gas together with other chemicals recovered with
15 them, commodities, byproduct materials and wastes that are
16 regulated by the nuclear regulatory commission or waste
17 regulated under Subtitle C of the federal Resource Conservation
18 and Recovery Act of 1976;

19 H. "mining" means the process of obtaining useful
20 minerals from the earth's crust or from previously disposed or
21 abandoned mining wastes, including exploration, open-cut mining
22 and surface operation, the disposal of refuse from underground
23 and in situ mining, mineral transportation, concentrating,
24 milling, evaporation, leaching and other processing. "Mining"
25 does not mean the exploration and extraction of potash, sand,

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1 gravel, caliche, borrow dirt [~~and~~] or quarry rock used as
2 aggregate in construction; the exploration and extraction of
3 natural petroleum in a liquid or gaseous state by means of
4 wells or pipes; the development or extraction of coal; the
5 extraction of geothermal resources; smelting, refining,
6 cleaning, preparation, transportation or other off-site
7 operations not conducted on permit areas; or the extraction,
8 processing or disposal of commodities, byproduct materials or
9 wastes or other activities regulated by the federal nuclear
10 regulatory commission;

11 I. "new mining operation" means a mining operation
12 that engages in a development or extraction operation after
13 [~~the effective date of the New Mexico Mining Act~~] June 18, 1993
14 and that is not an existing mining operation;

15 J. "permit area" means the geographical area defined
16 in the permit for a new mining operation or for an existing
17 mining operation on which mining operations are conducted or
18 cause disturbance; and

19 K. "reclamation" means the employment during and
20 after a mining operation of measures designed to mitigate the
21 disturbance of affected areas and permit areas and, to the
22 extent practicable, provide for the stabilization of a permit
23 area following closure that will minimize future impact to the
24 environment from the mining operation and protect air and water
25 resources."

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1 SECTION 132. Section 69-36-6 NMSA 1978 (being Laws 1993,
2 Chapter 315, Section 6, as amended) is amended to read:

3 "69-36-6. MINING COMMISSION--CREATED--MEMBERS.--

4 A. The "mining commission" is created. The
5 commission shall consist of seven voting members, including:

6 (1) the director of the bureau of geology and
7 mineral resources of the New Mexico institute of mining and
8 technology or [~~his~~] the director's designee;

9 (2) the secretary of environment or [~~his~~] the
10 secretary's designee;

11 (3) the state engineer or [~~his~~] the state
12 engineer's designee;

13 (4) the commissioner of public lands or [~~his~~]
14 the commissioner's designee;

15 (5) the director of the [~~department of~~] game and
16 fish division of the energy, minerals and natural resources
17 department or [~~his~~] the director's designee; and

18 (6) two members of the public and an alternate
19 for each, all to be appointed by the governor with the advice
20 and consent of the senate. The public members shall be chosen
21 to represent and to balance environmental and mining interests
22 while minimizing conflicts of interest. No more than one of
23 the public members and one of the alternates appointed may
24 belong to the same political party. When the initial
25 appointments are made, one of the public members and [~~his~~] the

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1 public member's alternate will be designated to serve for two-
2 year terms, after which all public members shall serve for four
3 years. An alternate member may vote only in the absence of the
4 public member for whom [~~he~~] the member is the alternate.

5 B. The [~~chairman~~] chairperson of the soil and water
6 conservation commission, [~~and~~] the director of the agricultural
7 experiment station of New Mexico state university and the
8 inspector or their designees shall be nonvoting members of the
9 commission.

10 C. The commission shall elect a [~~chairman~~]
11 chairperson and other necessary officers and keep records of
12 its proceedings.

13 D. The commission shall convene upon the call of the
14 [~~chairman~~] chairperson or a majority of its members.

15 E. A majority of the voting members of the commission
16 shall be a quorum for the transaction of business. However, no
17 action of the commission shall be valid unless concurred upon
18 by at least four of the members present.

19 F. No member of the commission, with the exception of
20 one of the public members and [~~his~~] the public member's
21 alternate, shall receive, or shall have received during the
22 previous two years, more than ten percent of [~~his~~] that
23 member's income directly or indirectly from permit holders or
24 applicants for permits. Each member of the commission shall,
25 upon acceptance of [~~his~~] appointment and prior to the

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1 performance of any [~~of his~~] duties, file a statement of
2 disclosure with the secretary of state stating:

3 (1) the amount of money or other valuable
4 consideration received, whether provided directly or
5 indirectly, from persons subject to or who appear before the
6 commission;

7 (2) the identity of the source of money or other
8 valuable consideration; and

9 (3) whether the money or other valuable
10 consideration was in excess of ten percent of [~~his~~] the
11 member's gross personal income in either of the preceding two
12 years.

13 G. No commissioner with any financial interest
14 affected or potentially affected by a permit action may
15 participate in proceedings related to that permit action.

16 H. No member, designee or alternate member of the
17 commission shall have a direct or indirect financial interest
18 in any underground or surface coal mining operation."

19 SECTION 133. A new section of the New Mexico Mining Act
20 is enacted to read:

21 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
22 REPEAL.--The mining commission is terminated on July 1, 2017
23 pursuant to the provisions of the Sunset Act. The committee
24 shall continue to operate according to the provisions of
25 Sections 69-36-6 through 69-36-9 NMSA 1978 until July 1, 2018.

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1 Effective July 1, 2018, Sections 69-36-6 through 69-36-9 NMSA
2 1978 are repealed."

3 SECTION 134. A new section of the Oil and Gas Act is
4 enacted to read:

5 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
6 REPEAL.--The oil conservation commission is terminated on July
7 1, 2015 pursuant to the provisions of the Sunset Act. The
8 commission shall continue to operate according to the
9 provisions of Sections 70-2-4 through 70-2-6 NMSA 1978 until
10 July 1, 2016. Effective July 1, 2016, Sections 70-2-4 through
11 70-2-6 NMSA 1978 are repealed."

12 SECTION 135. Section 72-4A-1 NMSA 1978 (being Laws 2001,
13 Chapter 164, Section 1) is amended to read:

14 "72-4A-1. SHORT TITLE.--~~[This act]~~ Chapter 72, Article 4A
15 NMSA 1978 may be cited as the "Water Project Finance Act"."

16 SECTION 136. Section 72-4A-4 NMSA 1978 (being Laws 2001,
17 Chapter 164, Section 4, as amended) is amended to read:

18 "72-4A-4. WATER TRUST BOARD CREATED.--

19 A. The "water trust board" is created. The board is
20 composed of the following sixteen members:

21 (1) the state engineer or the state engineer's
22 designee;

23 (2) the secretary of finance and administration
24 or the secretary's designee;

25 (3) the executive director of the New Mexico

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1 finance authority or the executive director's designee;

2 (4) the secretary of environment or the
3 secretary's designee;

4 (5) the secretary of energy, minerals and
5 natural resources or the secretary's designee;

6 (6) the director of the [~~department of~~] game and
7 fish division of the energy, minerals and natural resources
8 department or the director's designee;

9 (7) the director of the New Mexico department of
10 agriculture or the director's designee;

11 (8) the executive director of the New Mexico
12 municipal league or the executive director's designee;

13 (9) the executive director of the New Mexico
14 association of counties or the executive director's designee;

15 (10) five public members appointed by the
16 governor and confirmed by the senate and who represent:

17 (a) the environmental community;

18 (b) an irrigation or conservancy district
19 that uses surface water;

20 (c) an irrigation or conservancy district
21 that uses ground water;

22 (d) acequia water users; and

23 (e) soil and water conservation districts;

24 (11) one public member appointed by the Indian
25 affairs commission; and

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1 (12) the president of the Navajo Nation or the
2 president's designee.

3 B. The chair of the board shall be elected by a
4 quorum of the board members. The board shall meet at the call
5 of the chair or whenever three members submit a request in
6 writing to the chair, but not less often than once each
7 calendar year. A majority of members constitutes a quorum for
8 the transaction of business. The affirmative vote of at least
9 a majority of a quorum present shall be necessary for an action
10 to be taken by the board.

11 C. Each public member of the board appointed by the
12 governor shall be appointed to a four-year term. To provide
13 for staggered terms, two of the initially governor-appointed
14 public members shall be appointed for terms of two years and
15 three members for terms of four years. Thereafter, all
16 governor-appointed members shall be appointed for four-year
17 terms. Vacancies shall be filled by appointment by the
18 governor for the remainder of the unexpired term.

19 D. Public members of the board shall be reimbursed
20 for attending meetings of the board as provided for nonsalaried
21 public officers in the Per Diem and Mileage Act and shall
22 receive no other compensation, perquisite or allowance.

23 E. Public members of the board are appointed public
24 officials of the state while carrying out their duties and
25 activities under the Water Project Finance Act."

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1 SECTION 137. Section 75-5-1 NMSA 1978 (being Laws 1987,
2 Chapter 192, Section 1, as amended) is amended to read:

3 "75-5-1. SHORT TITLE.--~~[Sections 1 through 6 of this act]~~
4 Chapter 75, Article 5 NMSA 1978 may be cited as the "Natural
5 Lands Protection Act".

6 SECTION 138. Section 75-5-3 NMSA 1978 (being Laws 1987,
7 Chapter 192, Section 3, as amended) is amended to read:

8 "75-5-3. DEFINITIONS.--As used in the Natural Lands
9 Protection Act:

10 A. ~~["committee" means the natural lands protection~~
11 ~~committee]~~ "department" means the energy, minerals and natural
12 resources department;

13 B. "unique and ecologically significant lands" are
14 lands ~~[which]~~ that:

15 (1) afford habitat for species listed as rare,
16 threatened or endangered by the state or federal government;
17 and

18 (2) are identified by the ~~[natural resources]~~
19 department as constituting the best remaining examples of
20 native ecological communities that are otherwise unprotected;
21 and

22 C. "corporation" means a New Mexico not-for-profit
23 corporation whose primary purpose is the preservation and
24 conservation of lands."

25 SECTION 139. Section 75-5-4 NMSA 1978 (being Laws 1987,

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1 Chapter 192, Section 4, as amended) is amended to read:

2 "75-5-4. ADMINISTRATION OF THE ACT.--

3 A. The Natural Lands Protection Act shall be
4 administered by the secretary of energy, minerals and natural
5 resources in consultation with ~~[a committee consisting of the~~
6 ~~secretary of natural resources, who shall serve as chairman of~~
7 ~~the committee]~~ the director of the ~~[department of]~~ game and
8 fish division of the department, the commissioner of public
9 lands and the director of the New Mexico department of
10 agriculture ~~[and three public members appointed by the~~
11 ~~governor, one of whom shall represent the ranching or farming~~
12 ~~industry].~~

13 B. The secretary of energy, minerals and natural
14 resources shall ~~[present a list of projects to the committee~~
15 ~~based on priorities generated by the natural resources~~
16 ~~department.~~

17 ~~C. The committee shall]~~ recommend lands to be
18 acquired under the provisions of the Natural Lands Protection
19 Act and, subject to appropriation for such purpose by the
20 legislature, pay the state's share of acquisitions. No land
21 shall be acquired unless a corporation jointly acquires the
22 land with the state. A corporation ~~[must]~~ shall participate in
23 acquiring a minimum of at least ten percent undivided interest
24 in the land or the state cannot participate in the acquisition.
25 Title to lands acquired shall be held as cotenants having

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1 undivided interests in proportion to the state's and the
2 corporation's share of the acquisition and shall be held in the
3 name of the state [~~of New Mexico~~] and the corporation.

4 [~~D.~~] C. Priority among projects qualified under the
5 Natural Lands Protection Act shall be determined in descending
6 order as follows:

7 (1) the degree to which the lands in question
8 are subject to the threat of immediate alteration or
9 destruction;

10 (2) the degree to which ecosystems in question
11 are unduplicated elsewhere; and

12 (3) usefulness for teaching and research."

13 **SECTION 140.** Section 75-5-5 NMSA 1978 (being Laws 1987,
14 Chapter 192, Section 5) is amended to read:

15 "75-5-5. MANAGEMENT.--

16 A. The purposes of management shall be for education,
17 research and preservation, provided that no use of the lands
18 acquired under the Natural Lands Protection Act shall
19 compromise or endanger the natural attributes for which they
20 were acquired.

21 B. The secretary of energy, minerals and natural
22 resources may assign responsibility for management of lands
23 acquired under the Natural Lands Protection Act to the
24 corporation [~~which~~] that jointly owns the land.

25 C. The corporation shall be required to develop and

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1 submit to the secretary of energy, minerals and natural
2 resources for review a plan for the management of lands for
3 which ~~[they are]~~ it is responsible. The secretary ~~[of natural~~
4 ~~resources, in consultation with the committee, will]~~ shall
5 review these plans to insure compliance with the purposes of
6 the Natural Lands Protection Act.

7 D. Lands adjacent to the land acquired under the
8 Natural Lands Protection Act shall not be subjected to any
9 regulation or restriction as a result of such ~~[acquisition]~~
10 acquisition.

11 E. Access to the land by the general public may be
12 restricted to visits conducted under the direct supervision of
13 an employee or designated representative of the managing
14 corporation.

15 F. The corporation shall annually pay to the state
16 and its political subdivisions a sum equal to an amount which
17 would have been paid in taxes, levies and assessments. This
18 payment shall be in lieu of such taxes, levies and
19 assessments."

20 SECTION 141. Section 75-10-1 NMSA 1978 (being Laws 2010,
21 Chapter 83, Section 1) is amended to read:

22 "75-10-1. SHORT TITLE.--~~[This act]~~ Chapter 75, Article 10
23 NMSA 1978 may be cited as the "Natural Heritage Conservation
24 Act"."

25 SECTION 142. Section 75-10-3 NMSA 1978 (being Laws 2010,

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1 Chapter 83, Section 3) is amended to read:

2 "75-10-3. DEFINITIONS.--As used in the Natural Heritage
3 Conservation Act:

4 [~~A.~~] "~~committee~~" ~~means the natural lands protection~~
5 ~~committee;~~

6 ~~B.]~~ A. "conservation entity" means a private
7 nonprofit charitable corporation or trust authorized to do
8 business in New Mexico that has tax-exempt status as a public
9 charity pursuant to the federal Internal Revenue Code of 1986
10 and that has the power to acquire, hold or maintain land or
11 interests in land;

12 [~~G.]~~ B. "conservation project" means the acquisition
13 of conservation or agricultural easements from a willing seller
14 or a land restoration project;

15 [~~D.]~~ C. "department" means the energy, minerals and
16 natural resources department;

17 [~~E.]~~ D. "fund" means the natural heritage
18 conservation fund; and

19 [~~F.]~~ E. "qualified entity" means a state agency, a
20 state educational institution named in Article 12, Section 11
21 of the constitution of New Mexico, a political subdivision of
22 the state or, for conservation projects wholly within New
23 Mexico, an Indian tribe or pueblo."

24 **SECTION 143.** Section 75-10-6 NMSA 1978 (being Laws 2010,
25 Chapter 83, Section 6) is amended to read:

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1 "75-10-6. CONSERVATION PROJECTS--PROCEDURES.--

2 A. All conservation projects shall be maintained to
3 protect the public health and welfare and shall be for:

4 (1) preserving and conserving water quality and
5 quantity;

6 (2) protecting agricultural production on
7 working farms, ranches and other agricultural lands;

8 (3) protecting and restoring New Mexico's
9 forests and watersheds;

10 (4) conserving wildlife habitat;

11 (5) maintaining natural areas;

12 (6) providing outdoor recreation opportunities,
13 including hunting and fishing; or

14 (7) preserving cultural and historic sites with
15 natural resource heritage value.

16 B. The department, working with [~~the committee~~]
17 landowners, conservationists and other interested persons,
18 shall establish criteria for evaluating possible conservation
19 projects. Criteria shall include:

20 (1) the degree to which the conservation project
21 serves the purposes of the Natural Heritage Conservation Act;

22 (2) the amount of matching financial support for
23 the conservation project from sources other than the state;

24 (3) the technical qualifications of the
25 applicant and its ability to complete and maintain the proposed

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1 conservation project;

2 (4) the degree to which the conservation project
3 fosters and integrates with existing conservation plans,
4 strategies and initiatives;

5 (5) the potential for benefits at landscape and
6 ecosystem scale;

7 (6) the potential for improved public access for
8 outdoor recreation opportunities, including hunting and
9 fishing;

10 (7) the potential for economic benefits of the
11 completed conservation project; and

12 (8) other measurements and requirements required
13 by the department [~~and the committee.~~

14 ~~G. The committee shall receive applications for~~
15 ~~conservation projects and shall evaluate them against the~~
16 ~~department's criteria. The committee may reject any incomplete~~
17 ~~applications or applications that do not meet the established~~
18 ~~criteria. After review, the committee shall make its~~
19 ~~recommendations on all evaluated conservation projects to the~~
20 ~~department]."~~

21 SECTION 144. Section 75-10-9 NMSA 1978 (being Laws 2010,
22 Chapter 83, Section 9) is amended to read:

23 "75-10-9. ANNUAL REPORT TO THE GOVERNOR AND THE
24 LEGISLATURE.--The department [~~and the committee~~] shall report
25 annually to the governor and the legislature on the status of

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1 applications and funded conservation projects."

2 SECTION 145. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
3 APPROPRIATIONS, PERSONNEL AND PROPERTY--CONTRACTUAL
4 OBLIGATIONS--STATUTORY REFERENCES.--

5 A. On July 1, 2011, all functions, personnel,
6 appropriations, money, records, furniture, equipment and other
7 property, including interests in land, minerals and water
8 rights, of the department of game and fish and the state game
9 commission shall be transferred to the game and fish division
10 of the energy, minerals and natural resources department.

11 B. On July 1, 2011, all functions, appropriations,
12 money, records, furniture, equipment and other property of the
13 coal surface mining commission shall be transferred to the
14 mining commission.

15 C. On July 1, 2011, all functions, appropriations,
16 money, records, furniture, equipment and other property of the
17 natural lands protection committee shall be transferred to the
18 energy, minerals and natural resources department.

19 D. On July 1, 2011, contractual obligations of the
20 department of game and fish and the state game commission are
21 binding on the energy, minerals and natural resources
22 department.

23 E. On July 1, 2011, contractual obligations of the
24 coal surface mining commission are binding on the mining
25 commission.

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1 F. On July 1, 2011, contractual obligations of the
2 natural lands protection committee are binding on the energy,
3 minerals and natural resources department.

4 G. On July 1, 2011, all references in law to the
5 department of game and fish shall be deemed to be references in
6 law to the game and fish division of the energy, minerals and
7 natural resources department. All references in law to the
8 director of the department of game and fish shall be deemed to
9 be references to the director of the game and fish division of
10 the energy, minerals and natural resources department.

11 H. On July 1, 2011, all references in law to the
12 state game commission shall be deemed to be references in law
13 to the game and fish division of the energy, minerals and
14 natural resources department.

15 I. On July 1, 2011, all references in law to the coal
16 surface mining commission and the mining safety board shall be
17 deemed to be references to the mining commission.

18 SECTION 146. TEMPORARY PROVISION--DUTIES OF STATE GAME
19 COMMISSION.--Beginning July 1, 2011, the game and fish division
20 of the energy, minerals and natural resources department shall
21 assume the duties of the state game commission. All rules of
22 the state game commission shall remain in force unless the game
23 and fish division repeals or amends them.

24 SECTION 147. REPEAL.--Sections 17-1-2 through 17-1-4,
25 17-1-6, 17-1-15, 17-2-5, 17-3-25, 69-25A-4, 69-25A-36 and

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1 70-11-5 NMSA 1978 (being Laws 1921, Chapter 35, Sections 2
2 through 4, Laws 1955, Chapter 59, Section 2, Laws 1931, Chapter
3 117, Sections 6 and 4, Laws 1967, Chapter 26, Section 1, Laws
4 1979, Chapter 291, Section 4, Laws 1987, Chapter 333, Section
5 14 and Laws 1989, Chapter 189, Section 5, as amended) are
6 repealed.

7 SECTION 148. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2011.

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