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SENATE BILL 203

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Jeff Steinborn

AN ACT

RELATING TO WILDLIFE; RENAMING THE DEPARTMENT OF GAME AND FISH AS THE WILDLIFE DEPARTMENT; RENAMING THE STATE GAME COMMISSION AS THE STATE WILDLIFE COMMISSION; CHANGING STATUTORY REFERENCES; PROVIDING FOR TRANSFERS.

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

SECTION 1. 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:

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- 1 (1) the administrative services division;
- 2 (2) the state parks division;
- 3 (3) the forestry division;
- 4 (4) the energy conservation and management
- 5 division;
- 6 (5) the mining and minerals division; and
- 7 (6) the oil conservation division.

8 B. The state [~~game~~] wildlife commission is
9 administratively attached to the department."

10 SECTION 2. Section 9-27-18 NMSA 1978 (being Laws 1971,
11 Chapter 115, Section 2, as amended) is amended to read:

12 "9-27-18. PROPERTY TRANSFER.--Ownership of all radio
13 communication property at mountaintop or remote sites,
14 including buildings, towers, antennas, emergency power plants
15 and radio equipment owned by the New Mexico state police,
16 department of transportation, wildlife department [~~of game and~~
17 ~~fish~~] and forestry division of the energy, minerals and natural
18 resources department, is transferred to the department of
19 information technology."

20 SECTION 3. Section 11-16-11 NMSA 1978 (being Laws 2001,
21 Chapter 101, Section 11) is amended to read:

22 "11-16-11. LICENSING AUTHORITY--ADMINISTRATOR--
23 EXPENSES.--

24 A. The wildlife department [~~of game and fish~~] is
25 designated as the licensing authority in New Mexico for the

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1 purposes of the Wildlife Violator Compact.

2 B. The director of the wildlife department [~~of game~~
3 ~~and fish~~] shall furnish to the appropriate authorities of the
4 participating states any information or documents reasonably
5 necessary to facilitate the administration of the Wildlife
6 Violator Compact.

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

14 SECTION 4. Section 13-4A-3 NMSA 1978 (being Laws 1986,
15 Chapter 11, Section 3, as amended) is amended to read:

16 "13-4A-3. DEFINITIONS.--As used in the Art in Public
17 Places Act:

18 A. "agency" means all state departments and
19 agencies, boards, councils, institutions, commissions and
20 quasi-public corporations, including all state educational
21 institutions enumerated in Article 12, Section 11 of the
22 constitution of New Mexico, and all statutorily created post-
23 secondary educational institutions;

24 B. "architect" means the person or firm designing
25 the project for the contracting agency to which the one percent

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1 provision pursuant to Section 13-4A-4 NMSA 1978 applies;

2 C. "contracting agency" means the agency having the
3 control, management and power to enter into contracts for new
4 construction or renovation of any public building;

5 D. "division" means the arts division of the
6 cultural affairs department;

7 E. "public buildings" means those buildings under
8 the control and management of the facilities management
9 division of the general services department, the wildlife
10 department [~~of game and fish~~], the energy, minerals and natural
11 resources department, the department of transportation, the
12 state fair commission, the supreme court, the commissioner of
13 public lands, the cultural affairs department, the governing
14 boards of the state educational institutions and statutorily
15 created post-secondary educational institutions, the public
16 education department and the legislature or all buildings
17 constructed with funds appropriated by the legislature. For
18 the purposes of the Art in Public Places Act, "public
19 buildings" does not include such auxiliary buildings as
20 maintenance plants, correctional facilities, warehouses or
21 temporary structures; and

22 F. "work of art" means any work of visual art,
23 including [~~but not limited to~~] a drawing, painting, mural,
24 fresco, sculpture, mosaic or photograph; a work of calligraphy;
25 a work of graphic art, including an etching, lithograph, offset

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1 print, silk screen or a work of graphic art of like nature;
2 works in clay, textile, fiber, wood, metal, plastic, glass and
3 like materials; or mixed media, including a collage or
4 assemblage or any combination of the foregoing art media that
5 is chosen to be included in or immediately adjoining the public
6 building under consideration. Under special circumstances, the
7 term may include environmental landscaping if approved by the
8 division."

9 SECTION 5. Section 15-3B-2 NMSA 1978 (being Laws 1972,
10 Chapter 74, Section 2, as amended) is amended to read:

11 "15-3B-2. DEFINITIONS.--As used in the Property Control
12 Act:

13 A. "capital outlay project" means the acquisition,
14 improvement, alteration or reconstruction of assets of a long-
15 term character that are intended to continue to be held or
16 used, including land, buildings, machinery, furniture and
17 equipment. A "capital outlay project" includes all proposed
18 expenditures related to the entire undertaking;

19 B. "department" means the general services
20 department;

21 C. "director" means the director of the division;

22 D. "division" means the facilities management
23 division of the department;

24 E. "jurisdiction" means all state buildings and
25 land except those under the control and management of the state

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1 armory board, the border authority, the cultural affairs
2 department, the state fair commission, the wildlife department
3 [~~of game and fish~~], the department of transportation, the
4 commissioner of public lands, the state parks division of the
5 energy, minerals and natural resources department, the state
6 institutions of higher learning, regional education
7 cooperatives, the New Mexico school for the deaf, the New
8 Mexico school for the blind and visually impaired, the judicial
9 branch, the legislative branch, property acquired by the
10 economic development department pursuant to the Statewide
11 Economic Development Finance Act and property acquired by the
12 public school facilities authority pursuant to the Public
13 School Capital Outlay Act; and

14 F. "secretary" means the secretary of general
15 services."

16 SECTION 6. Section 15-8-6 NMSA 1978 (being Laws 1994,
17 Chapter 119, Section 6, as amended) is amended to read:

18 "15-8-6. STATE VEHICLES--USE--MARKINGS--STATE
19 GOVERNMENT PLATES.--

20 A. The division shall adopt rules governing the
21 use of vehicles used by state agencies or by other persons
22 pursuant to Subsection I of this section, including driver
23 requirements and responsibilities, under what circumstances
24 someone can be assigned a state vehicle on a permanent or
25 semipermanent basis and when custody of a state vehicle can

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1 be vested in another state agency.

2 B. The division may determine that it is
3 impractical to retain custody of certain state vehicles, and
4 it may provide that custody reside in another state agency in
5 the following cases:

6 (1) the state vehicle is used for emergency
7 or law enforcement purposes; or

8 (2) the state vehicle is a department of
9 transportation, energy, minerals and natural resources
10 department, wildlife department [~~of game and fish~~] or
11 homeland security and emergency management department
12 passenger vehicle, truck or tractor or heavy road equipment.

13 C. Except as provided in Subsections F, G and H
14 of this section, all state vehicles shall be marked as state
15 vehicles. Each side of the vehicle shall be marked, in
16 letters not less than two inches in height, with the
17 following designation of ownership: "State of New Mexico,
18 Department" or "State of New Mexico Department of
19" and naming the department using the vehicle.

20 D. Except as provided in Subsections F, G and H
21 of this section, all state vehicles shall have specially
22 designed government registration plates.

23 E. Except as provided in Subsections F, G and H
24 of this section, all state vehicles owned or in the custody
25 of state agencies that have law enforcement functions shall

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1 be marked and have state government registration plates.

2 F. State vehicles used for legitimate undercover
3 law enforcement purposes are exempt from the requirements of
4 Subsections C, D and E of this section and may be issued an
5 undercover license plate when it is determined by the
6 division that issuance of such a license plate is necessary
7 to protect legitimate undercover law enforcement activities.

8 G. State vehicles used for sensitive activities
9 other than legitimate undercover law enforcement purposes are
10 exempt from the requirements of Subsections C, D and E of
11 this section and may be issued a protective license plate
12 when it is determined by the division that issuance of such a
13 license plate is necessary to protect the health, safety or
14 welfare of a state employee using a state-owned vehicle for
15 sensitive activities. The standards for the issuance of a
16 protective license plate pursuant to this subsection shall be
17 determined by rule jointly promulgated by the division and
18 the motor vehicle division of the taxation and revenue
19 department.

20 H. A state agency may seek custody of state
21 vehicles as an exception to Subsection B of this section or
22 an exemption to the provisions of Subsection C of this
23 section by making a written request to the director,
24 specifying the reasons for the proposed custody or exemption.
25 The director may approve the custody or exemption, in

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1 writing, indicating the duration and any conditions of the
2 custody or exemption.

3 I. The division shall adopt rules permitting
4 individuals enrolled in the state's adaptive driving program
5 to use special-use state vehicles for evaluation and training
6 purposes in that program."

7 SECTION 7. Section 16-2-32 NMSA 1978 (being Laws 1935,
8 Chapter 57, Section 19, as amended) is amended to read:

9 "16-2-32. CRIMINAL OFFENSES--PENALTY.--A person who
10 commits any of the following acts is guilty of a petty
11 misdemeanor and shall be sentenced in accordance with the
12 provisions of Section 31-19-1 NMSA 1978:

13 A. cut, break, injure, destroy, take or remove a
14 tree, shrub, timber, plant or natural object in any state
15 park and recreation area, except in areas designated by the
16 secretary and permitted by rules adopted by the secretary.
17 Such rules shall only permit the removal of a tree, shrub,
18 timber, plant or natural object for scientific study or for
19 noncommercial use by an individual as a souvenir. The
20 quantity of material authorized for removal from any area
21 shall be strictly regulated by park personnel in order to
22 minimize resource damage;

23 B. kill, cause to be killed or pursue with intent
24 to kill a bird or animal in a state park and recreation area,
25 except in areas designated by the secretary and except in

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1 conformity with the provisions of general law and the rules
2 of the state [~~game~~] wildlife commission;

3 C. take a fish from the waters of a state park
4 and recreation area, except in conformity with the provisions
5 of general law and the rules of the state [~~game~~] wildlife
6 commission;

7 D. willfully mutilate, injure, deface or destroy
8 any guidepost, notice, tablet, fence, enclosure or work that
9 is for the protection or ornamentation of a state park and
10 recreation area;

11 E. light a fire in a state park and recreation
12 area, except in those places authorized for fires by the
13 secretary, or willfully or carelessly permit any fire that is
14 authorized and that the person has lighted or caused to be
15 lighted or under the person's charge to spread or extend to
16 or burn the shrubbery, trees, timber, ornaments or
17 improvements in a state park and recreation area or leave a
18 campfire that the person has lighted or that has been left in
19 the person's charge unattended by a competent person without
20 extinguishing it;

21 F. place in a state park and recreation area or
22 affix to an object in a state park and recreation area a
23 word, character or device designed to advertise a business,
24 profession, article, thing, exhibition, matter or event
25 without a written license from the secretary permitting the

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1 person to do it; or

2 G. violate a rule adopted by the secretary
3 pursuant to the provisions of Chapter 16, Article 2 NMSA 1978
4 when the violation has caused or contributed to the cause of
5 an accident resulting in injury or death to a person or
6 disappearance of a person."

7 SECTION 8. Section 16-4-5 NMSA 1978 (being Laws 1977,
8 Chapter 242, Section 5, as amended) is amended to read:

9 "16-4-5. MANAGEMENT.--

10 A. The secretary shall administer the state-
11 administered segment of El Rio Chama scenic and pastoral
12 river and shall develop, by rule [~~and regulation~~] and after
13 public hearings, a management plan and guidelines to realize
14 the scenic and pastoral objectives of El Rio Chama Scenic and
15 Pastoral Act. The plan shall be prepared in cooperation with
16 the appropriate federal agencies and shall include among
17 other things:

18 (1) consideration for cooperative management
19 arrangements between state and federal authorities; and

20 (2) measures to control recreational use of
21 the designated river to protect the river's natural values.

22 B. The secretary shall seek the assistance and aid
23 of the state [~~game~~] wildlife commission for resource and
24 recreation management within the state-administered segment
25 of El Rio Chama scenic and pastoral river.

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1 C. The secretary shall report annually to the
2 governor and to the legislature concerning the development
3 and the administration of the cooperative federal-state
4 management plan."

5 SECTION 9. Section 17-1-2 NMSA 1978 (being Laws 1921,
6 Chapter 35, Section 2, as amended) is amended to read:

7 "17-1-2. STATE [~~GAME~~] WILDLIFE COMMISSION--
8 APPOINTMENT--TERM.--

9 A. To carry out the purpose of Chapter 17 NMSA 1978
10 and all other acts for like purpose, there is created a
11 "state [~~game~~] wildlife commission" of seven members, not more
12 than four of whom shall be of the same political party at the
13 time of their appointment. The members of the commission
14 shall be appointed by the governor with the advice and
15 consent of the senate. The term of office for each member of
16 the commission shall be four years. At the time of making
17 the first appointments, the governor shall designate the
18 commissioners' terms as being one, two, three or four years
19 so that the term of no more than two commissioners shall
20 expire each year.

21 B. In making appointments to the state [~~game~~]
22 wildlife commission, one member shall be appointed from each
23 of the following districts:

24 [~~A.~~] (1) district one: Curry, De Baca,
25 Roosevelt, Chaves, Lincoln, Otero, Eddy and Lea counties;

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1 [~~B-~~] (2) district two: Catron, Socorro,
2 Grant, Hidalgo, Luna, Sierra and Dona Ana counties;

3 [~~G-~~] (3) district three: San Juan, McKinley,
4 Cibola, Valencia, Sandoval, Los Alamos and Rio Arriba
5 counties;

6 [~~D-~~] (4) district four: Santa Fe, Taos,
7 Colfax, Union, Mora, Harding, Quay, San Miguel, Guadalupe and
8 Torraine counties; and

9 [~~E-~~] (5) district five: Bernalillo county.

10 The remaining two members shall be appointed at-large. At
11 least one member of the commission shall manage and operate a
12 farm or ranch that contains at least two species of wildlife
13 on that part [~~which~~] that is deeded land requiring licensing
14 prior to legal pursuit under the provisions of Section 17-3-2
15 NMSA 1978. At least one member shall have a demonstrated
16 history of involvement in wildlife and habitat protection
17 issues and [~~whose~~] have activities or occupation [~~are~~] not in
18 conflict with wildlife and habitat advocacy.

19 C. The state [~~game~~] wildlife commission as provided
20 in Chapter 17 NMSA 1978 shall have the same authority, powers
21 and duties as now vested in the state [~~game~~] wildlife
22 commission by law, and each member of the state [~~game~~]
23 wildlife commission shall serve until [~~his~~] a successor has
24 been appointed and qualified."

25 SECTION 10. Section 17-1-3 NMSA 1978 (being Laws 1921,
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1 Chapter 35, Section 3, as amended) is amended to read:

2 "17-1-3. MEMBERS TO SERVE WITHOUT COMPENSATION--PER
3 DIEM AND MILEAGE.--The members of the state [~~game~~] wildlife
4 commission shall receive no pay for their services as members
5 of the commission, but shall be allowed per diem and mileage
6 pursuant to the provisions of the Per Diem and Mileage Act.
7 All salaries, per diem and contingent expenses incurred by
8 the wildlife department [~~of game and fish~~] or the state
9 [~~game~~] wildlife commission shall be paid upon warrants of the
10 secretary of finance and administration, supported by
11 vouchers of the director of the wildlife department [~~of game~~
12 ~~and fish~~]."

13 SECTION 11. Section 17-1-4 NMSA 1978 (being Laws 1921,
14 Chapter 35, Section 4) is amended to read:

15 "17-1-4. ORGANIZATION--MEETINGS--SECRETARY.--Within
16 sixty days after [~~this Act shall take~~] Chapter 17 NMSA 1978
17 takes effect, the state [~~game~~] wildlife commission shall meet
18 at the capitol and organize by electing from its membership a
19 [~~chairman~~] chair, and thereafter one meeting shall be held
20 annually and others at the call of the governor or a majority
21 of the commission. The [~~State Game Warden~~] director of the
22 wildlife department shall be secretary of the commission."

23 SECTION 12. Section 17-1-5 NMSA 1978 (being Laws 1931,
24 Chapter 117, Section 5, as amended) is amended to read:

25 "17-1-5. EMPLOYMENT AND DISCHARGE OF DIRECTOR AND OTHER

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1 EMPLOYEES--WILDLIFE DEPARTMENT [~~OF GAME AND FISH~~] CREATED.--

2 A. The state [~~game~~] wildlife commission shall
3 employ a director who shall, under such authorization that
4 the [~~game~~] commission shall approve, employ such conservation
5 officers, clerks and other employees as [~~he shall deem~~] the
6 director deems proper and necessary to enforce and administer
7 the laws and [~~regulations~~] rules relating to [~~game and fish~~]
8 wildlife, and who shall prescribe their duties respectively,
9 and who with the advice and consent of the state [~~game~~]
10 wildlife commission shall fix the compensation of all the
11 employees of the "wildlife department [~~of game and fish~~]",
12 which is hereby created.

13 B. The state [~~game~~] wildlife commission may at any
14 time discharge the director for reasons that the state [~~game~~]
15 wildlife commission [~~shall deem~~] deems sufficient. The
16 director may dismiss employees in accordance with the
17 provisions of the Personnel Act."

18 SECTION 13. Section 17-1-5.1 NMSA 1978 (being Laws
19 1994, Chapter 129, Section 1) is amended to read:

20 "17-1-5.1. CONSERVATION SERVICES DIVISION--DUTIES.--

21 A. The "conservation services division" is created
22 within the wildlife department [~~of game and fish~~].

23 B. The conservation services division is
24 responsible for:

- 25 (1) management, enhancement, research and

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1 conservation of public wildlife habitat;

2 (2) the lease, purchase, enhancement and
3 management of state wildlife habitat;

4 (3) assisting landowners in improving wildlife
5 habitats;

6 (4) development of educational programs
7 related to conservation of wildlife and the environment,
8 including the expanded dissemination of wildlife
9 publications; and

10 (5) communication and consultation with
11 federal and other state agencies, local governments and
12 communities, private organizations and affected interests
13 responsible for habitat, wilderness, recreation, water
14 quality and environmental protection to ensure comprehensive
15 conservation services for hunters, anglers and nonconsumptive
16 wildlife users."

17 SECTION 14. Section 17-1-7 NMSA 1978 (being Laws 1955,
18 Chapter 181, Section 1) is amended to read:

19 "17-1-7. RESERVE CONSERVATION OFFICER.--There is hereby
20 created within the wildlife department [~~of game and fish~~] the
21 position of reserve conservation officer, which shall be a
22 nonsalaried position."

23 SECTION 15. Section 17-1-8 NMSA 1978 (being Laws 1955,
24 Chapter 181, Section 2) is amended to read:

25 "17-1-8. QUALIFICATIONS.--

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1 A. Reserve conservation officer commissions shall
2 be issued only to [~~the following:—(a)~~] persons who have
3 successfully completed a school of at least twenty-five hours
4 conducted by the wildlife department [~~of game and fish~~]
5 covering procedures and techniques of wildlife management,
6 law enforcement, public relations and such other subjects as
7 may be deemed desirable by the wildlife department [~~of game~~
8 ~~and fish~~].

9 [~~(b)~~] B. The director of the wildlife department
10 may substitute a minimum of six [~~months~~] months' experience
11 as an employee of a state or federal conservation agency or a
12 state livestock law enforcement board in lieu of the
13 [~~aforementioned~~] schooling required under Subsection A of
14 this section. Any substitution made under the provisions of
15 this [~~paragraph~~] subsection shall be limited to personnel
16 currently employed by one of the [~~aforementioned~~]
17 conservation agencies set forth in this subsection. Any
18 appointments the director may make under the provisions of
19 this [~~paragraph will~~] subsection shall terminate
20 automatically with the termination of employment by [~~said~~]
21 the agency of the individual so appointed or the individual's
22 transfer from the state."

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

25 "17-1-9. POWERS AND DUTIES OF RESERVE CONSERVATION

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1 OFFICERS.--

2 A. Under the supervision of the wildlife department
3 [~~of game and fish~~] and subject to such restrictions as may be
4 provided by the state [~~game~~] wildlife commission, reserve
5 conservation officers shall have authority to enforce laws
6 and [~~valid regulations~~] rules of the state [~~game~~] wildlife
7 commission relating to game and fish and perform such duties
8 with respect to wildlife management and conservation
9 education as may be assigned to them from time to time by the
10 wildlife department [~~of game and fish~~]. When on duty,
11 reserve conservation officers shall be covered by the
12 [~~Workmen's~~] Workers' Compensation Act. Reserve conservation
13 officers shall have only the rights of private citizens in
14 the enforcement of laws other than those relating to game and
15 fish.

16 B. For the purpose of calculating the amount of
17 reserve conservation officer's disability or death benefits
18 pursuant to the [~~Workmen's~~] Workers' Compensation Act, the
19 officer's average weekly wages shall be deemed to be the base
20 wage of a wildlife management officer II as classified by the
21 personnel board."

22 SECTION 17. Section 17-1-10 NMSA 1978 (being Laws 1955,
23 Chapter 181, Section 4) is amended to read:

24 "17-1-10. COMMISSION ISSUANCE--REVOCATION.--Reserve
25 conservation officer commissions shall be issued annually to

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1 such persons meeting the qualifications prescribed in Section
2 [2] 17-1-8 NMSA 1978 as may be deemed necessary or desirable
3 by the director of the wildlife department [~~of game and~~
4 ~~fish~~]. Such commissions may be revoked at any time by [~~said~~]
5 the director at [~~his discretion~~] the director's discretion."

6 SECTION 18. Section 17-1-11 NMSA 1978 (being Laws 1977,
7 Chapter 290, Section 5) is amended to read:

8 "17-1-11. CONSERVATION OFFICERS--OFFICIAL DUTIES--
9 INSURANCE.--Conservation officers shall, in emergency
10 situations, be considered on duty and within the scope of
11 their employment for purposes of employee benefits when they
12 follow specific instructions from a duly qualified full-time
13 peace officer and in aid of [~~such~~] the peace officer in the
14 carrying out of [~~his~~] the peace officer's duties. The state
15 [~~game~~] wildlife commission shall expand current insurance
16 coverage to provide protection in such situations."

17 SECTION 19. Section 17-1-13 NMSA 1978 (being Laws 1912,
18 Chapter 85, Section 46, as amended) is amended to read:

19 "17-1-13. [~~GAME WARDEN~~] DIRECTOR--SEAL OF OFFICE [~~SHALL~~
20 ~~KEEP~~].--[~~Sec. 46.~~] The [~~State Warden~~] director of the
21 wildlife department shall keep a seal of office [~~which~~] that
22 shall be used to authenticate all papers and documents issued
23 and executed by [~~him~~] the director as such officer."

24 SECTION 20. Section 17-1-14 NMSA 1978 (being Laws 1921,
25 Chapter 35, Section 7, as amended) is amended to read:

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1 "17-1-14. GENERAL POWERS AND DUTIES OF STATE [~~GAME~~]
2 WILDLIFE COMMISSION--GAME PROTECTION FUND--LIABILITY SUSPENSE
3 ACCOUNT.--

4 A. The state [~~game~~] wildlife commission shall have
5 general control over the collection and disbursement of all
6 money collected or received under the state laws for the
7 protection and propagation of game and fish, which money
8 shall be paid over to the state treasurer to the credit of
9 the game protection fund, unless otherwise provided by law,
10 and the fund, including all earned income, shall not be
11 transferred to another fund. Prior to depositing money into
12 the game protection fund, the wildlife department [~~of game~~
13 ~~and fish~~] shall ensure that an amount adequate to cover the
14 cost of refunds allowed by the provisions of Chapter 17 NMSA
15 1978 is held in a liability suspense account. All refunds
16 shall be made from the liability suspense account. Money not
17 needed to cover the cost of refunds shall be deposited in the
18 game protection fund at the end of each month. Chapter 17
19 NMSA 1978 shall be guaranty to the person who pays for
20 hunting and fishing licenses and permits that the money in
21 that fund shall not be used for any purpose other than as
22 provided in Chapter 17 NMSA 1978.

23 B. The state [~~game~~] wildlife commission shall have
24 authority to:

25 (1) establish and, through the director of the

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1 wildlife department [~~of game and fish~~], to operate fish
2 hatcheries for the purpose of stocking public waters of the
3 state and to furnish fish fry and fingerlings to stock
4 private waters, receipts from such sources to go into the
5 game protection fund;

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

9 (3) establish game refuges for the purpose of
10 providing safe sanctuaries in which game may breed and
11 replenish adjacent hunting ranges, it being the purpose of
12 this provision to establish small refuges rather than large
13 preserves or to close large areas to hunting;

14 (4) purchase lands for game refuges where
15 suitable public lands do not exist, to purchase lands for
16 fish hatcheries and to purchase lands to be maintained
17 perpetually as public hunting grounds, particularly lands
18 suitable for waterfowl hunting, all such lands to be paid for
19 from the game protection fund;

20 (5) receive by gift or bequest, in the name
21 and on behalf of the state, lands suitable for game refuges,
22 hunting grounds, fish hatcheries or for any other purpose
23 necessary to carry out the provisions of Chapter 17 NMSA
24 1978;

25 (6) apply for and accept any state, federal or

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1 private funds, grants or donations from any source for game
2 and fish programs and projects;

3 (7) designate certain areas as rest grounds
4 for migratory birds, in which hunting shall be forbidden at
5 all times or at such times as the state [~~game~~] wildlife
6 commission shall provide, it being the purpose of this
7 provision not to interfere unduly with the hunting of
8 waterfowl but to provide havens in which they can rest and
9 feed without molestation;

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

14 (9) propagate, capture, purchase, transport or
15 sell any species of game or fish needed for restocking any
16 lands or streams of the state;

17 (10) after reasonable notice and hearing,
18 suspend or revoke any license or permit issued pursuant to
19 the provisions of Chapter 17 NMSA 1978 and withhold license
20 privileges from any person procuring a license through
21 misrepresentation, violating any provisions of Chapter 17
22 NMSA 1978 or hunting without a proper license;

23 (11) adopt rules establishing procedures that
24 provide reasonable notice and a hearing before the state
25 [~~game~~] wildlife commission for the suspension, revocation or

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1 withholding of license privileges for a definite period of
2 time for a person charged with violating the provisions of
3 Chapter 17 NMSA 1978, subject to such judicial review as may
4 be provided by law;

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

7 (13) establish licenses, permits and
8 certificates not otherwise provided for in Section 17-3-13
9 NMSA 1978 and charge and collect just and reasonable fees for
10 them; provided the fees shall not exceed the costs of
11 administration associated with the licenses, permits or
12 certificates;

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

18 (15) adopt rules to control, eradicate or
19 prevent the spread of a contagious disease, pest or parasite,
20 including chronic wasting disease, to or among game animals.
21 The rules shall include provisions for:

22 (a) notification to the wildlife
23 department [~~of game and fish~~] of the diagnosis or suspected
24 presence of a contagious disease;

25 (b) examination by the state veterinarian

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1 or the state veterinarian's designee of suspected infected
2 game animals;

3 (c) quarantine, treatment or destruction
4 of an infected game animal;

5 (d) disinfection and isolation of a
6 licensed private park where an infected game animal has been;
7 and

8 (e) indemnification and destruction of a
9 protected game animal;

10 (16) as necessary, designate areas of the
11 state in which bear-proof garbage containers are required on
12 public and private lands to reduce potential human-bear
13 interactions;

14 (17) pursuant to appropriation by the
15 legislature, expend money from the game protection fund and
16 the habitat management fund for the improvement, maintenance,
17 development and operation of property for fish and wildlife
18 habitat management; and

19 (18) adopt rules to recruit, train and accept
20 the services of volunteers for education and outreach
21 activities, hunter and angler services and wildlife
22 conservation activities administered by the wildlife
23 department [~~of game and fish~~]; provided that a volunteer:

24 (a) shall comply with all policies and
25 procedures of the director of the wildlife department [~~of~~

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1 ~~game and fish~~]; and

2 (b) shall not be deemed to be a state
3 employee and shall not be subject to the provisions of law
4 relating to state employment, including those relating to
5 hours of work, rates of compensation, leave, unemployment
6 compensation and state employee benefits.

7 C. The director of the wildlife department [~~of game~~
8 ~~and fish~~] shall exercise all the powers and duties conferred
9 upon the [~~state game and fish warden~~] director by all
10 previous statutes now in force not in conflict with Chapter
11 17 NMSA 1978.

12 D. The state [~~game~~] wildlife commission shall have
13 authority to prohibit all hunting in periods of extreme
14 forest fire danger, at such times and places as may be
15 necessary to reduce the danger of destructive forest fires.

16 E. The hunting, pursuing, capturing, killing or
17 wounding of any game animals, birds or fish in or upon any
18 game refuge, rest ground or closed water or closed area or
19 during any closed season established or proclaimed by the
20 state [~~game~~] wildlife commission in accordance with the
21 authority conferred in Chapter 17 NMSA 1978 constitutes a
22 misdemeanor and shall be punishable as prescribed in Chapter
23 17 NMSA 1978."

24 SECTION 21. Section 17-1-15 NMSA 1978 (being Laws 1931,
25 Chapter 117, Section 6, as amended) is amended to read:

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1 "17-1-15. DISBURSEMENT OF MONEY--LIMITATION ON
2 EXPENDITURES.--

3 A. All disbursements [~~of moneys, including~~
4 ~~salaries~~] by the [~~state game commission~~] wildlife department
5 shall be by warrant of the secretary of finance and
6 administration, supported by itemized voucher, [~~certified to~~
7 ~~be correct by the state game~~] signed by the director of the
8 wildlife department or the director's authorized
9 representative, and shall be paid out of [~~moneys~~] money in
10 the game protection fund.

11 B. Expenditures by the [~~state game commission~~]
12 wildlife department shall be limited to [~~funds~~] money
13 available in the game protection fund, and neither the [~~state~~
14 ~~game commission~~] wildlife department nor any employee
15 [~~thereof~~] of the department shall incur or authorize any
16 obligation for the payment of which sufficient funds are not
17 then available in the game protection fund.

18 C. The state shall not be liable for any obligation
19 created by the state [~~game~~] wildlife commission or the
20 wildlife department or any employee [~~thereof~~] of the
21 department, except to the extent of [~~such~~] the game
22 protection fund.

23 D. Neither the [~~state game commission~~] wildlife
24 department nor any employee [~~thereof~~] of the department shall
25 issue any voucher, nor shall the secretary of finance and

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1 administration approve any such voucher, for the payment of
2 which [~~moneys are~~] money is not then available in the game
3 protection fund."

4 SECTION 22. Section 17-1-18 NMSA 1978 (being Laws 1964
5 (1st S.S.), Chapter 18, Section 3, as amended) is amended to
6 read:

7 "17-1-18. BONDING AUTHORITY.--Whenever the state [~~game~~]
8 wildlife commission, by vote of a majority of its full
9 membership entered in its minutes, determines by resolution
10 that it is necessary to raise funds to provide for fish
11 hatcheries and rearing facilities, game and fish habitat
12 acquisition, development and improvement projects or other
13 similar capital outlay projects, the commission may issue and
14 sell bonds of the state [~~of New Mexico~~] as provided in the
15 Game and Fish Bond Act, provided that the total amount of
16 [~~such~~] bonds issued under the authority of [~~this~~] the Game
17 and Fish Bond Act shall not exceed two million dollars
18 (\$2,000,000). The purposes stated by the commission and the
19 amount of each bond issue shall be approved by the state
20 board of finance before issuance of the bonds. The
21 commission shall report annually to the legislature any bonds
22 issued pursuant to [~~this~~] the Game and Fish Bond Act and the
23 purpose for which issued."

24 SECTION 23. Section 17-1-19 NMSA 1978 (being Laws 1964
25 (1st S.S.), Chapter 18, Section 4, as amended) is amended to

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1 read:

2 "17-1-19. BONDS--FORM--TERMS.--Bonds issued under the
3 Game and Fish Bond Act shall be payable in consecutive order
4 over a period of not more than twenty years from the date of
5 issue. They shall be issued in denominations determined by
6 the state [~~game~~] wildlife commission and shall be sold at a
7 net effective interest rate not exceeding the maximum net
8 effective interest rate permitted by the Public Securities
9 Act, as hereafter amended and supplemented. The form of the
10 bonds shall be determined by the state [~~game~~] wildlife
11 commission, and, except with respect to bonds issued in book
12 entry or similar form without the delivery of physical
13 securities, signatures of the governor, the state treasurer
14 and the [~~chairman~~] chair of the state [~~game~~] wildlife
15 commission shall be affixed in compliance with the Uniform
16 Facsimile Signature of Public Officials Act. The form and
17 terms of the bonds shall be approved by the state board of
18 finance before issuance of the bonds."

19 SECTION 24. Section 17-1-20 NMSA 1978 (being Laws 1964
20 (1st S.S.), Chapter 18, Section 5, as amended) is amended to
21 read:

22 "17-1-20. SALE OF BONDS.--Bonds issued under the Game
23 and Fish Bond Act shall be sold at public or private sale as
24 determined by the state [~~game~~] wildlife commission. If sold
25 at public sale, the [~~chairman~~] chair of the commission shall

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1 give notice of the time, place and terms of the sale by
2 publication in a newspaper of general circulation published
3 in Santa Fe, New Mexico, not less than twenty days nor more
4 than sixty days prior to the sale date."

5 SECTION 25. Section 17-1-22 NMSA 1978 (being Laws 1964
6 (1st S.S.), Chapter 18, Section 7, as amended) is amended to
7 read:

8 "17-1-22. SECURITY--RETIREMENT OF BONDS.--

9 A. There is created in the state treasury the "game
10 and fish bond retirement fund". The state [~~game~~] wildlife
11 commission shall place into the game and fish bond retirement
12 fund the sum of one dollar (\$1.00) from the sale of each
13 license enumerated in this subsection [~~that is sold after~~
14 ~~April 1, 1976~~]:

- 15 (1) resident, fishing;
- 16 (2) resident, game hunting;
- 17 (3) resident, deer;
- 18 (4) resident, game hunting and fishing;
- 19 (5) resident, trapper;
- 20 (6) nonresident, fishing;
- 21 (7) nonresident, game hunting;
- 22 (8) temporary fishing, five days; and
- 23 (9) nonresident, deer.

24 Such payments to the game and fish bond retirement fund shall
25 be effective for all bonds issued under the Game and Fish

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1 Bond Act up to the maximum limitation on the amount of bonds
2 provided in that act.

3 B. Money in the game and fish bond retirement fund
4 is first pledged for the payment of principal and interest on
5 all state game commission bonds [~~which~~] that have been issued
6 and are outstanding prior to June 17, 1983. Money in the
7 game and fish bond retirement fund is [~~further~~] pledged for
8 the payment of principal and interest on all [~~state game~~
9 ~~commission~~] bonds issued [~~as of June 17, 1983~~] pursuant to
10 the Game and Fish Bond Act. The issuance and sale of bonds
11 [~~under~~] pursuant to the Game and Fish Bond Act constitutes an
12 irrevocable contract between the state [~~game~~] wildlife
13 commission and the owner of any bond, and, so long as any
14 bond remains outstanding, the fees pledged for payment shall
15 not be reduced.

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

19 D. On or after July 1, 2021, the state [~~game~~]
20 wildlife commission shall [~~continue to~~] place in the game and
21 fish bond retirement fund the sum of one dollar (\$1.00) from
22 each of the licenses enumerated in Subsection A of this
23 section, even after the fund is sufficient to pay the
24 principal and interest of the outstanding bonds and after all
25 bonds issued have been retired."

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1 SECTION 26. Section 17-1-22.1 NMSA 1978 (being Laws
2 1983, Chapter 143, Section 2) is amended to read:

3 "17-1-22.1. GAME AND FISH CAPITAL OUTLAY FUND--
4 CREATED--TRANSFER OF MONEY--STATE BOARD OF FINANCE
5 APPROVAL.--

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

8 B. Upon request of the state [~~game~~] wildlife
9 commission, approved by the state board of finance, the state
10 treasurer shall transfer to the game and fish capital outlay
11 fund all money in the game and fish bond retirement fund
12 except the amount necessary to meet all principal and
13 interest payments on state [~~game~~] wildlife commission bonds
14 due in the ensuing twelve months.

15 C. Money in the game and fish capital outlay fund
16 may be expended by the wildlife department [~~of game and fish~~]
17 to provide for fish hatcheries and rearing facilities, game
18 and fish habitat acquisition, development and improvements
19 and other similar capital projects.

20 D. Projects to be funded pursuant to Subsection C
21 of this section shall be approved by the state [~~game~~]
22 wildlife commission and the state board of finance prior to
23 any money being encumbered for the project.

24 E. At any time that the game and fish bond
25 retirement fund is insufficient to pay the principal and

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1 interest on all bonds [~~which~~] that have been issued and are
2 outstanding, the unencumbered balance in the game and fish
3 capital outlay fund shall be transferred to the game and fish
4 bond retirement fund."

5 SECTION 27. Section 17-1-23 NMSA 1978 (being Laws 1964
6 (1st S.S.), Chapter 18, Section 8) is amended to read:

7 "17-1-23. CONSTRUCTION.--The Game and Fish Bond Act is
8 full authority for authorization and issuance by the state
9 [~~game~~] wildlife commission of bonds authorized by the state
10 board of finance, and the commission may do anything
11 necessary to carry out the powers granted by the Game and
12 Fish Bond Act."

13 SECTION 28. Section 17-1-25 NMSA 1978 (being Laws 1964
14 (1st S.S.), Chapter 18, Section 10) is amended to read:

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

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1 SECTION 29. Section 17-1-26 NMSA 1978 (being Laws 1931,
2 Chapter 117, Section 2, as amended) is amended to read:

3 "17-1-26. RULEMAKING POWER--PREDATOR ERADICATION.--The
4 state [~~game~~] wildlife commission is [~~hereby~~] authorized and
5 directed to make [~~such~~] rules [~~and regulations~~] and establish
6 [~~such~~] service as it may deem necessary to carry out all the
7 provisions and purposes of [~~this Act~~] Chapter 17 NMSA 1978
8 and all other acts relating to game and fish [~~and~~]. In
9 making such rules [~~and regulations~~] and in providing when, to
10 what extent, if at all, and by what means game animals, birds
11 and fish may be hunted, taken, captured, killed, possessed,
12 sold, purchased and shipped, the state [~~game and Fish~~]
13 wildlife commission shall give due regard to the zones of
14 temperatures and to the distribution, abundance, economic
15 value and breeding habits of [~~such~~] the game animals, birds
16 and fish.

17 The state [~~game~~] wildlife commission is hereby
18 authorized to spend such reasonable amounts as in its
19 judgment is desirable and necessary annually, from [~~their~~]
20 funds not otherwise needed, for the eradication of predatory
21 animals."

22 SECTION 30. Section 17-1-28 NMSA 1978 (being Laws 1939,
23 Chapter 19, Section 1) is amended to read:

24 "17-1-28. ASSENT TO ACT OF CONGRESS.--The state of New
25 Mexico hereby assents to the provisions of the act of

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1 congress of the United States of America entitled "An act to
2 provide that the United States shall aid the states in
3 wildlife restoration projects, and for other purposes",
4 approved September [7] 2, 1937 (Public Number 415, 75th
5 Congress), and the state [~~game~~] wildlife commission is hereby
6 authorized and directed to perform all [~~such~~] acts as may be
7 necessary to the conduct and establishment of cooperative
8 wildlife restoration projects as defined by [~~said~~] that act
9 of congress and in compliance with [~~said~~] that act and rules
10 [~~and regulations~~] promulgated by the secretary of agriculture
11 thereunder."

12 SECTION 31. Section 17-1-29 NMSA 1978 (being Laws 1939,
13 Chapter 19, Section 2) is amended to read:

14 "17-1-29. DISTRIBUTION OF FEDERAL FUNDS.--The state
15 [~~game~~] wildlife commission is authorized to receive any
16 [~~moneys~~] money to which the state of New Mexico may become
17 entitled under the [~~aforsaid~~] act of congress entitled "An
18 act to provide that the United States shall aid the states in
19 wildlife restoration projects, and for other purposes",
20 approved September 2, 1937 (Public Number 415, 75th
21 Congress). Such [~~moneys~~] money, when received, [~~to~~] shall be
22 deposited with the state treasurer [~~of the state of New~~
23 ~~Mexico~~] to the credit of the [~~state~~] game protection fund,
24 expended for the purpose designated and withdrawn [~~and~~] as
25 other [~~moneys are~~] money is withdrawn from the [~~state~~] game

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1 protection fund."

2 SECTION 32. Section 17-2-4.1 NMSA 1978 (being Laws
3 1999, Chapter 31, Section 1) is amended to read:

4 "17-2-4.1. JAGUAR TO BE PROTECTED.--In the event the
5 jaguar is de-listed as a federal endangered species, the
6 wildlife department [~~of game and fish~~] shall prohibit the
7 taking, possession and sale of jaguars or parts thereof."

8 SECTION 33. Section 17-2-5 NMSA 1978 (being Laws 1931,
9 Chapter 117, Section 4, as amended) is amended to read:

10 "17-2-5. ADOPTION OF [~~REGULATIONS~~] RULES--EFFECTIVE
11 DATE.--Any [~~written regulation~~] rule of the state [~~game~~]
12 wildlife commission adopted by an affirmative vote of a
13 majority of the members of the state [~~game~~] wildlife
14 commission, signed by the [~~chairman~~] chair and attested by
15 the secretary of the commission, filed in the office of the
16 director of the wildlife department [~~of game and fish~~] and
17 filed in accordance with [~~Section 4-10-13 New Mexico Statutes~~
18 ~~Annotated, 1953 Compilation~~] the State Rules Act, is duly
19 adopted and promulgated and effective immediately. A copy of
20 any [~~regulation~~] rule certified by the director of the
21 wildlife department [~~of game and fish~~] to be a true copy of
22 an adopted [~~regulation~~] rule is prima facie evidence in any
23 court in this state of the adoption and promulgation of the
24 [~~regulation~~] rule."

25 SECTION 34. Section 17-2-10.1 NMSA 1978 (being Laws

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1 1995, Chapter 177, Section 1, as amended) is amended to read:

2 "17-2-10.1. GAME AND FISH PENALTY ASSESSMENT

3 MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

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

8 COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY
9		ASSESSMENT
10 Fishing, hunting or trapping		
11 without the proper stamp or		
12 validation as required by law		
13 or adopted by state [game] <u>wildlife</u>		
14 commission rule	17-2-7	\$ 50.00
15 Fishing without a license	17-3-17	\$ 75.00
16 Hunting small game without		
17 a license	17-3-1	\$100.00
18 Manner and method rule		
19 infraction contrary to		
20 adoption by state [game] <u>wildlife</u>		
21 commission rule	17-2-7	\$125.00.

22 B. When an alleged violator of a penalty
23 assessment misdemeanor elects to accept a notice to appear in
24 lieu of a notice of penalty assessment, no fine imposed upon
25 later conviction shall exceed the penalty assessment

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1 established for the particular penalty assessment
2 misdemeanor.

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

11 SECTION 35. Section 17-2-32 NMSA 1978 (being Laws 1963,
12 Chapter 150, Section 1) is amended to read:

13 "17-2-32. DISEASED RABBITS--HUNTING AND TRAPPING.--The
14 wildlife department [~~of game and fish~~] may restrict hunting
15 and trapping of rabbits in any area when notified by the
16 department of [~~public~~] health that rabbits in the area are
17 infected with bubonic plague. Any restriction under this
18 section shall be terminated when the department of [~~public~~]
19 health notifies the wildlife department [~~of game and fish~~]
20 that danger of public health significance no longer exists in
21 the area with respect to these diseased rabbits."

22 SECTION 36. Section 17-2-34 NMSA 1978 (being Laws 1971,
23 Chapter 61, Section 3) is amended to read:

24 "17-2-34. HUNTER TRAINING PROGRAM--INSTRUCTOR
25 CERTIFICATION--CERTIFICATE OF COMPETENCY.--

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

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

25 C. The wildlife department [~~of game and fish~~]

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1 shall promulgate rules [~~and regulations~~] to implement the
2 provisions of the Hunter Training Act."

3 SECTION 37. Section 17-2-38 NMSA 1978 (being Laws 1974,
4 Chapter 83, Section 2, as amended) is amended to read:

5 "17-2-38. DEFINITIONS.--As used in the Wildlife
6 Conservation Act:

7 A. "commission" means the state [~~game~~] wildlife
8 commission;

9 B. "director" means the director of the wildlife
10 department [~~of game and fish~~];

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

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

17 (1) the present or threatened destruction,
18 modification or curtailment of its habitat;

19 (2) overutilization for scientific,
20 commercial or sporting purposes;

21 (3) the effect of disease or predation;

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

25 (5) any combination of the foregoing

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1 factors.

2 The term may also include any species of fish or
3 wildlife appearing on the United States list of endangered
4 native and foreign fish and wildlife as set forth in Section
5 4 of the Endangered Species Act of 1973 as endangered
6 species, provided that the commission adopts those lists in
7 whole or in part. The term shall not include any species
8 covered by the provisions of 16 U.S.C. 1331 through 1340
9 (1971) and shall not include any species of the class insecta
10 determined by the director to constitute a pest whose
11 protection under the Wildlife Conservation Act would present
12 an overwhelming and overriding risk to man;

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

20 F. "land or aquatic habitat interests" means
21 interests in real property or water rights consisting of fee
22 simple title, easements in perpetuity, time certain
23 easements, long-term leases and short-term leases;

24 G. "management" means the collection and
25 application of biological information for the purposes of

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1 establishing and maintaining a congruous relationship between
2 individuals within species and populations of wildlife and
3 the carrying capacity of their habitat. The term includes
4 the entire range of activities that constitutes a full
5 scientific resource program [of], including [~~but not limited~~
6 ~~to~~] research, census, law enforcement, propagation,
7 acquisition or maintenance of land or aquatic habitat
8 interests appropriate for recovery of the species;
9 improvement and maintenance, education and related
10 activities; [~~or~~] and protection and regulated taking;

11 H. "recovery plan" means a designated program or
12 methodology reasonably expected to lead to restoration and
13 maintenance of a species and its habitat;

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

20 J. "species" means any species or subspecies;

21 K. "substantial public interest" means a
22 nonfrivolous claim indicated by a broad-based expression of
23 public concern;

24 L. "take" or "taking" means to harass, hunt,
25 capture or kill any wildlife or attempt to do so;

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1 M. "threatened species" means any species that is
2 likely to become an endangered species within the foreseeable
3 future throughout all or a significant portion of its range
4 in New Mexico; the term may also include any species of fish
5 or wildlife appearing on the United States list of endangered
6 native and foreign fish and wildlife as set forth in Section
7 4 of the Endangered Species Act of 1973 as threatened
8 species, provided that the commission adopts the list in
9 whole or in part; and

10 N. "wildlife" means any nondomestic mammal, bird,
11 reptile, amphibian, fish, mollusk or crustacean or any part,
12 egg or offspring or the dead body or parts thereof."

13 SECTION 38. Section 17-2A-3 NMSA 1978 (being Laws 1996,
14 Chapter 89, Section 5, as amended) is amended to read:

15 "17-2A-3. HUNTING GUIDES AND OUTFITTERS.--

16 A. [~~Effective April 1, 1997~~] It is unlawful to be
17 a hunting guide or outfitter in New Mexico without being
18 registered, except for a private landowner or [~~his~~] the
19 landowner's authorized agent who outfits or guides pursuant
20 to a landowner permit issued by the wildlife department [~~of~~
21 ~~game and fish~~] for the landowner's property or for the
22 landowner's shared private and public unit.

23 B. The state [~~game~~] wildlife commission shall
24 adopt [~~regulations by September 1, 1997~~] rules to govern the
25 granting of non-interim registration, permits and

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1 certificates to hunting guides and outfitters and to regulate
2 the operations and professional conduct of registered hunting
3 guides and outfitters. [~~Regulations~~] Rules shall be adopted
4 in accordance with the following procedures and standards:

5 (1) the commission shall establish dates and
6 locations for a public hearing and provide reasonable prior
7 public notice of a hearing. A public hearing shall be held
8 at a place within any quadrant of the state affected by the
9 proposed [~~regulation~~] rule when the commission determines
10 there is substantial public interest in holding a hearing in
11 that quadrant;

12 (2) a hearing shall be held within six
13 months of the date a proposed [~~regulation~~] rule is issued;

14 (3) notice of a hearing shall:

15 (a) include the date, time and
16 location of the hearing;

17 (b) include a statement of the
18 recommended action;

19 (c) include an indication of the
20 location and availability of the public file on the
21 [~~regulation~~] rule;

22 (d) indicate where and by what date
23 written and oral comments and testimony may be received; and

24 (e) specify that the public record
25 shall remain open for comments for thirty days after the date

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1 of the final hearing; and

2 (4) the commission shall make its decision
3 and take action based upon relevant and reliable evidence.

4 C. No person shall be allowed to work as a
5 registered hunting guide or outfitter in New Mexico:

6 (1) without being registered by the state
7 [~~game~~] wildlife commission;

8 (2) if the person has had a guide or
9 outfitter license, registration, permit or certificate
10 revoked in another state;

11 (3) if the person has had a guide or
12 outfitter license, registration, permit or certificate
13 suspended in another state and it has not been reinstated; or

14 (4) if the person has been convicted of a
15 felony.

16 D. The state [~~game~~] wildlife commission shall
17 develop a point system for the suspension or revocation of a
18 guide or outfitter registration. The point system shall be
19 similar to the point system that governs individual hunting
20 and fishing license privileges.

21 E. To be granted a registration to be a guide, an
22 applicant shall, in addition to any other reasonable criteria
23 adopted by the state [~~game~~] wildlife commission, and except
24 as provided for persons granted an interim registration:

25 (1) be at least eighteen years of age; and

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1 (2) pass a written or oral examination
2 approved by the wildlife department [~~of game and fish~~] at a
3 date and time approved by the department.

4 F. A registered or interim registered guide shall
5 work only under the supervision of a New Mexico registered or
6 interim registered outfitter and in an area designated by the
7 registered or interim registered outfitter.

8 G. The wildlife department [~~of game and fish~~] may
9 provide a registration for a temporary emergency guide,
10 provided the registration is limited to a maximum seven-day
11 period and is granted only in emergency circumstances as
12 determined by the department. The fee for a temporary
13 emergency guide registration is ten dollars (\$10.00).

14 H. To be granted a registration to be an
15 outfitter, an applicant shall, in addition to any other
16 reasonable criteria adopted by the state [~~game~~] wildlife
17 commission, and except as provided for persons granted an
18 interim registration:

- 19 (1) be at least twenty-one years of age;
20 (2) have operated as a New Mexico registered
21 guide for at least three years or have been granted an
22 interim outfitter's registration;
23 (3) not be a convicted felon or have a
24 history of violation of federal or state game and fish laws
25 or [~~regulations~~] rules or federal or state guide or outfitter

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1 licensing or registration laws or [~~regulations~~] rules; and

2 (4) pass a written or oral examination
3 approved by the wildlife department [~~of game and fish~~] at a
4 date and time determined by the department.

5 I. A registered outfitter shall:

6 (1) provide proof of commercial liability
7 insurance of at least five hundred thousand dollars
8 (\$500,000);

9 (2) responsibly supervise each registered
10 guide working under [~~his~~] the outfitter's direction;

11 (3) provide a written contract for
12 outfitting services, signed by the registered outfitter and
13 identifying the outfitter's registration number, to each
14 resident and nonresident who seeks to use the services of a
15 registered outfitter;

16 (4) register with the taxation and revenue
17 department and provide proof of that registration to the
18 wildlife department [~~of game and fish~~]; and

19 (5) provide at least one registered guide or
20 outfitter for every four or fewer resident or nonresident
21 hunters who have contracted for an outfitter's guided
22 services.

23 J. The wildlife department [~~of game and fish~~]
24 shall provide to the taxation and revenue department a copy
25 of each outfitter registration that is granted.

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1 K. Except as provided in this subsection, no
2 person shall be allowed to charge a processing or other fee
3 to obtain for a resident or nonresident a license that is
4 granted from a special drawing for a hunt on public lands
5 pursuant to the provisions of Section 17-3-16 NMSA 1978,
6 except that nothing in this subsection shall prohibit the
7 wildlife department [~~of game and fish~~] from collecting an
8 application fee. Persons involved in licensing services,
9 booking agencies or license brokering that do not provide
10 direct guide and outfitter services shall not be required to
11 register with the wildlife department [~~of game and fish~~] and
12 may charge a fee, other than the application fee for a
13 license, for their services.

14 L. A New Mexico resident registered outfitter
15 shall be a registered outfitter who is a resident as defined
16 in Section 17-3-4 NMSA 1978. The state [~~game~~] wildlife
17 commission shall adopt [~~regulations~~] rules that set forth
18 additional requirements and that shall include at a minimum
19 that a resident registered outfitter shall maintain a
20 business address in New Mexico and, except as provided in
21 Subsection Q of this section, derive at least fifty percent
22 of [~~his~~] the outfitter's guiding or outfitting income from
23 guiding or outfitting in New Mexico, as determined by gross
24 receipts or corporate or individual income tax returns for
25 the immediately preceding three years.

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1 M. The wildlife department [~~of game and fish~~]
2 shall maintain for public distribution a list of New Mexico
3 registered outfitters.

4 N. The annual registration fee for a registered
5 guide in New Mexico is fifty dollars (\$50.00) for a resident
6 and one hundred dollars (\$100) for a nonresident.

7 O. The annual registration fee to be a registered
8 outfitter in New Mexico is five hundred dollars (\$500) for
9 either a resident or a nonresident.

10 P. Annual registration fees for guides and
11 outfitters shall be deposited in the game protection fund.

12 Q. A resident interim registered or registered
13 outfitter may apply for inactive status of [~~his~~] the
14 registration for any period in which [~~he~~] the outfitter does
15 not operate as an outfitter. The state [~~game~~] wildlife
16 commission shall reactivate an outfitter registration at the
17 request of the outfitter and upon proof that the outfitter
18 complies with the provisions of this section and upon payment
19 of the annual registration fee for the year the registration
20 is being reinstated and payment of a reinstatement fee of not
21 to exceed fifty dollars (\$50.00).

22 [~~R. The state game commission shall adopt by~~
23 ~~September 1, 1996 interim regulations, consistent to the~~
24 ~~greatest extent practicable with the provisions of this~~
25 ~~section, to provide for the granting of interim registrations~~

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1 to guides and outfitters. The commission shall issue interim
2 registrations prior to mailing applications for 1997 licensed
3 hunts to persons who qualify for interim registration and
4 submit applications to the department of game and fish.

5 ~~S.~~ R. A person adversely affected by an action,
6 other than a [~~regulation~~] rule, taken pursuant to the
7 provisions of this section, including the denial, suspension
8 or revocation of a registration, license, permit or
9 certificate, may seek review of the action pursuant to the
10 provisions of the Uniform Licensing Act.

11 ~~F.~~ S. A person adversely affected by a
12 [~~regulation~~] rule adopted by the state [~~game~~] wildlife
13 commission pursuant to this section may appeal to the court
14 of appeals. All appeals shall be made upon the record at the
15 hearing and shall be taken to the court of appeals within
16 thirty days following the date of the action. The date of
17 the action shall be the date of the filing of the
18 [~~regulation~~] rule by the commission, pursuant to the
19 provisions of the State Rules Act.

20 ~~U.~~ T. Upon appeal, the court of appeals shall
21 set aside a [~~regulation~~] rule only if it is found to be:

- 22 (1) arbitrary, capricious or an abuse of
- 23 discretion;
- 24 (2) not supported by substantial evidence in
- 25 the record; or

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1 (3) otherwise not in accordance with law.

2 [~~V-~~] U. After a hearing and a showing of good
3 cause by the appellant, a stay of a [~~regulation~~] rule being
4 appealed may be granted:

5 (1) by the state [~~game~~] wildlife commission;
6 or

7 (2) by the court of appeals if the state
8 [~~game~~] wildlife commission denies a stay or fails to act upon
9 an application for a stay within sixty days after receipt of
10 the application.

11 [~~W-~~] V. The appellant shall pay all costs for any
12 appeal found to be frivolous by the court of appeals."

13 **SECTION 39.** Section 17-3-2 NMSA 1978 (being Laws 1964
14 (1st S.S.), Chapter 17, Section 2, as amended) is amended to
15 read:

16 "17-3-2. CLASSES OF LICENSES.--

17 A. As used with reference to licenses in Chapter
18 17 NMSA 1978:

19 (1) "fishing" entitles the licensee to fish
20 for game fish during the open seasons for each species;

21 (2) "game hunting" entitles the licensee to
22 hunt game birds, other than wild turkey, and squirrel during
23 the open seasons for each and to apply for or purchase a
24 license to hunt for deer, antelope, elk, bighorn sheep,
25 Barbary sheep, javelina, bear, oryx, ibex, cougar and wild

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1 turkey;

2 (3) "deer" entitles the licensee to hunt
3 deer during the open season;

4 (4) "antelope" entitles the licensee to hunt
5 antelope during the open season;

6 (5) "elk" entitles the licensee to hunt elk
7 during the open season;

8 (6) "bighorn sheep" entitles the licensee to
9 hunt bighorn sheep during the open season;

10 (7) "Barbary sheep" entitles the licensee to
11 hunt Barbary sheep during the open season;

12 (8) "javelina" entitles the licensee to hunt
13 javelina during the open season;

14 (9) "bear" entitles the licensee to hunt
15 bear during the open season;

16 (10) "nongame" entitles the licensee to hunt
17 or take any animal or bird not protected by law;

18 (11) "temporary fishing" entitles the
19 licensee to fish for game fish during a specific period of
20 time indicated on the license;

21 (12) "oryx" entitles the licensee to hunt
22 oryx during the open season;

23 (13) "ibex" entitles the licensee to hunt
24 ibex during the open season;

25 (14) "cougar" entitles the licensee to hunt

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1 cougar during the open season;

2 (15) "turkey" entitles the licensee to hunt
3 turkey during the open season;

4 (16) "special season turkey" entitles the
5 licensee to hunt turkey during special seasons designated by
6 the state [~~game~~] wildlife commission;

7 (17) "quality elk" entitles the licensee to
8 hunt elk during a special quality elk season, to be
9 established by the state [~~game~~] wildlife commission, when the
10 timing of the season and hunter density is specially
11 regulated and the elk population is managed with an intent to
12 provide the licensee an increased opportunity to take a
13 mature elk;

14 (18) "quality deer" entitles the licensee to
15 hunt deer during a special quality deer season, to be
16 established by the state [~~game~~] wildlife commission, when the
17 timing of the season and hunter density is specially
18 regulated and the deer population is managed with an intent
19 to provide the licensee an increased opportunity to take a
20 mature deer;

21 (19) "temporary game hunting" entitles the
22 licensee to hunt game birds, except wild turkey, and squirrel
23 during a specific period of time indicated on the license;

24 (20) "second rod" entitles the licensee to
25 fish using two fishing rods to fish for game fish during the

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1 open seasons for each species; and

2 (21) "fishing and game hunting combination"
3 entitles the licensee to hunt squirrel and game birds, other
4 than wild turkey, and to fish for game fish during the open
5 season for each.

6 B. A hunting license does not entitle the
7 licensee to hunt, kill or take game animals or birds within
8 or upon a park or enclosure licensed or posted as provided by
9 law or within or upon a privately owned enclosure without
10 consent of the owner or within or upon a game refuge or game
11 management area.

12 C. A fishing license does not entitle the
13 licensee to fish for or take fish within or upon a park or
14 enclosure licensed or posted as provided by law or within or
15 upon a privately owned enclosure without consent of the owner
16 or in or on closed waters.

17 D. A junior fishing license may be purchased by a
18 resident who has reached the age of twelve years but has not
19 reached the age of eighteen years. A junior fishing license
20 entitles the licensee to fish for game fish during the open
21 season for each species.

22 E. A senior fishing license may be purchased by a
23 resident who has reached the age of sixty-five years. A
24 senior fishing license entitles the licensee to fish for game
25 fish during the open season for each species.

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1 F. A nonresident junior fishing license may be
2 purchased by a nonresident who has reached the age of twelve
3 years but has not reached the age of eighteen years. A
4 nonresident junior fishing license entitles the licensee to
5 fish for game fish during the open season for each species.

6 G. A senior game hunting license may be purchased
7 by a resident who has reached the age of sixty-five years. A
8 senior game hunting license entitles the licensee to hunt for
9 squirrel and game birds, other than wild turkey, during the
10 open seasons for each species and to apply for or purchase a
11 license to hunt for deer, antelope, elk, bighorn sheep,
12 Barbary sheep, javelina, bear, oryx, ibex, cougar and wild
13 turkey.

14 H. A junior, resident or nonresident, game
15 hunting license may be purchased by a person who has not
16 reached the age of eighteen years. A junior game hunting
17 license entitles the licensee to hunt for squirrel and game
18 birds, other than wild turkey, during the open seasons for
19 each species and to apply for or purchase a license to hunt
20 for deer, antelope, elk, bighorn sheep, Barbary sheep,
21 javelina, bear, oryx, ibex, cougar and wild turkey.

22 I. A handicapped fishing license may be purchased
23 by a resident who has a severe physical impairment that
24 substantially limits one or more major life activities and
25 who can furnish adequate proof of this disability to the

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1 state ~~[game]~~ wildlife commission. A handicapped fishing
2 license may be purchased by a resident who has a
3 developmental disability as defined in Subsection H of
4 Section 43-1-3 NMSA 1978 and who can furnish adequate proof
5 of this disability to the state ~~[game]~~ wildlife commission.
6 A handicapped fishing license entitles the licensee to fish
7 for game fish during the open season for each species.

8 J. A handicapped game hunting license may be
9 purchased by a resident who has a severe physical impairment
10 that substantially limits one or more major life activities
11 and who can furnish adequate proof of this disability to the
12 state ~~[game]~~ wildlife commission. A handicapped game hunting
13 license entitles the licensee to hunt for squirrel and game
14 birds, other than wild turkey, during the open season for
15 each species and to apply for or purchase a license to hunt
16 for deer, antelope, elk, bighorn sheep, Barbary sheep,
17 javelina, bear, oryx, ibex, cougar and wild turkey.

18 K. A fishing license may be obtained at no cost
19 by a resident who has reached the age of seventy years.

20 L. A second rod validation may be purchased by
21 either a resident or nonresident. A second rod validation
22 entitles the licensee to fish using two rods for game fish
23 during the open season for each species.

24 M. A junior-senior elk license may be purchased
25 by a resident who has not reached the age of eighteen years

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1 or by a resident who has reached the age of sixty-five years.
2 A junior-senior elk license entitles the licensee to hunt for
3 elk during the open season for that species.

4 N. A junior-senior deer license may be purchased
5 by a resident who is younger than eighteen years or older
6 than sixty-five years. A junior-senior deer license entitles
7 the licensee to hunt for deer during the open season for that
8 species.

9 O. A junior or senior fishing and game hunting
10 combination license may be purchased by a resident who is
11 younger than eighteen years or older than sixty-five years.
12 A junior or senior fishing and game hunting combination
13 license entitles the licensee to fish for game fish or hunt
14 for squirrel and game birds, other than wild turkey, during
15 the open seasons for each species and to apply for or
16 purchase a license to hunt for deer, antelope, elk, bighorn
17 sheep, Barbary sheep, javelina, bear, oryx, ibex, cougar and
18 wild turkey.

19 P. Except for a resident, disabled veteran,
20 fishing and game hunting combination license issued pursuant
21 to Section 17-3-13 NMSA 1978, a New Mexico resident who is a
22 veteran of the United States military or who is active duty
23 military is eligible for a fifty percent discount on any
24 license, permit or stamp purchase upon valid proof of service
25 as determined by the state ~~[game]~~ wildlife commission."

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1 **SECTION 40.** Section 17-3-14 NMSA 1978 (being Laws 1959,
2 Chapter 143, Section 1, as amended) is amended to read:

3 "17-3-14. DIRECTOR AUTHORIZED TO ISSUE LICENSE WHEN
4 AGREEMENT TO HUNT ANTELOPE ON DEEDED OR LEASED PROPERTY IS
5 MADE.--In any case where the wildlife department [~~of game and~~
6 ~~fish~~] enters into an agreement with the owner of deeded
7 property or the lessee of property held under a grazing lease
8 to obtain permission for the hunting of antelope on the
9 property, the director of the wildlife department [~~of game~~
10 ~~and fish~~] is authorized to issue an antelope license free of
11 charge to the owner or lessee of the property in
12 consideration for the permission to hunt on the property."

13 **SECTION 41.** Section 17-3-16.5 NMSA 1978 (being Laws
14 2007, Chapter 105, Section 1) is amended to read:

15 "17-3-16.5. HUNTING AND FISHING AUTHORIZATIONS--
16 GOVERNOR'S SPECIAL EVENTS.--The director of the wildlife
17 department [~~of game and fish~~] 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~~] wildlife commission.
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~~] wildlife commission. 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 42. 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~~] wildlife commission shall
13 adopt rules for the wildlife department [~~of game and fish~~] to
14 issue enhancement authorization packages each license year
15 for the taking of one each of elk, deer, oryx, ibex and
16 pronghorn antelope. Each enhancement authorization package
17 shall be auctioned by the wildlife department [~~of game and~~
18 ~~fish~~] or by an incorporated nonprofit organization dedicated
19 to the conservation of wildlife and sold to the highest
20 bidder. Money collected from the enhancement authorization
21 packages shall be deposited in the game protection fund and
22 shall be used exclusively for big game habitat enhancement,
23 conservation and protection."

24 SECTION 43. Section 17-3-27 NMSA 1978 (being Laws 1939,
25 Chapter 27, Section 2, as amended) is amended to read:

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1 "17-3-27. BAIT LICENSE--BOND--FEE--ISSUANCE.--Any
2 person desiring to procure a license for the purpose of
3 engaging in the business of selling minnows and nongame fish
4 for bait or taking minnows and nongame fish from the streams
5 of this state for the purpose of sale to others shall apply
6 to the state [~~game~~] wildlife commission for a license. The
7 application shall be upon forms provided by the commission
8 and shall set forth the public streams or waters out of which
9 the applicant intends to take the minnows and nongame fish
10 and the place at which they are to be sold. The application
11 shall be accompanied by a just and reasonable fee as
12 determined by [~~regulation~~] rule of the state [~~game~~] wildlife
13 commission. Upon receipt of the application, it [~~shall be~~]
14 is the duty of the state [~~game~~] wildlife commission or, when
15 [~~it~~] the commission is not in session, the director of the
16 wildlife department [~~of game and fish~~] to pass upon the
17 application and to issue a license authorizing the taking and
18 the manner of taking of the minnows and nongame fish by the
19 applicant from those waters in the state as in the opinion of
20 the state [~~game~~] wildlife commission or director will not be
21 detrimental to the public or injurious to protected fish.
22 The license when so issued shall specify the manner of taking
23 and the waters from which the applicant is permitted to take
24 minnows and nongame fish for sale for bait."

25 SECTION 44. Section 17-3-47 NMSA 1978 (being Laws 1973,

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1 Chapter 13, Section 5) is amended to read:

2 "17-3-47. PERMIT.--The director of the wildlife
3 department [~~of game and fish~~] may grant a permit to any
4 person to carry out acts [~~which~~] that are prohibited by the
5 Airborne Hunting Act. Permits shall be granted only to
6 protect or aid in the administration or protection of land,
7 water, wildlife, livestock, domesticated animals, human life
8 or crops. Each person operating under a permit shall report
9 to the director of the wildlife department [~~of game and~~
10 ~~fish~~], each calendar quarter, the number of birds, [~~fishes~~
11 fish or other animals so injured, captured or killed."

12 SECTION 45. Section 17-4-1 NMSA 1978 (being Laws 1939,
13 Chapter 223, Section 1, as amended) is amended to read:

14 "17-4-1. POWER TO ACQUIRE LAND.--The state [~~game~~]
15 wildlife commission [~~of the state of New Mexico is hereby~~
16 ~~authorized and empowered to~~] may acquire by purchase, gift,
17 bequest or lease, and [~~to~~] hold, develop and improve, lands
18 for fish hatcheries, game farms, game refuges, bird refuges,
19 resting and nesting grounds, field stations, dams, lakes,
20 ditches, flumes, waterways, pipelines, canals, rights of way,
21 trails and roads and for all purposes incidental to the
22 propagation, preservation, protection and management of the
23 game, birds, fish and wildlife of the state [~~of New Mexico~~]."

24 SECTION 46. Section 17-4-3 NMSA 1978 (being Laws 1939,
25 Chapter 223, Section 3, as amended) is amended to read:

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1 "17-4-3. SALE, EXCHANGE OR LEASE OF LANDS--PROCEEDS.--

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

20 SECTION 47. Section 17-4-21 NMSA 1978 (being Laws 1912,
21 Chapter 85, Section 72, as amended) is amended to read:

22 "17-4-21. [~~GAME--FISH~~] PARKS, LAKES--PROPRIETOR REPORT
23 TO [~~WARDEN~~] DIRECTOR.--[~~SEC. 72.~~] The proprietor of every
24 private park and lake licensed under [~~the preceding~~] Sections
25 17-4-8 through 17-4-28 NMSA 1978 shall, whenever required by

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1 the [~~Warden~~] director of the wildlife department, make and
2 send to the [~~Warden at Santa Fe~~] director a report showing as
3 near as practicable the kind, number, age and sex of the
4 game, and the kind and number or weight of the game fish,
5 added and disposed of during the year preceding and on hand
6 at the date of the report."

7 SECTION 48. Section 17-4-22 NMSA 1978 (being Laws 1912,
8 Chapter 85, Section 73, as amended) is amended to read:

9 "17-4-22. [~~GAME--FISH~~] PARKS, LAKES--RIGHTS EXTEND TO
10 CONNECTING CHANNELS.--[~~SEC. 73.~~] The rights acquired by the
11 proprietor of a private lake licensed [~~hereunder~~] under
12 Sections 17-4-8 through 17-4-28 NMSA 1978, and the
13 prohibitions [~~hereof~~] of those sections, shall extend to and
14 include all channels connecting a series or group of lakes
15 under one license [~~and~~]. The [~~Warden~~] director of the
16 wildlife department may authorize the use of [~~such~~] screens
17 or other appliances as may be necessary to prevent the fish
18 in a licensed lake of Class A from escaping, and it shall be
19 the duty of the proprietor to adopt and use [~~such~~] screens or
20 other appliances as the [~~Warden~~] director may direct to
21 prevent the fish in public waters from entering [~~such~~] the
22 lake."

23 SECTION 49. Section 17-5-4 NMSA 1978 (being Laws 1939,
24 Chapter 178, Section 4, as amended) is amended to read:

25 "17-5-4. STATE [~~GAME~~] WILDLIFE COMMISSION TO ADMINISTER

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1 ACT--RULES [~~AND REGULATIONS~~].--The state [~~game~~] wildlife
2 commission is authorized and directed to administer the
3 provisions of Sections 17-5-1 through 17-5-9 NMSA 1978 and to
4 make such rules [~~and regulations~~] and establish such
5 [~~service~~] services as it may deem necessary to carry out all
6 the provisions and purposes of those sections. In making
7 [~~such~~] rules [~~and regulations~~] and providing when and by what
8 means fur-bearing animals may be hunted, taken, captured,
9 possessed or killed, the state [~~game~~] wildlife commission
10 shall give due regard to the zones of temperatures and to the
11 distribution, abundance, economic value and breeding habits
12 of [~~such~~] the animals. Provided, nothing in Sections 17-5-1
13 through 17-5-9 NMSA 1978 shall interfere with the authority
14 granted to the president of New Mexico state university under
15 Sections 77-15-1 through 77-15-5 NMSA 1978 or [~~shall~~] prevent
16 livestock producers without a permit from the taking of
17 bobcats that are doing damage to livestock."

18 SECTION 50. Section 66-3-1001.1 NMSA 1978 (being Laws
19 2005, Chapter 325, Section 1, as amended) is amended to read:

20 "66-3-1001.1. DEFINITIONS.--As used in the Off-Highway
21 Motor Vehicle Act:

22 A. "board" means the off-highway motor vehicle
23 advisory board;

24 B. "department" means the wildlife department [~~of~~
25 ~~game and fish~~];

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1 C. "division" means the motor vehicle division of
2 the taxation and revenue department;

3 D. "fund" means the trail safety fund;

4 E. "off-highway motor vehicle" means a motor
5 vehicle designed by the manufacturer for operation
6 exclusively off the highway or road and includes:

7 (1) "all-terrain vehicle", which means a
8 motor vehicle fifty inches or less in width, having an
9 unladen dry weight of one thousand pounds or less, traveling
10 on three or more low-pressure tires and having a seat
11 designed to be straddled by the operator and handlebar-type
12 steering control;

13 (2) "off-highway motorcycle", which means a
14 motor vehicle traveling on not more than two tires and having
15 a seat designed to be straddled by the operator and that has
16 handlebar-type steering control;

17 (3) "snowmobile", which means a motor
18 vehicle designed for travel on snow or ice and steered and
19 supported in whole or in part by skis, belts, cleats, runners
20 or low-pressure tires;

21 (4) "recreational off-highway vehicle",
22 which means a motor vehicle designed for travel on four or
23 more non-highway tires, for recreational use by one or more
24 persons, and having:

25 (a) a steering wheel for steering

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1 control;

2 (b) non-straddle seating;

3 (c) maximum speed capability greater
4 than thirty-five miles per hour;

5 (d) gross vehicle weight rating no
6 greater than one thousand seven hundred fifty pounds;

7 (e) less than eighty inches in overall
8 width, exclusive of accessories;

9 (f) engine displacement of less than
10 one thousand cubic centimeters; and

11 (g) identification by means of a
12 seventeen-character vehicle identification number; or

13 (5) by rule of the department, any other
14 vehicles that may enter the market that fit the general
15 profile of vehicles operated off the highway for recreational
16 purposes;

17 F. "staging area" means a parking lot, trailhead
18 or other location to or from which an off-highway motor
19 vehicle is transported so that it may be placed into
20 operation or removed from operation; and

21 G. "unpaved public roadway" means a dirt graveled
22 street or road that is constructed, signed and maintained for
23 regular passenger-car use by the general public."

24 SECTION 51. Section 77-1B-9 NMSA 1978 (being Laws 2007,
25 Chapter 60, Section 9, as amended) is amended to read:

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1 "77-1B-9. VIOLATIONS.--

2 A. Unless otherwise provided in the Animal
3 Sheltering Act, it is a violation of that act for a person
4 to:

5 (1) perform euthanasia for a euthanasia
6 agency or an animal shelter in this state without possessing
7 a valid license pursuant to the Animal Sheltering Act;

8 (2) solicit, advertise or offer to perform
9 an act for which licensure or certification is required
10 pursuant to the Animal Sheltering Act, unless the person
11 holds a license or certification;

12 (3) refuse to comply with a cease and desist
13 order issued by the board;

14 (4) refuse or fail to comply with the
15 provisions of the Animal Sheltering Act;

16 (5) make a material misstatement in an
17 application for licensure or certification;

18 (6) intentionally make a material
19 misstatement to the board during an official investigation;

20 (7) impersonate an official or inspector;

21 (8) refuse or fail to comply with rules
22 adopted by the board or with a lawful order issued by the
23 board;

24 (9) aid or abet another in violating
25 provisions of the Animal Sheltering Act, or a rule adopted by

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1 the board;

2 (10) alter or falsify a certificate of
3 inspection, license or certification issued by the board;

4 (11) fail to carry out the duties of a
5 euthanasia technician in a professional manner;

6 (12) abuse the use of a chemical substance
7 or be guilty of habitual or excessive use of intoxicants or
8 drugs;

9 (13) sell or give chemical substances used
10 in euthanasia procedures to an unlicensed person; or

11 (14) assist an unlicensed or unauthorized
12 person in euthanizing animals, except during a board-approved
13 course in euthanasia.

14 B. It is a violation of the Animal Sheltering Act
15 for a euthanasia agency or an animal shelter to:

16 (1) refuse to permit entry or inspection of
17 its facilities by the board or its designees;

18 (2) sell, offer for sale, barter, exchange
19 or otherwise transfer animals that are prohibited by the
20 wildlife department [~~of game and fish~~], the United States
21 department of agriculture or any other regulatory agency to
22 be kept unless the sale, offer for sale, bartering,
23 exchanging or transferring of the animal is to a facility
24 employing permitted rehabilitators or an individual that is a
25 permitted rehabilitator pursuant to the rules adopted by the

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1 wildlife department [~~of game and fish~~] or another agency that
2 has authority over people who are permitted to receive and
3 provide care for such animals;

4 (3) allow a license or certificate issued
5 pursuant to the Animal Sheltering Act to be used by an
6 unlicensed or uncertified person; or

7 (4) make a misrepresentation or false
8 promise through advertisements, employees, agents or other
9 mechanisms in connection with the euthanasia of an animal.

10 C. It is a violation of the Animal Sheltering Act
11 for an employee or official of the board or the animal
12 sheltering committee to disclose or use for that person's own
13 advantage information derived from reports or records
14 submitted to the board pursuant to that act."

15 SECTION 52. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
16 PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY, CONTRACTUAL
17 OBLIGATIONS AND STATUTORY REFERENCES.--On the effective date
18 of this act, all:

19 A. functions, personnel, money, appropriations,
20 records, furniture, equipment, supplies and other property of
21 the department of game and fish are transferred to the
22 wildlife department;

23 B. contractual obligations of the department of
24 game and fish are binding on the wildlife department;

25 C. references in law to the department of game

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1 and fish shall be deemed to be references to the wildlife
2 department;

3 D. functions, personnel, money, appropriations,
4 records, furniture, equipment, supplies and other property of
5 the state game commission are transferred to the state
6 wildlife commission;

7 E. contractual obligations of the state game
8 commission are binding on the state wildlife commission; and

9 F. references in law to the state game commission
10 shall be deemed to be references to the state wildlife
11 commission.

12 SECTION 53. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2021.