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F I S C A L I M P A C T R E P O R T

SPONSOR	Stewart	ORIGINAL DATE	1/29/2020	LAST UPDATED	2/05/2020	HB	
SHORT TITLE	Wildlife Trafficking Act					SB	75/aSJC
						ANALYST	Wan

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Department of Game and Fish (DGF)

Energy, Minerals and Natural Resources (EMNRD)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment reduces the maximum civil penalty amount allowed for violation of the Act from \$25 thousand or three times the total value of the covered animal species or part or product to \$10 thousand or three times the total value of the product.

The amendment also strikes language requiring the forfeiture of the covered animal species or animal part of product upon conviction in a criminal court or a finding in a civil court for violation of Section 3 of the Act.

Synopsis of Original Bill

Senate Bill 75 creates the Wildlife Trafficking Act and authorizes all commissioned New Mexico law enforcement officers, including those from DGF and the State Parks Division of EMNRD, to enforce a new law making it a misdemeanor to knowingly sell or purchase any covered animal species or part or product of any species covered by Appendix 1 of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, of which the United States is a treaty party. Each product or part sold or purchased can be treated as a separate violation of the law.

According to AOC, criminal convictions for violation of the law would expose the defendant to a sentence of up to one year in a county jail and a fine of up to \$1,000 per count. Regardless of criminal conviction, the bill provides for a civil fine up to \$25 thousand or three times the value of the product, whichever is greater. The bill also authorizes New Mexico law enforcement officers to assist the federal government in discouraging the illegal trade in parts and products of endangered animals.

The bill provides exceptions for certain antiques, guns, musical instruments, educational materials, and items possessed by an enrolled member of a federally recognized Indian tribe.

FISCAL IMPLICATIONS

AOC does not anticipate enactment of this bill to have a significant fiscal impact on the judiciary. Any fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions.

DGF reports that the bill would require the agency to provide training and investigative techniques to all law enforcement officers to be able to properly identify covered species and parts. The department did not indicate the need for any additional revenue.

SIGNIFICANT ISSUES

Currently, the federal government is responsible for enforcement of violations like those in the bill. DGF, while noting federal authorities would still have primary jurisdiction, reports the bill would provide additional opportunities for the apprehension and prosecution of wildlife traffickers. Now, New Mexico conservation officers help U.S. Fish and Wildlife Service (USFWS) agents under a cooperative law enforcement agreement, but all criminal investigations and charges are brought forward by the federal agents, who work with the U.S Attorney's Office, and cases are heard in federal court.

EMNRD, which notes most federal wildlife trafficking cases involve interstate and international jurisdiction issues, raises concerns about the bill's specific mention of state park officers, who have limited authority. State Parks Division law enforcement authority is general but limited to state parks except in emergencies. According to the department the language could create confusion concerning the limits of state park officer jurisdiction.

ADMINISTRATIVE IMPLICATIONS

If enacted, DGF indicates game and fish officers would need to provide training to other law enforcement agencies and coordinate closely with Federal agents who have primary jurisdiction to ensure efficient investigative cooperation and appropriate enforcement.

ALTERNATIVES

EMNRD asks that Section 6(A) on page 6, lines 7 and 8, be amended to remove "and the state parks division of the energy, minerals and natural resources department."