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FISCAL IMPACT REPORT

SPONSOR Stewart DATE TYPED 01/26/2004 HB 5/aHGUAC

SHORT TITLE Game and Fish Appropriation Act SB _____

ANALYST Aguilar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	\$176.1			Recurring	General Fund
	\$8,576.8			Recurring	Federal Funds
	\$19,022.3			Recurring	Game Protection Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Appropriation in the General Appropriation Act, Section 4 for the Department of Game and Fish

SOURCES OF INFORMATION

Report of the Legislative Finance Committee to the Forty-Sixth Legislature, Second Session, January 2004 for Fiscal Year 2004 – 2005, pp. 371 – 381.

Responses Received From
Department of Game and Fish

SUMMARY

Synopsis of the HGUAC Amendment

The House Government and Urban Affairs Committee amendment to House Bill 5 increases the personal services and employee benefits category by \$235 thousand from the Game Protection Fund. The increases would support basic operating costs relating to employee salaries and benefits. The increases by program are detailed below:

Sport Hunting and Fishing	\$ 135.0
Administration	\$ 100.0

Synopsis of Original Bill

House Bill 5 appropriates \$27,540.2 from the general fund, game protection fund and federal funds to the Department of Game and Fish (DGF) for its FY05 operating budget. The bill reflects the Legislative Finance Committee (LFC) budget recommendation for the department.

HB5 includes performance measures and targets.

Significant Issues

The LFC recommends an overall 0.5 percent decrease in the base budget for the department. This limits spending increases on new contracts and includes employee vacancy savings of around 4 percent. The August 2003 vacancy rate of almost 10 percent is reflective of an ongoing vacancy problem in the agency. This recommendation is sensitive to the available cash in the game protection fund that has been reduced by the purchase of Eagle Nest Lake and appears to have been impacted by severe drought conditions in New Mexico over the past two years.

FISCAL IMPLICATIONS

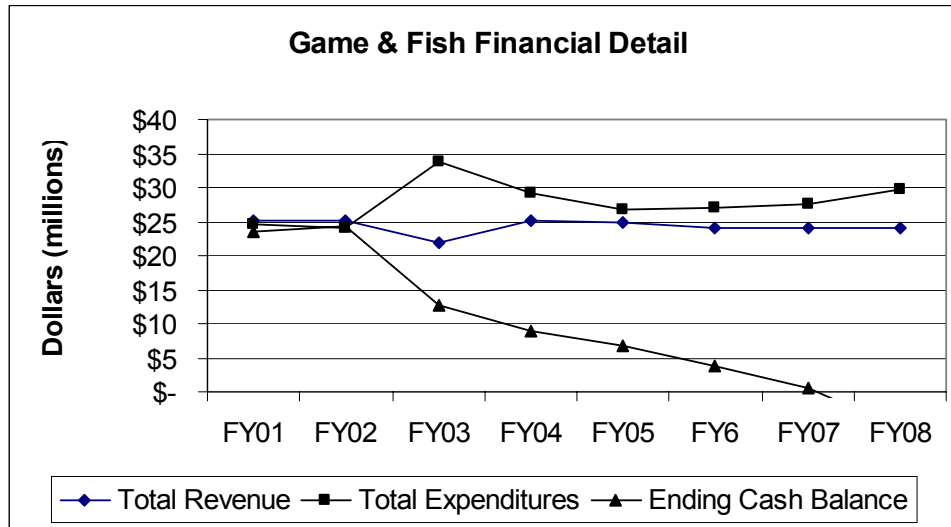
This bill appropriates \$27,540.2 in recurring funds for the FY05 operating budget; \$176.1 in general fund, \$8,576.8 in federal funds and \$18,787.3 from the game protection fund. The following information is relevant to the discussion of the bill.

Revenue from the following sources supports DGF's operations:

- Revenue to the game protection fund is generated from the sale of hunting and fishing licenses, special hunt fees, income from property owned by the department and interest on balances in the fund. One dollar of each hunting and fishing license fee is reserved for capital projects approved by the State Game Commission.
- Under the federal Sikes Act and agreements with federal agencies owning land in New Mexico, a special habitat stamp is required to hunt or fish on federal land. Revenue from the stamp pays for habitat improvement on the federal lands where the fees are collected.
- Revenue received from the annual auction of one permit to hunt Rocky Mountain or desert bighorn sheep is reserved for the conservation of New Mexico's Rocky Mountain and desert bighorn sheep population.
- Federal funds are received from federal excise taxes on hunting and fishing equipment and supplies under the provisions of the Pittman-Robertson and Dingell-Johnson acts. Federal support for DGF programs provides approximately 35 percent to 41 percent of each year's total operating budget. Ten percent of federal Dingell-Johnson Act funds must be spent for the improvement of fishing recreation.
- Enactment of Senate Bill 758 in 2001 authorized the department to begin collecting an additional fee on licenses of \$5 for residents and \$10 for nonresidents to capitalize the big game depredation fund.

- General fund appropriations have augmented game protection fund revenue in carrying out the Conservation Services Division’s responsibilities for public education and the conservation of nongame wildlife species.

Cash Balance of Game Protection Fund.



Source: New Mexico Department of Game and Fish

In recent years the game protection fund provided opportunities for the department to complete several projects, such as the construction of its headquarters building, construction of fish hatcheries and the purchase of Eagle Nest Lake. Current estimates show that the fund is declining to a critical level. Revenues to the department are off from October through March requiring a minimum cash balance of \$6 million. Department estimates indicate the fund may fall below this threshold by the end of FY06.

Several potential issues exist that could further impact the cash balance; growth in the depredation program, ongoing liability associated with the Terrero property reclamation, liabilities with the dam at Eagle Nest Lake, and the potential outbreak of various fish and wildlife diseases. The department is now facing the challenge of identifying additional revenues and may need a fee increase.

Fiscal Impact of Depredation Complaints. Depredation complaints continue to increase along with resources dedicated for compliance and abatement. Generally, the mitigation efforts consist of two remedies: build a fence to protect property or enter into a forage lease to compensate the landowner for property loss. Sportsman, though supportive of the program, have questioned the cost. For fencing projects, the department estimates a cost per mile of \$30,400 almost 10 times the amount to build a standard ranch fence. Ranchers estimate costs for building fences at \$3,000 per mile. According to the department, the type of fence needed to prevent elk passage is higher and more costly than standard fencing. In the depredation program alone, the agency has requested \$475,000 for fences and other measures to permanently resolve depredation. The agency request also includes \$169,000 for contract services to deal with depredation complaints. Many of the overtime costs noted in the agency’s budget request are to respond to depredation and nuisance issues.

Eagle Nest Lake. Three state agencies (DGF, the State Engineer and the State Parks Division) are involved in the long term management of Eagle Nest Lake. To date a joint powers agreement has been negotiated and signed between the DGF and the State Engineer (SE) where the SE will assume administration of water permit 71 and oversee the dam renovation. \$3 million was appropriated in FY04 from the game protection fund for this effort and will be distributed as work progresses. An additional JPA is currently being negotiated with the State Parks Division (SPD) for the transfer of land to establish a state park on the west side of the lake.

OTHER SUBSTANTIVE ISSUES

Road Closures and Status of UU-BAR Ranch Litigation. A state district court ruled in favor of the UU-BAR Ranch in State of New Mexico and State Game Commission v. UUBar Limited Partnership, et al. This case, brought by the Attorney General's Office in 1998 and later joined by the State Game Commission, involves disputed ownership of a former state road that gives the public access to approximately 45,000 acres of state trust land located in Colfax County. The UU-BAR ranch, the adjacent landowner, blocked the road. The road was once a part of the historic Santa Fe Trail and was once NM 21/199 but the State Highway Commission deeded it to the State Game Commission. The district court's decision gave control of the road to the UU-BAR ranch, citing difficulties in the transfer of the property by the two state agencies. The Attorney General's Office is appealing this decision.

Owners of another ranch, the Stanley Ranch, have threatened to close off southern access to the state trust lands in the same area of the state, causing further access issues in the area.

Marquez Wildlife Management Area. The Marquez Wildlife Management Area in McKinley and Sandoval counties was acquired by the DGF about thirty years ago. For most of this time the department has had a negotiated agreement with the Juan Tafoya land grant to provide access to the area. In return for access, the department allows land grant members to graze their cattle in the wildlife area. The current agreement ends December 31, 2003. As a result of the drought, the condition of the forage in the wildlife area has diminished significantly, and DGF is no longer able to allow cattle to graze in the area. This has been problematic as the department works to secure a new agreement with the land grant while exploring other long term solutions to the problem.

Status of Chronic Wasting Disease. The department's efforts in controlling and eradicating chronic wasting disease have to date been very effective. As a result of rules promulgated in FY03, the department prohibited the importation of elk and established procedures to depopulate infected elk populations as well as cleaning and disinfecting game park properties. The department has taken a reasonable and effective approach to disease surveillance and management. The department has recently received approval from the USDA for federal funding to assist in these efforts. The department is also close to modifying the importation ban on elk and deer to provide for selected importation in context with commission regulations and chronic wasting disease-free areas in the United States. There have been no recent outbreaks of chronic wasting disease in live deer or elk.

In FY02, chronic wasting disease was identified in animals on the White Sands Missile Range. IN FY03 and FY4, the department, as a condition of hunting on the range, is sampling tissue from all animals taken to make certain that the disease is not spreading in the area. Recent reports from the department indicate that the problem appears to be contained to a small area and is

not expanding.

Fish Hatcheries. As reported by the LFC in FY03, five of the state's six fish hatcheries have been tested and are actively producing fish for stocking purposes. At present the Parkview hatchery is undergoing testing as the final step in certifying the hatchery as whirling-disease free. It is expected to begin full production by December 2003. The number of public waters tested for the disease is reduced from FY03; however no positive results have been indicated.

The Red River hatchery experienced an incident in early FY04 where 70,000 fish died as a result of a rapid deterioration of water quality. Testing conducted on samples of the fish was inconclusive as to the reason for the fish dying. This event may have been a result of human activity and brings to light a need to examine security issues at the fisheries.

Hatchery performance in FY03 as measured by output greatly exceeded performance goals and is expected to continue to rise with the warm water hatchery in Santa Rosa coming on line in FY04.

PA/yr