

1 HOUSE BILL 183

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Matthew McQueen

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10 AN ACT

11 RELATING TO GOVERNMENT REORGANIZATION; MOVING THE DEPARTMENT OF
12 GAME AND FISH TO THE ENERGY, MINERALS AND NATURAL RESOURCES
13 DEPARTMENT AS A DIVISION; REPLACING THE STATE GAME COMMISSION
14 WITH THE GAME ADVISORY BOARD AND ADMINISTRATIVELY ATTACHING THE
15 BOARD TO THE GAME AND FISH DIVISION; REASSIGNING RULEMAKING TO
16 THE GAME AND FISH DIVISION; PROVIDING FOR TRANSFERS OF
17 FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY,
18 CONTRACTUAL OBLIGATIONS, STATUTORY REFERENCES AND RULEMAKING
19 FROM THE DEPARTMENT OF GAME AND FISH AND THE STATE GAME
20 COMMISSION TO THE GAME AND FISH DIVISION.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

23 SECTION 1. Section 9-5A-2 NMSA 1978 (being Laws 1987,
24 Chapter 234, Section 2) is amended to read:

25 "9-5A-2. PURPOSE.--The purpose of the Energy, Minerals

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1 and Natural Resources Department Act is to establish a single,
2 unified department to administer laws and exercise functions
3 formerly administered and exercised by the energy and minerals
4 department, [~~and~~] the natural resources department and the
5 department of game and fish."

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

10 "9-5A-3. DEPARTMENT ESTABLISHED.--

11 A. [~~There is created in the executive branch~~] The
12 "energy, minerals and natural resources department" is created
13 in the executive branch. The department [~~shall be~~] is a
14 cabinet department and [~~shall include but not be limited to~~]
15 includes the following organizational units:

16 (1) the administrative services division;

17 (2) the state parks division;

18 (3) the forestry division;

19 (4) the game and fish division;

20 [~~(4)~~] (5) the energy conservation and
21 management division;

22 [~~(5)~~] (6) the mining and minerals division;

23 and

24 [~~(6)~~] (7) the oil conservation division.

25 B. The [~~state~~] game [~~commission~~] advisory board is

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1 administratively attached to the [~~department~~] game and fish
2 division."

3 SECTION 3. Section 9-5A-4 NMSA 1978 (being Laws 1987,
4 Chapter 234, Section 4, as amended by Laws 2016, Chapter 71,
5 Section 12 and by Laws 2016, Chapter 78, Section 12) is amended
6 to read:

7 "9-5A-4. DIVISIONS--DUTIES.--In addition to the duties
8 assigned to each division of the energy, minerals and natural
9 resources department by the secretary of energy, minerals and
10 natural resources:

11 A. the administrative services division shall
12 provide clerical, recordkeeping and administrative support to
13 the department in the areas of personnel, budget, procurement
14 and contracting;

15 B. the energy conservation and management division
16 shall plan, administer, review, provide technical assistance,
17 maintain records, monitor state and federal energy conservation
18 and alternative energy technology programs and administer laws
19 and [~~regulations~~] rules relating to geothermal resources;

20 C. the forestry division shall enforce and
21 administer laws and [~~regulations~~] rules relating to forestry on
22 lands within the state;

23 D. the mining and minerals division shall enforce
24 and administer laws and [~~regulations~~] rules relating to mine
25 safety, coal surface mine reclamation and abandoned mine lands

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1 reclamation;

2 E. the oil conservation division shall administer
3 laws and [~~regulations~~] rules relating to oil and gas resources,
4 except those laws specifically administered by another
5 authority; [~~and~~]

6 F. the state parks division shall develop,
7 maintain, manage and supervise all state parks and state-owned
8 or state-leased recreation areas; and

9 G. the game and fish division shall administer and
10 enforce the laws and rules relating to hunting, fishing,
11 management and protection of wildlife, issuance of hunting and
12 fishing licenses and permits and other provisions of Chapter 17
13 NMSA 1978 or other laws for which the division is statutorily
14 or administratively charged with administering and enforcing."

15 SECTION 4. Section 17-2A-1 NMSA 1978 (being Laws 1996,
16 Chapter 89, Section 3) is recompiled as Section 17-1-1.1 NMSA
17 1978 and is amended to read:

18 "17-1-1.1. DEFINITIONS.--For the purposes of Chapter 17
19 NMSA 1978:

20 A. "hunt code" means a description used to identify
21 and define the species, weapon type and time frame authorized
22 for a specific hunt;

23 B. "outfitter" or "guide" means a person who
24 advertises or holds [~~himself~~] the person's self out to the
25 public for hire or is employed or accepts compensation for

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1 providing, within the unit where a hunt occurs, facilities,
2 equipment or services for hunting activities; provided,
3 however, that "outfitter" or "guide" does not include a person
4 who only cooks, cuts wood or performs other comparable or
5 incidental duties not directly related to hunting activities;
6 [~~and~~]

7 C. "state game commission", "commission",
8 "department of game and fish", "department" or "division" means
9 the game and fish division of the energy, minerals and natural
10 resources department; and

11 [~~G.~~] D. "unit" means a geographically bound area in
12 the state that is used to manage game species."

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

15 "17-1-2. [~~STATE~~] GAME [~~COMMISSION~~] ADVISORY BOARD--
16 APPOINTMENT--TERM.-- [~~To carry out the purpose of Chapter 17~~
17 ~~NMSA 1978 and all other acts for like purpose, there is created~~
18 ~~a "state]~~

19 A. The "game [~~commission~~] advisory board" is
20 created. The board consists of seven members, not more than
21 four of whom shall be of the same political party at the time
22 of their appointment. The members of the [~~commission~~] board
23 shall be appointed by the governor [~~with the advice and consent~~
24 ~~of the senate~~]. The term of office for each member of the
25 [~~commission~~] board shall be four years. At the time of making

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1 the first appointments, the governor shall designate the
2 [~~commissioners~~] board members' terms as being one, two, three
3 or four years so that the term of no more than two
4 [~~commissioners~~] board members shall expire each year.

5 B. In making appointments to the [~~state game~~
6 ~~commission~~] board, one member shall be appointed from each of
7 the following districts:

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

10 [B.] (2) district two: Catron, Socorro,
11 Grant, Hidalgo, Luna, Sierra and Dona Ana counties;

12 [C.] (3) district three: San Juan, McKinley,
13 Cibola, Valencia, Sandoval, Los Alamos and Rio Arriba counties;

14 [D.] (4) district four: Santa Fe, Taos,
15 Colfax, Union, Mora, Harding, Quay, San Miguel, Guadalupe and
16 Torrance counties; and

17 [E.] (5) district five: Bernalillo county.
18 The remaining two members shall be appointed at-large.

19 C. At least one member of the [~~commission~~] board
20 shall manage and operate a farm or ranch that contains at least
21 two species of wildlife on that part [~~which~~] that is deeded
22 land requiring licensing prior to legal pursuit under the
23 provisions of Section 17-3-2 NMSA 1978. At least one member
24 shall have a demonstrated history of involvement in wildlife
25 and habitat protection issues and whose activities or

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1 occupation are not in conflict with wildlife and habitat
2 advocacy. [~~The state game commission as provided in Chapter 17~~
3 ~~NMSA 1978 shall have the same authority, powers and duties as~~
4 ~~now vested in the state game commission by law, and]~~

5 D. Each member of the [~~state game commission~~] game
6 advisory board shall serve until [~~his~~] a successor has been
7 appointed and qualified."

8 SECTION 6. Section 17-1-4 NMSA 1978 (being Laws 1921,
9 Chapter 35, Section 4) is amended to read:

10 "17-1-4. GAME ADVISORY BOARD ORGANIZATION--OFFICERS--
11 MEETINGS--STAFF ASSISTANCE--DUTIES.-- [~~Within sixty days after~~
12 ~~this Act shall take effect, the state game commission shall~~
13 ~~meet at the capitol and]~~

14 A. The game advisory board shall organize by
15 electing from its membership a [~~chairman, and thereafter~~] chair
16 and vice chair. The board shall hold at least one meeting
17 [~~shall be held~~] annually and others at the call of [~~the~~
18 ~~governor or~~] the chair, a majority of the [~~commission~~] board
19 members or the request of the director of the division. The
20 [~~State Game Warden shall be secretary of~~] division shall
21 provide staff assistance to the [~~commission~~] board.

22 B. The board shall advise the division on matters
23 pertaining to the division's powers and duties enumerated in
24 Section 17-1-14 NMSA 1978, the Game and Fish Bond Act or
25 elsewhere in Chapter 17 NMSA 1978 or other provisions of law

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1 and shall assist the division with short- and long-range
2 planning for wildlife conservation; habitat acquisition,
3 development and improvement; fish hatchery and rearing facility
4 improvements; other capital improvements; and license and
5 permit system improvements."

6 SECTION 7. Section 17-1-5 NMSA 1978 (being Laws 1931,
7 Chapter 117, Section 5, as amended) is amended to read:

8 "17-1-5. EMPLOYMENT AND DISCHARGE OF DIRECTOR AND OTHER
9 EMPLOYEES--~~[DEPARTMENT OF]~~ GAME AND FISH ~~[CREATED]~~ DIVISION---

10 A. The ~~[state game commission]~~ secretary of energy,
11 minerals and natural resources shall employ a director ~~[who~~
12 ~~shall under such authorization that the game commission shall~~
13 ~~approve employ]~~ of the game and fish division and such
14 conservation officers, clerks and other employees as ~~[he shall~~
15 ~~deem proper and]~~ necessary to enforce and administer the laws
16 and ~~[regulations]~~ rules relating to game and fish ~~[and who~~
17 ~~shall prescribe their duties respectively, and who with the~~
18 ~~advice and consent of the state game commission shall fix the~~
19 ~~compensation of all the employees of the "department of game~~
20 ~~and fish", which is hereby created].~~

21 B. ~~[The state game commission may at any time~~
22 ~~discharge the director for reasons that the state game~~
23 ~~commission shall deem sufficient.]~~ The director may dismiss
24 employees in accordance with the provisions of the Personnel
25 Act."

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1 SECTION 8. Section 17-1-5.1 NMSA 1978 (being Laws 1994,
2 Chapter 129, Section 1) is amended to read:

3 "17-1-5.1. CONSERVATION SERVICES [~~DIVISION~~]
4 BUREAU--DUTIES.--

5 A. The "conservation services [~~division~~] bureau" is
6 created within the [~~department of~~] game and fish division.

7 B. The conservation services [~~division~~] bureau is
8 responsible for:

9 (1) management, enhancement, research and
10 conservation of public wildlife habitat;

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

13 (3) assisting landowners in improving wildlife
14 habitats;

15 (4) development of educational programs
16 related to conservation of wildlife and the environment,
17 including the expanded dissemination of wildlife publications;
18 and

19 (5) communication and consultation with
20 federal and other state agencies, local governments and
21 communities, private organizations and affected interests
22 responsible for habitat, wilderness, recreation, water quality
23 and environmental protection to ensure comprehensive
24 conservation services for hunters, anglers and nonconsumptive
25 wildlife users."

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1 SECTION 9. Section 17-1-6 NMSA 1978 (being Laws 1955,
2 Chapter 59, Section 2) is amended to read:

3 "17-1-6. TRANSFER OF DUTIES AND OBLIGATIONS.--The
4 director of the game and fish division shall fulfill all the
5 duties and obligations [~~heretofore~~] that had been imposed upon
6 the department of game and fish, the state game commission or
7 the state game warden and shall exercise all the powers
8 [~~heretofore~~] that were granted to the director of the
9 department of game and fish, the state game commission or the
10 state game warden. The conservation officers appointed by the
11 director shall assume those duties and powers [~~heretofore~~] that
12 had been imposed upon or granted to conservation officers or
13 deputy game wardens prior to enactment of this 2023 act."

14 SECTION 10. Section 17-1-14 NMSA 1978 (being Laws 1921,
15 Chapter 35, Section 7, as amended) is amended to read:

16 "17-1-14. GENERAL POWERS [~~AND DUTIES~~] OF [~~STATE GAME~~
17 ~~COMMISSION~~] DIVISION--GAME PROTECTION FUND--LIABILITY SUSPENSE
18 ACCOUNT--ACTIVITIES IN CLOSED AREAS--CRIME.--

19 A. The [~~state game commission~~] division shall have
20 general control over the collection and disbursement of all
21 money collected or received under [~~the~~] state laws for the
22 protection and propagation of game and fish, which money shall
23 be paid over to the state treasurer to the credit of the
24 nonreverting "game protection fund", unless otherwise provided
25 by law for deposit in other funds of the division to carry out

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1 the purposes of Chapter 17 NMSA 1978, and the fund, including
2 all earned income, shall not be transferred to another fund.
3 Prior to depositing money into the game protection fund, the
4 [~~department of game and fish~~] division shall ensure that an
5 amount adequate to cover the cost of refunds allowed by the
6 provisions of Chapter 17 NMSA 1978 is held in a liability
7 suspense account. All refunds shall be made from the liability
8 suspense account. Money not needed to cover the cost of
9 refunds shall be deposited in the game protection fund at the
10 end of each month. Chapter 17 NMSA 1978 shall be guaranty to
11 the person who pays for hunting and fishing licenses and
12 permits that the money in that fund shall not be used for any
13 purpose other than as provided in Chapter 17 NMSA 1978.

14 B. The [~~state game commission shall have authority~~
15 ~~to~~] division may:

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

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

25 (3) establish game refuges [~~for the purpose of~~

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1 ~~providing~~ to provide safe sanctuaries in which game may breed
2 and replenish adjacent hunting ranges, it being the purpose of
3 this provision to establish small refuges rather than large
4 preserves or to close large areas to hunting;

5 (4) purchase lands for game refuges where
6 suitable public lands do not exist, ~~to~~ purchase lands for
7 fish hatcheries and ~~to~~ purchase lands to be maintained
8 perpetually as public hunting grounds, particularly lands
9 suitable for waterfowl hunting, all such lands to be paid for
10 from the game protection fund or game and fish bond proceeds;

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

15 (6) apply for and accept any state, federal or
16 private funds, grants or donations from any source for game and
17 fish programs and projects;

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

25 (8) close any public stream or lake or portion

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1 [thereof] of a public stream or lake to fishing when such
2 action is necessary to protect a recently stocked water, to
3 protect spawning waters or to prevent undue depletion of the
4 fish;

5 (9) propagate, capture, purchase, transport or
6 sell any species of game or fish needed for restocking any
7 lands or streams of the state;

8 (10) after reasonable notice and hearing,
9 suspend or revoke any license or permit issued pursuant to the
10 provisions of Chapter 17 NMSA 1978 and withhold license
11 privileges from any person procuring a license through
12 misrepresentation, violating any provisions of Chapter 17 NMSA
13 1978 or hunting without a proper license;

14 (11) adopt rules establishing procedures that
15 provide reasonable notice and a hearing before the [~~state game~~
16 ~~commission~~] director of the division or the director's designee
17 for the suspension, revocation or withholding of license
18 privileges for a definite period of time for a person charged
19 with violating the provisions of Chapter 17 NMSA 1978, subject
20 to such judicial review as may be provided by law;

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

23 (13) establish licenses, permits and
24 certificates not otherwise provided for in Section 17-3-13 NMSA
25 1978 and charge and collect just and reasonable fees for them;

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1 provided the fees shall not exceed the costs of administration
2 associated with the licenses, permits or certificates;

3 (14) permit, regulate or prohibit the
4 commercial taking or capturing of native, free-ranging
5 amphibians or reptiles not specifically protected by law,
6 except for rattlesnake roundups, collection of fish bait and
7 lizard races;

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

12 (a) notification to the ~~[department of~~
13 ~~game and fish]~~ game advisory board of the diagnosis or
14 suspected presence of a contagious disease;

15 (b) examination by the state
16 veterinarian or the state veterinarian's designee of suspected
17 infected game animals;

18 (c) quarantine, treatment or destruction
19 of an infected game animal;

20 (d) disinfection and isolation of a
21 licensed private park where an infected game animal has been;
22 and

23 (e) indemnification and destruction of a
24 protected game animal;

25 (16) as necessary, designate areas of the

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1 state in which bear-proof garbage containers are required on
2 public and private lands to reduce potential human-bear
3 interactions;

4 (17) pursuant to appropriation by the
5 legislature, expend money from the game protection fund and the
6 habitat management fund for the improvement, maintenance,
7 development and operation of property for fish and wildlife
8 habitat management; and

9 (18) adopt rules to recruit, train and accept
10 the services of volunteers for education and outreach
11 activities, hunter and angler services and wildlife
12 conservation activities administered by the [~~department of game
13 and fish~~] division; provided that a volunteer:

14 (a) shall comply with all [~~policies and
15 procedures of the director of the department of game and fish~~]
16 rules of the division; and

17 (b) shall not be deemed to be a state
18 employee and shall not be subject to the provisions of law
19 relating to state employment, including those relating to hours
20 of work, rates of compensation, leave, unemployment
21 compensation and state employee benefits.

22 C. The director of the [~~department of game and
23 fish~~] division shall exercise all the powers and duties
24 conferred upon the state game and fish warden, the state game
25 commission or the department of game and fish by all [~~previous~~]

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1 statutes [~~now~~] in force that are not in conflict with Chapter
2 17 NMSA 1978.

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

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

15 SECTION 11. TEMPORARY PROVISIONS--TRANSFER OF FUNCTIONS,
16 PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL
17 OBLIGATIONS, STATUTORY REFERENCES AND RULES.--

18 A. On July 1, 2025, all functions, personnel,
19 appropriations, money, records, furniture, equipment, supplies
20 and other personal and real property of the state game
21 commission or the department of game and fish are transferred
22 to the game and fish division of the energy, minerals and
23 natural resources department.

24 B. On July 1, 2025, all agreements and contractual
25 obligations of the state game commission or the department of

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1 game and fish shall be deemed to be agreements and contractual
2 obligations of the game and fish division of the energy,
3 minerals and natural resources department.

4 C. On July 1, 2025, statutory references to the
5 state game commission, department of game and fish or state
6 game warden, state game and fish warden or warden in Chapter 17
7 NMSA 1978 or other statutes as those references apply to game
8 and fish shall be construed to be references to the game and
9 fish division of the energy, minerals and natural resources
10 department. References to the director of the department of
11 game and fish in Chapter 17 NMSA 1978 or other statutes shall
12 be construed to be references to the director of the game and
13 fish division of the energy, minerals and natural resources
14 department.

15 D. Rules of the state game commission shall be
16 rules of the game and fish division of the energy, minerals and
17 natural resources department until amended or repealed.

18 SECTION 12. REPEAL.--Section 17-1-15 NMSA 1978 (being
19 Laws 1931, Chapter 117, Section 6, as amended) is repealed.

20 SECTION 13. DELAYED EFFECTIVE DATE.--The effective date
21 of the provisions of this act is July 1, 2025.