

February 20, 2021

Chairwoman Stefanics & Senate Conservation Committee Members
New Mexico Senate - Conservation Committee
New Mexico Capitol
490 Old Santa Fe trail, Santa Fe, New Mexico 87501

RE: SB 312 – 2021

Dear Chairwoman Stefanics and members of the Senate Conservation Committee,

We the undersigned organizations, write to you in opposition to New Mexico Senate Bill 312 – Game and Fish and Wildlife Changes (SB 312).

SB 312 is a massive piece of legislation that was written by completely excluding the New Mexico Department of Game and Fish (NMDGF) and New Mexico's sportsmen's community, the two entities at the focal point of the bill. Given the sheer size of the bill and the lack of inclusion of key stakeholder groups, there is simply not enough time in this legislative session to do a proper analysis of the impacts of SB 312 in its totality or address the countless concerns contained in this bill. That, paired with understandable and necessary COVID-19 restrictions on legislator interaction and virtual committee hearing protocol, constituents' voices that were completely excluded during the writing process cannot be properly heard on this extremely complex and extensive piece of legislation.

In an effort to be conscientious of Committee Members time, the undersigned organizations thought it best to address high level concerns in SB 312, while simultaneously acknowledging that there are significantly more issues with the bill than contained in this letter.

Significant Impact on NMDGF

Insufficient Appropriations

SB 312 is not only calling for a complete rebranding of the NMDGF but also a significant expansion of conservation efforts. The monumental and deceptively difficult task of rebranding the NMDGF and Commission (e.g. printed collateral, truck decals, signage, website updates, uniforms, personnel hours, etc.) will cost approximately \$3 million, while SB 312 only appropriates \$1 million. In order to cover the \$2 million rebranding deficit, NMDGF will be forced to repurpose budgeted funds away from existing on the ground conservation activities, making it exceedingly unrealistic to expand its conservation efforts without additional resources and funds. Despite the \$2 million appropriations deficit, there has been little to no research done on exactly how rebranding of the NMDGF and Commission would directly impact existing programming and conservation priorities. New Mexico, like other states across the nation is facing a tight budget year due to COVID-19's impact on local economies. Asking the legislature to expend millions of dollars from the general fund for an entirely unnecessary endeavor would be irresponsible and negligent.

Redundancies

Changes made in SB 312 does nothing to acknowledge the excellent work the NMDGF does for wildlife conservation in the state. Instead, SB 312 is attempting to completely shift the focus of the NMDGF as opposed to trying to improve upon the existing foundation of success. If the bill sponsor and proponents wish to see a more concentrated effort be made towards conservation of non-game species, it would be more cost effective and efficient to take the money that would be used for the “rebranding” and direct it towards the New Mexico Wildlife Conservation Act (NMWCA). The NMDGF is already under directive to develop recovery plans for species listed by the state of New Mexico as threatened or endangered through the NMWCA. By appropriating additional funds to the NMWCA, the NMDGF would be able to expand its conservation objectives and tackle issues that it currently lacks the capacity and resources to do. Rebranding is not necessary to increase the reach and breadth of the NMDGF, additional resources are. This is just one example of how SB 312 is duplicative to existing statute and unnecessarily expensive, highlighting the lack of research and thought that went into its creation.

Inconsistent Language Changes

As written, SB 312 does not apply the term changes evenly throughout statute, meaning some statutes kept the term “game” while others were changed to “wildlife”. The inconsistencies in language creates a muddled mess as “game” is not specifically defined in the bill and enforcement of laws and regulations may be difficult or impossible because of the incomplete change from “game” to “wildlife”. Logically, language changes should be made evenly across statute, so why were they not? Was it an oversight or purposeful? At this point we do not know, but it adds weight to the need for more time to assess in detail the potential repercussions of SB 312 in totality.

Conflict with New Mexico Supreme Court Ruling

SB 312 would authorize the Commission by rule or policy to extend protection from game species to any wildlife species and defines wildlife as “a living animal, or any part, egg, spawn, offspring, shed antlers or horns, or the dead body or parts thereof, of any nondomestic mammal, bird, reptile, amphibian, fish or invertebrate species.” In a previous New Mexico State Supreme court ruling (*State ex rel. Sofeico v. Heffernan*, 1936-NMSC-069, 41 N.M. 219, 67 P.2d 240) the court made the determination that the legislature could not delegate the determination of species to be protected to the Commission. As a result, this ruling may impact the validity of the statutory change. Additionally, SB 312 would allow the Commission to protect insects and create rules regarding the take or use of them which may conflict with that statutory authority already reserved to other agencies such as Department of Agriculture.

Disproportional Impact on Rural Communities

SB 312 contains language to repeal Jennings Law which essentially gives landowners the right to protect their private property (i.e. livestock and crops) from wildlife damage and depredation. Jennings Law is essential towards maintaining a healthy and collaborate relationship between NMDGF and private landowners. If Jennings Law were to be repealed, landowners will lose incentives to allow outside entities on their property for wildlife and habitat management. Being that New Mexico is roughly 50% privately owned, repealing Jennings Law would significantly limit NMDGF’s ability to manage wildlife populations across the state. Additionally, hunting access, opportunities and revenue generations dependent on private lands will decrease, as landowners will be less inclined to allow people on their property. This section of SB 312 is a clear example of the growing urban-rural divide in New Mexico. If rural communities had been engaged during the bill writing process, the bill sponsors and proponents

would never have included this language in the bill. Rural communities need to be able to protect their property and livelihoods.

Additionally, SB 312 will cost the state an estimated \$4 million in tourism revenue generated by the outfitting industry and have a crippling effect on the rural communities that depend on the outfitting industry for employment and/or income.

Exclusion of Key Stakeholder Groups

SB 312 was conceived and written without inclusion of the stakeholder groups that would be directly impacted by its enactment. Little to no consultation occurred between the bill proponents and sponsors and the NMDGF, rural community, or the New Mexico outdoor sporting community. This is clearly highlighted by the numerous egregious flaws in the bill language. Rather the supporting organizations are known for being antagonists of the traditional hunting and fishing community in New Mexico and fail to recognize that sportsmen and women are the financial backbone of the NMDGF and essential to all conservation efforts, game and non-game, throughout the state. If key stakeholder groups had been consulted, SB 312's sponsors and proponents would have been aware of the far-reaching negative impacts and consequences if this bill were allowed to pass through the legislature.

Due to the volume of changes include in SB 312, an in-depth analysis needs to be completed to be able to fully understand the potential impact of this piece of legislation. The simple fact that neither the New Mexico outdoor sporting community, rural community, nor the NMDGF were involved in the formation of this bill is extremely concerning and provides added emphasis on the need for a more inclusive and comprehensive public comment process. The current COVID-19 public comment process during Committee hearings is insufficient to address the numerous concerns and complexities associated with SB 312.

The below organizations recognize that, while there are some positive aspects of SB 312, the vast majority of the bill is irrevocably flawed and requires a significant, if not total rewrite. The rewriting process would need to include the NMDGF and representatives from the rural community, outfitters and guiding industry and sportsmen's community to ensure the bill language takes into account all perspectives and is the best possible product for all parties involved.

For the above stated reasons, the below signed organizations urge you to oppose SB 312 – Game and Fish and Wildlife Changes.

Sincerely,

Dallas Safari Club New Mexico

New Mexico Cattle Growers Association

New Mexico Council of Outfitters and Guides

New Mexico Farm and Livestock Bureau

New Mexico Sportsman's and Conservationists Alliance

New Mexico Trappers Association

New Mexico Wool Growers Inc.

Congressional Sportsmen's Foundation

Dallas Safari Club

Fur Takers of America

Mule Deer Foundation

National Deer Association

National Rifle Association

National Trappers Association

Rocky Mountain Elk Foundation

Ruffed Grouse Society

Safari Club International

Sportsmen's Alliance