



New Mexico State Legislature

STATE CAPITOL
Santa Fe

April 29, 2026

Attorney General Raúl Torrez
408 Galisteo Street
Villagra Building
Santa Fe, NM 87501

Dear Attorney General Torrez:

We write to request an Attorney General Opinion addressing our concerns with New Mexico's current system of allocating hunting licenses (also called permits or tags) specifically for public land. We recognize and support the sovereign authority of tribal nations for exclusive wildlife management on tribal lands, and the importance of private land ownership and access control. We are not concerned in this request with hunting license allocation for private lands and strongly support the exclusive management jurisdiction that sovereign tribal lands convey. New Mexico residents have made clear how much they value our shared public lands, and we want to ensure the state is protecting the right for New Mexico families to pass on the hunting tradition.

Increasingly, we are concerned that many New Mexico families are unable to pass on the hunting tradition and are excluded from any opportunity to harvest healthy wild game as big game draw odds worsen year after year for residents. This is the result of a system that shifts hunting opportunity on our public lands away from average residents to wealthier, most often non-resident, hunters. No other western state excludes its own residents in favor of providing a better chance for non-residents, as New Mexico's system currently does.

We have several questions regarding the legality of this system.

New Mexico wildlife is held in trust "for the benefit of the people of the state," per *State ex rel. State Game Commission v. Red River Valley Co.*, 51 N.M. 207, 182 P.2d 421, 426 (1945). In addition, the system must satisfy the Anti-Donation Clause, Article IX, Section 14 of the New Mexico Constitution. The Legislature has enacted statutes to fulfill its trust responsibilities in this area. As implemented, however, the system is in significant tension with the constitution and statutes.

Specifically, we seek your opinion on each of the following issues:

1. Outfitter-mandated licenses

In 2012, the New Mexico Legislature enacted legislation requiring the Department of Game & Fish to allocate hunting permits in set percentages. Under NMSA 1978, Section 17-3-16(B) (2012), at least 84 percent of permits are supposed to be issued to New Mexico residents, 6 percent are allocated to nonresidents not required to contract with an outfitter in order to access the drawing, and the remaining 10 percent are set aside for hunters who are required to contract with an outfitter in order to submit an application (this pool of outfitter mandated licenses is commonly referred to as the “outfitter set-aside”). The Commission approved and promulgated a regulation putting into practice the Legislature’s requirement. The most recent version of this regulation states that permit applicants must list a valid registration number issued to a New Mexico outfitter on their permit applications to be placed in the outfitter set-aside drawing pool. See 19.31.3.8 NMAC. Due to a 2012 federal court ruling, non-resident outfitters are also able to control access to this pool of licenses.

Neither Section 17-3-16(B) nor the implementing regulations requires any compensation to the state to qualify for consideration under the “outfitter set-aside;” access to the 10% of permits designated for the set-aside depends only on the existence of a private contract between hunter and outfitter.

The vast majority of applicants who obtain a permit through the outfitter set-aside pool are not New Mexicans. For example, it is our understanding that, in the 2022-23 hunting season, the Department placed 1,584 elk hunting permits valid on public lands in the outfitter set-aside pool. 1,429 of those permits—90.2 percent—went to nonresident hunters. Just 155, or 9.8 percent, were drawn by New Mexico residents. We know of no other state that confers such a benefit to private outfitters and to hunters who can pay the fees that outfitters charge – ultimately creating a system where those with the greatest wealth from across the country have a better chance of hunting New Mexico’s public lands than average New Mexicans.

Does the outfitter set-aside as implemented by the Department of Game & Fish violate the Anti-Donation Clause?

2. Bighorn Sheep License Allocation Process

The State is particularly limited in the number of Bighorn Sheep licenses available each year. The Department has adopted a practice unique to Bighorn Sheep licenses. The Department currently combines hunting units for determining license allocation for Bighorn Sheep, rather than, as for other big game species, issuing licenses on a per-unit basis. One effect of this practice is that it effectively increases the number of licenses counted for purposes of determining whether any are designated for the pool of outfitter-mandated licenses.

Is this practice lawful?

3. Public Trust Doctrine

Taking each of these issues individually and together, what are the constitutional implications in terms of the state's obligation to manage New Mexico wildlife in trust "for the benefit of the people of the state"?

On behalf of New Mexicans who cherish and wish to preserve their family hunting traditions, we ask for your guidance and input regarding these concerns.

Sincerely,



Representative Nathan Small



Representative Meredith A. Dixon



Representative Sarah Silva



Representative Charlotte Little



Representative Kristina Ortez



Representative Christine Chandler




Representative Andrea Romero



Representative Susan K. Herrera



Representative Anita Gonzales



Senator William P. Soules



Senator Linda Trujillo



Senator Carrie Hamblen



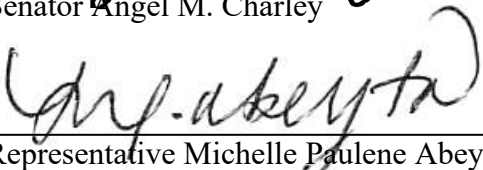
Senator Elizabeth "Liz" Stefanics



Senator Heather Berghmans



Senator Angel M. Charley



Representative Michelle Paulene Abeyta



Representative Joseph Franklin Hernandez



Representative Debra M. Sariñana