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SENATE BILL 186

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE NATURAL HERITAGE  
CONSERVATION ACT; PROVIDING POWERS AND DUTIES; CREATING A FUND;  
PROVIDING FOR THE ACQUISITION OF LAND, EASEMENTS OR OTHER  
PROPERTY INTERESTS FOR CONSERVATION; REQUIRING PAYMENTS IN LIEU  
OF TAXES IN CERTAIN INSTANCES; PROHIBITING THE ACQUISITION OF  
LAND, EASEMENT INTERESTS OR OTHER RIGHTS OF ACCESS THROUGH  
EMINENT DOMAIN OR OTHER CONDEMNATION PROCESS; MAKING AN  
APPROPRIATION.

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

Section 1. SHORT TITLE.--This act may be cited as the  
"Natural Heritage Conservation Act".

Section 2. PURPOSE.--The purpose of the Natural Heritage  
Conservation Act is to protect the state's natural heritage by  
funding acquisitions of land, conservation easements and other

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1 property interests and by funding land restoration, to protect  
2 the land and water available for forests and watersheds,  
3 natural areas, wildlife and wildlife habitat, working farms and  
4 ranches, outdoor recreation and trails and land and habitat  
5 restoration and management.

6 Section 3. DEFINITIONS.--As used in the Natural Heritage  
7 Conservation Act:

8 A. "committee" means the natural lands protection  
9 committee;

10 B. "conservation entity" means a private nonprofit  
11 charitable corporation or trust authorized to do business in  
12 New Mexico that has tax-exempt status as a public charity  
13 pursuant to the federal Internal Revenue Code of 1986 and that  
14 has the power to acquire, hold or maintain land or interests in  
15 land;

16 C. "conservation project" means the acquisition of  
17 property interests from a willing seller or a land restoration  
18 project;

19 D. "department" means the energy, minerals and  
20 natural resources department;

21 E. "fund" means the natural heritage conservation  
22 fund; and

23 F. "qualified entity" means a state agency, a state  
24 educational institution named in Article 12, Section 11 of the  
25 constitution of New Mexico, a political subdivision of the

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1 state or, for acquisitions of land or other property interests  
2 wholly within New Mexico, an Indian tribe or pueblo.

3 Section 4. DEPARTMENT--POWERS AND DUTIES.--

4 A. The department may:

5 (1) adopt and promulgate rules to carry out  
6 the provisions of the Natural Heritage Conservation Act;

7 (2) enter into contracts;

8 (3) enter into joint powers agreements  
9 pursuant to the Joint Powers Agreements Act to carry out the  
10 provisions of the Natural Heritage Conservation Act;

11 (4) make grants to qualified entities for  
12 conservation projects;

13 (5) apply for and receive in the name of the  
14 department, any public or private funds available to the  
15 department to carry out the purposes of the Natural Heritage  
16 Conservation Act;

17 (6) acquire land, easements and other property  
18 interests by itself or with a conservation entity or qualified  
19 entity; and

20 (7) do all other things necessary or  
21 appropriate to carry out the provisions of the Natural Heritage  
22 Conservation Act.

23 B. The department shall:

24 (1) establish a competitive application  
25 process for grants from the fund; and

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1 (2) establish criteria and priorities for  
2 funding conservation projects.

3 Section 5. FUND CREATED--PURPOSE--EXPENDITURES.--The  
4 "natural heritage conservation fund" is created as a  
5 nonreverting fund in the state treasury. The fund consists of  
6 appropriations, gifts, grants, donations, bequests, income from  
7 investment of the fund and any other money credited to the  
8 fund. The fund shall be administered by the department, and  
9 money in the fund is appropriated to the department to fund  
10 conservation projects. Expenditures from the fund shall be by  
11 warrants of the secretary of finance and administration upon  
12 vouchers signed by the secretary or the secretary's authorized  
13 representative.

14 Section 6. CONSERVATION PROJECTS--PROCEDURES.--

15 A. Any acquisition of land, easements or other  
16 property interests through a conservation project shall give  
17 preference to maintaining private ownership through negotiated  
18 conservation easements or voluntary agreements and shall not  
19 alter state law regarding access to commercial development or  
20 extraction of a mineral estate.

21 B. All conservation projects shall be maintained to  
22 protect the public health and welfare and shall be for:

23 (1) preserving and conserving water quality  
24 and quantity;

25 (2) protecting working farms, ranches and

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1 other agricultural lands;

2 (3) protecting and restoring New Mexico's  
3 forests and watersheds;

4 (4) conserving wildlife habitat;

5 (5) maintaining natural areas;

6 (6) providing outdoor recreation  
7 opportunities, including hunting and fishing; or

8 (7) preserving cultural and historic sites  
9 with natural resource heritage value.

10 C. The department, working with the committee,  
11 shall establish criteria for evaluating possible conservation  
12 projects. Criteria shall include:

13 (1) the degree to which the conservation  
14 project serves the purposes of the Natural Heritage  
15 Conservation Act;

16 (2) the amount of matching financial support  
17 for the conservation project from sources other than the state;

18 (3) the technical qualifications of the  
19 applicant and its ability to complete and maintain the proposed  
20 conservation project;

21 (4) the degree to which the conservation  
22 project fosters and integrates with existing conservation  
23 plans, strategies and initiatives;

24 (5) the potential for benefits at landscape  
25 and ecosystem scale;

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1 (6) the potential for improved public access  
2 for outdoor recreation opportunities, including hunting and  
3 fishing; and

4 (7) other measurements and requirements  
5 required by the department and the committee.

6 D. The committee shall receive applications for  
7 conservation projects and shall evaluate them against the  
8 department's criteria. The committee may reject any incomplete  
9 applications or applications that do not meet the established  
10 criteria. After review, the committee shall make its  
11 recommendations on all evaluated conservation projects to the  
12 department.

13 E. The department shall make its selections for  
14 funding from the committee's recommendations.

15 Section 7. CONSERVATION PROJECTS--PUBLIC-PRIVATE  
16 PROJECTS.--

17 A. The department may acquire land, easements or  
18 other property interests and hold them in the name of the  
19 state.

20 B. When approving a conservation project that is  
21 for acquisition of land or other property interests by a  
22 conservation entity, the department shall require the  
23 conservation entity to:

24 (1) acquire no less than ten percent of the  
25 conservation project, and title to the interests acquired shall

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1 be held by the conservation entity and a qualified entity as  
2 cotenants having undivided interests in proportion to each  
3 one's share of the acquisition; and

4 (2) submit a plan for the management of lands  
5 for which the conservation entity and the qualified entity are  
6 responsible. The department, in consultation with the  
7 committee, shall review the plan to ensure compliance with the  
8 purposes of the Natural Heritage Conservation Act.

9 C. For fee acquisitions, the conservation entity  
10 shall pay annually to the state and its political subdivisions  
11 a sum equal to an amount that would have been paid in taxes,  
12 levies and assessments. The payments shall be in lieu of such  
13 taxes, levies and assessments.

14 D. When approving a conservation project that is  
15 for land restoration by a conservation entity, the department  
16 shall require that the conservation entity provide at least ten  
17 percent of the cost of the conservation project.

18 Section 8. REAL PROPERTY INTERESTS FOR CONSERVATION--  
19 ACQUISITION OF LANDS--LIMITATIONS.--In addition to purchasing  
20 land or interests in land, the department may acquire or  
21 receive by gift or bequest fee and easement interests in real  
22 property to advance the purposes of the Natural Heritage  
23 Conservation Act. No lands, easement interests or other rights  
24 of access shall be acquired pursuant to the Natural Heritage  
25 Conservation Act through exercise of the state's power of

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1 eminent domain or any other condemnation process. Land  
2 adjacent to any land acquired pursuant to the Natural Heritage  
3 Conservation Act shall not be subjected to any rules or  
4 restrictions as a result of such acquisition.

5 Section 9. ANNUAL REPORT TO THE GOVERNOR AND THE  
6 LEGISLATURE.--The department and the committee shall report  
7 annually to the governor and the legislature on the status of  
8 applications and funded conservation projects.

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