

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 186

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

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE NATURAL HERITAGE
CONSERVATION ACT; PROVIDING POWERS AND DUTIES; CREATING A FUND;
PROVIDING FOR THE ACQUISITION OF CONSERVATION AND AGRICULTURAL
EASEMENTS AND FOR RESTORATION PROJECTS; PROHIBITING THE
ACQUISITION OF 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,
customs and culture by funding conservation and agricultural
easements and by funding land restoration to protect the land

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underscored material = new
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1 and water available for forests and watersheds, natural areas,
2 wildlife and wildlife habitat, agricultural production on
3 working farms and ranches, outdoor recreation and trails and
4 land and habitat restoration and management.

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

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

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

15 C. "conservation project" means the acquisition of
16 conservation or agricultural easements from a willing seller or
17 a land restoration project;

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

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

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

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1 an Indian tribe or pueblo.

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

3 A. The department may:

4 (1) after consultation with landowners,
5 conservationists and other interested persons, adopt and
6 promulgate rules to carry out the provisions of the Natural
7 Heritage Conservation Act;

8 (2) enter into contracts;

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

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

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

18 (6) acquire conservation or agricultural
19 easements by itself or with a conservation entity or qualified
20 entity; and

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

24 B. The department shall:

25 (1) establish a competitive application

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1 process for grants from the fund; and

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

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

15 Section 6. CONSERVATION PROJECTS--PROCEDURES.--

16 A. All conservation projects shall be maintained to
17 protect the public health and welfare and shall be for:

18 (1) preserving and conserving water quality
19 and quantity;

20 (2) protecting agricultural production on
21 working farms, ranches and other agricultural lands;

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

24 (4) conserving wildlife habitat;

25 (5) maintaining natural areas;

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

3 (7) preserving cultural and historic sites
4 with natural resource heritage value.

5 B. The department, working with the committee,
6 landowners, conservationists and other interested persons,
7 shall establish criteria for evaluating possible conservation
8 projects. Criteria shall include:

9 (1) the degree to which the conservation
10 project serves the purposes of the Natural Heritage
11 Conservation Act;

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

14 (3) the technical qualifications of the
15 applicant and its ability to complete and maintain the proposed
16 conservation project;

17 (4) the degree to which the conservation
18 project fosters and integrates with existing conservation
19 plans, strategies and initiatives;

20 (5) the potential for benefits at landscape
21 and ecosystem scale;

22 (6) the potential for improved public access
23 for outdoor recreation opportunities, including hunting and
24 fishing;

25 (7) the potential for economic benefits of the

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1 completed conservation project; and

2 (8) other measurements and requirements
3 required by the department and the committee.

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

11 D. The department shall make its selections for
12 funding from the committee's recommendations.

13 Section 7. CONSERVATION PROJECTS--PUBLIC-PRIVATE
14 PROJECTS.--

15 A. The department may acquire conservation or
16 agricultural easements and hold them in the name of the state.

17 B. When approving a conservation project that is
18 the acquisition of a conservation or agricultural easement by a
19 conservation entity, the department shall require the
20 conservation entity to:

21 (1) acquire no less than ten percent of the
22 easement, and title to the easement shall be held by the
23 conservation entity and a qualified entity as cotenants having
24 undivided interests in proportion to each one's share of the
25 acquisition; and

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

6 C. When approving a conservation project that is
7 for land restoration by a conservation entity, the department
8 shall require that the conservation entity provide at least ten
9 percent of the cost of the conservation project.

10 Section 8. CONSERVATION PROJECTS--LIMITATIONS.--The
11 department may acquire or receive by gift or bequest
12 conservation or agricultural easement interests in real
13 property to advance the purposes of the Natural Heritage
14 Conservation Act. No easement interests, water rights or other
15 rights of access shall be acquired pursuant to the Natural
16 Heritage Conservation Act through exercise of the state's power
17 of eminent domain or any other condemnation process. Land
18 adjacent to any land subject to a conservation or agricultural
19 easement that was acquired pursuant to the Natural Heritage
20 Conservation Act shall not be subjected to any rules or
21 restrictions as a result of such easement acquisition.

22 Section 9. ANNUAL REPORT TO THE GOVERNOR AND THE
23 LEGISLATURE.--The department and the committee shall report
24 annually to the governor and the legislature on the status of
25 applications and funded conservation projects.

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