

1 HOUSE BILL 223

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Nathan P. Small

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10 AN ACT

11 RELATING TO NATURAL RESOURCES; ENACTING THE AGRICULTURAL AND
12 NATURAL RESOURCES TRUST ACT; CREATING THE AGRICULTURAL AND
13 NATURAL RESOURCES TRUST FUND AND THE AGRICULTURAL AND NATURAL
14 RESOURCES TRUST GRANT FUND; CREATING THE AGRICULTURAL AND
15 NATURAL RESOURCES TRUST BOARD AND THE OFFICE OF THE
16 AGRICULTURAL AND NATURAL RESOURCES TRUST TO ADMINISTER A GRANT
17 PROGRAM TO CONSERVE AGRICULTURAL, WILDLIFE AND NATURAL
18 RESOURCES; MAKING AN APPROPRIATION.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
22 cited as the "Agricultural and Natural Resources Trust Act".

23 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
24 Agricultural and Natural Resources Trust Act:

25 A. "board" means the agricultural and natural

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1 resources trust board;

2 B. "grant fund" means the agricultural and natural
3 resources trust grant fund; and

4 C. "trust fund" means the agricultural and natural
5 resources trust fund.

6 SECTION 3. [NEW MATERIAL] AGRICULTURAL AND NATURAL
7 RESOURCES TRUST FUND--CREATED--DISTRIBUTION--INVESTMENT.--

8 A. The "agricultural and natural resources trust
9 fund" is created in the state treasury. The trust fund
10 consists of appropriations, gifts, grants, transfers, bequests
11 and other donations of money, including those that are limited
12 in their purposes by the grantor. Earnings from investment of
13 the trust fund shall be credited to the trust fund, and
14 unexpended and unencumbered balances in the trust fund at the
15 end of any fiscal year shall not revert to any other fund.

16 B. Except as provided in Subsection D of this
17 section, money in the trust fund shall not be expended for any
18 purpose, but on July 1 of each year an annual distribution
19 shall be made from the trust fund to the grant fund in the
20 amount of the earned income of the trust fund from the prior
21 fiscal year.

22 C. Funds in the trust fund shall constitute a
23 perpetual trust fund, which shall be invested by the state
24 investment council in a manner to obtain the highest return
25 possible consistent with preservation of the fund corpus.

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1 D. Money in the trust fund may be expended in the
2 event that general fund balances, including all authorized
3 revenues and transfers to the general fund and balances in the
4 general fund operating reserve, the appropriation contingency
5 fund and the tax stabilization reserve, will not meet the level
6 of appropriations authorized from the general fund for a fiscal
7 year. In that event, in order to avoid an unconstitutional
8 deficit, the legislature may authorize a temporary transfer
9 from the trust fund to the general fund but only in an amount
10 necessary to meet general fund appropriations. Money
11 transferred pursuant to this subsection shall be repaid to the
12 trust fund.

13 SECTION 4. [NEW MATERIAL] AGRICULTURAL AND NATURAL
14 RESOURCES TRUST GRANT FUND--CREATED--PURPOSES--EXPENDITURES.--

15 A. The "agricultural and natural resources trust
16 grant fund" is created in the state treasury. The grant fund
17 shall consist of distributions from the trust fund,
18 appropriations, gifts, grants, transfers, bequests and other
19 donations of money, including those that are limited in their
20 purposes by the grantor. Earnings from investment of the grant
21 fund shall be credited to the grant fund, and unexpended and
22 unencumbered balances in the grant fund at the end of any
23 fiscal year shall not revert to any other fund. The director
24 of the office of the agricultural and natural resources trust
25 shall administer the grant fund, and disbursements from the

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1 grant fund shall be made by warrant of the secretary of finance
2 and administration pursuant to vouchers signed by the director
3 or the director's authorized representative.

4 B. Money in the grant fund is appropriated to the
5 office of the agricultural and natural resources trust to carry
6 out the purposes of the Agricultural and Natural Resources
7 Trust Act and may be used for the following purposes:

8 (1) water enhancement projects to improve
9 stream and hydrological function, reduce erosion, increase
10 water supply, improve water quality and ensure the long-term
11 conservation of water resources;

12 (2) preservation or conservation of open
13 space, cultural land and resources and habitat for fish,
14 wildlife or plants through purchase or acquisition of
15 conservation easements;

16 (3) improvement and maintenance of existing
17 terrestrial habitat necessary to maintain optimum wildlife
18 populations of terrestrial or aquatic species;

19 (4) enhancement of fish or wildlife habitat in
20 areas impacted by residential, energy, mineral or industrial
21 development;

22 (5) habitat improvements that promote the
23 health of both livestock and wildlife and reduce potential for
24 disease transmission;

25 (6) the control, management or extermination

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1 of invasive species and noxious weeds in order to protect
2 native flora and fauna, restore degraded forests, rangeland and
3 wetland habitats and support agricultural sustainability;

4 (7) habitat improvement by restoring natural
5 fire regimes, including through the use of prescribed fire;
6 reducing the risk of catastrophic fire; and restoring
7 watersheds impacted by fire;

8 (8) implementation of land and watershed
9 management techniques that promote soil and rangeland health,
10 increase water infiltration, improve wildlife habitat and
11 enhance agricultural viability; and

12 (9) staffing and other administrative expenses
13 to carry out the purposes of the Agricultural and Natural
14 Resources Trust Act.

15 C. Money in the grant fund shall not be used for:

16 (1) the reintroduction of any native or non-
17 native game or nongame species pursuant to the federal
18 Endangered Species Act of 1973, as amended;

19 (2) fee simple title acquisition of real
20 property; or

21 (3) the purchase of water rights to be held by
22 the state.

23 SECTION 5. [NEW MATERIAL] AGRICULTURAL AND NATURAL
24 RESOURCES TRUST BOARD--CREATED--TERMS--MEETINGS.--

25 A. The "agricultural and natural resources trust

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1 board" is created within the office of the agricultural and
2 natural resources trust.

3 B. The board consists of nine members, appointed by
4 the governor and confirmed by the senate, who are residents of
5 New Mexico. The members shall be appointed from each of New
6 Mexico's major hydrologic regions, as set forth by the United
7 States geological survey: Arkansas-White-Red; Texas-gulf;
8 upper Colorado; lower Colorado; and Rio Grande regions. For
9 the purposes of appointing board members, the Rio Grande region
10 shall be divided into the upper Rio Grande, middle Rio Grande,
11 lower Rio Grande, Pecos and lower Pecos regions, as recognized
12 by the interstate stream commission.

13 C. Board members shall reflect a broad spectrum of
14 experience, including in local government; agriculture,
15 including irrigated agriculture and livestock production;
16 energy and mining; land conservation; fish and wildlife
17 management; and watershed management.

18 D. Members of the board shall serve for terms of
19 six years; provided that of the initial appointees, three
20 members shall be appointed for two years, three members shall
21 be appointed for four years and three members shall be
22 appointed for six years. The governor may remove a board
23 member for misconduct, incompetence, neglect of duty or
24 malfeasance in office. Vacancies shall be filled by the
25 governor for the remainder of the original terms.

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1 E. A majority of the board constitutes a quorum.
2 The members of the board shall annually elect from among their
3 membership a chair and vice chair.

4 F. The board shall meet at least quarterly.

5 G. Board members who are not state employees or
6 otherwise reimbursed for per diem and mileage expenses are
7 entitled to per diem and mileage as provided in the Per Diem
8 and Mileage Act and shall receive no other compensation,
9 perquisite or allowance.

10 SECTION 6. [NEW MATERIAL] AGRICULTURAL AND NATURAL
11 RESOURCES TRUST BOARD--POWERS AND DUTIES--GRANT PROGRAM--
12 DIRECTOR.--

13 A. The board shall:

14 (1) establish an agricultural and natural
15 resources trust grant program;

16 (2) approve applications for grants from the
17 grant fund based upon review, evaluation and recommendation;

18 (3) adopt rules in accordance with the
19 Administrative Procedures Act to carry out the Agricultural and
20 Natural Resources Trust Act. The rules shall include:

21 (a) criteria for grants, including
22 consideration of the ecological and socioeconomic costs and
23 benefits of the grant proposal;

24 (b) requirements for matching funds or
25 other in-kind contributions from grantees;

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1 (c) a process to evaluate, rank and
2 prioritize grant proposals with an emphasis on projects that
3 are partnerships involving private and public entities;

4 (d) a process to review and monitor
5 grants to grantees; and

6 (e) criteria to be used by the board for
7 the acceptance or rejection of gifts, transfers, bequests or
8 donations; and

9 (4) hire a director of the office of the
10 agricultural and natural resources trust, who is covered by,
11 and subject to, the provisions of the Personnel Act.

12 B. The board may:

13 (1) consult with other governmental agencies,
14 persons and nonprofit organizations, as necessary;

15 (2) accept or decline federal grants and other
16 contributions, grants, gifts, transfers, bequests or donations;

17 (3) coordinate with for-profit corporations to
18 develop wildlife habitat; provided that the board shall not
19 award grants, or otherwise divert financial resources, to a
20 for-profit corporation; and

21 (4) recommend to the governor or the
22 legislature that funds be transferred from the grant fund to
23 the trust fund in the state's annual budget.

24 C. The board shall not have the power of eminent
25 domain.

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1 D. Annually, no later than September 30, the board
2 shall report to the governor and the appropriate interim
3 legislative committees with respect to all federal grants,
4 state appropriations and other contributions, grants, gifts,
5 bequests and donations received and credited to the trust fund
6 and grant fund during the preceding fiscal year. The report
7 shall include all grants awarded by the board and progress made
8 toward the condition of any grant made.

9 SECTION 7. [NEW MATERIAL] OFFICE OF THE AGRICULTURAL AND
10 NATURAL RESOURCES TRUST--DIRECTOR.--

11 A. The "office of the agricultural and natural
12 resources trust" is created and is administratively attached to
13 the office of the governor.

14 B. The director of the office of the agricultural
15 and natural resources trust shall:

16 (1) at the direction of the board, administer
17 the agricultural and natural resources trust grant program; and

18 (2) act as a liaison for the board to state,
19 federal and local governmental agencies, nonprofit
20 organizations and members of the public who seek to provide
21 input regarding grant proposals.

22 SECTION 8. [NEW MATERIAL] GRANT APPLICATIONS--ELIGIBLE
23 ENTITIES--GRANT CONDITIONS.--

24 A. The board shall award agricultural and natural
25 resources grants to governmental agencies or nonprofit

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1 organizations to promote, preserve and enhance the wildlife,
2 multiple use, natural resource or environmental heritage of New
3 Mexico and its people.

4 B. Grant projects may occur on public, private or
5 tribal lands and shall demonstrate a public benefit.

6 C. The board shall determine the amount of each
7 grant and any conditions attached to the grant; provided that
8 the board shall not require public access to private land as a
9 condition to receive grant funds.

10 D. Grant funds shall not be used to supplement or
11 replace the operating budget of a governmental agency or
12 nonprofit organization, except that grant funds may be used for
13 administrative costs directly related to the grant project.
14 Grant funds may be used for acquisition of personal property
15 related to the grant project.

16 E. Prior to receiving grant funds, the grantee
17 shall certify that no gratuities, kickbacks, gifts,
18 commissions, contingency fees or other considerations have been
19 or will be made in connection with the grant.

20 F. Grants shall not be awarded until the rules
21 adopted by the board have become effective.

22 SECTION 9. [NEW MATERIAL] CONSERVATION EASEMENTS.--

23 A. A conservation easement funded in whole or in
24 part with funding made available by the Agricultural and
25 Natural Resources Trust Act shall bind the parties to the

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1 conservation easement to an agreement that provides that the
2 state is a third-party beneficiary to the easement solely with
3 the contingent right to enforce the terms of the easement if
4 the grantee fails to enforce the terms of the easement. The
5 agreement shall provide that if the easement is transferred for
6 value, sold or extinguished without the consent of the board,
7 the state shall have the right to either take legal action to
8 enforce the terms of the easement or to recover from the
9 proceeds of the transfer for value, sale, or extinguishment the
10 state pro rata share of the proceeds based on the funds the
11 state provided for the creation of the easement.

12 B. Funds dispersed for the purchase of easements
13 shall support, and may not prohibit, the use of the land for
14 ranching, farming, hunting or fishing, if the activities could
15 be conducted consistent with the underlying purposes and
16 conservation values of the easement.

17 SECTION 10. [NEW MATERIAL] AUDITS.--The audit and
18 compliance division of the taxation and revenue department
19 shall audit the trust fund and grant fund annually. Copies of
20 the audits shall be provided to the governor and the
21 appropriate interim legislative committees.

22 SECTION 11. APPROPRIATION.--

23 A. One hundred fifty million dollars (\$150,000,000)
24 is appropriated from the general fund to the agricultural and
25 natural resources trust fund in fiscal year 2021. Any

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1 unexpended or unencumbered balance remaining at the end of a
2 fiscal year shall not revert to the general fund.

3 B. Two hundred thousand dollars (\$200,000) is
4 appropriated from the general fund to the office of the
5 agricultural and natural resources trust for expenditure in
6 fiscal year 2021 for the purpose of administrative and
7 operating costs to carry out the Agricultural and Natural
8 Resources Trust Act. Any unexpended or unencumbered balance
9 remaining at the end of fiscal year 2021 shall revert to the
10 general fund.

11 SECTION 12. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2020.