

HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 265

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

AN ACT

RELATING TO NATURAL RESOURCES; AMENDING THE NATURAL LANDS
PROTECTION ACT AND THE NATURAL HERITAGE CONSERVATION ACT;
ALLOWING THE STATE TO ACQUIRE LAND FOR CONSERVATION AND
PROTECTION PURPOSES WITHOUT A CORPORATION PARTNER; REORGANIZING
PROVISIONS RELATED TO REQUIREMENTS FOR CORPORATION
PARTICIPATION INTO A NEW SECTION OF THE NATURAL LANDS
PROTECTION ACT; PROVIDING ADDITIONAL FACTORS FOR THE
PRIORITIZATION OF PROJECTS UNDER THE NATURAL LANDS PROTECTION
ACT; ADDING ADDITIONAL STATE AGENCY MEMBERS TO THE NATURAL
LANDS PROTECTION COMMITTEE; RENAMING A FUND; AUTHORIZING THE
NATURAL LANDS AND HERITAGE CONSERVATION FUND TO BE USED FOR
PURPOSES OF THE NATURAL LANDS PROTECTION ACT; REVISING POWERS
AND DUTIES; MAKING CONFORMING CHANGES; MAKING AN APPROPRIATION.

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

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1 SECTION 1. Section 75-5-1 NMSA 1978 (being Laws 1987,
2 Chapter 192, Section 1, as amended) is amended to read:

3 "75-5-1. SHORT TITLE.--~~[Sections 1 through 6 of this act]~~
4 Chapter 75, Article 5 NMSA 1978 may be cited as the "Natural
5 Lands Protection Act"."

6 SECTION 2. Section 75-5-2 NMSA 1978 (being Laws 1987,
7 Chapter 192, Section 2) is amended to read:

8 "75-5-2. PURPOSE.--The purpose of the Natural Lands
9 Protection Act is the ~~[joint]~~ acquisition and protection of
10 unique and ecologically significant lands in New Mexico by the
11 state of New Mexico ~~[and New Mexico corporations]~~."

12 SECTION 3. Section 75-5-3 NMSA 1978 (being Laws 1987,
13 Chapter 192, Section 3, as amended) is amended to read:

14 "75-5-3. DEFINITIONS.--As used in the Natural Lands
15 Protection Act:

16 A. "committee" means the natural lands protection
17 committee;

18 B. "unique and ecologically significant lands" are
19 lands ~~[which]~~ that:

20 (1) afford habitat for species listed as rare,
21 threatened or endangered by the state or federal government;

22 and

23 (2) are identified by the energy, minerals and
24 natural resources department as constituting the best remaining
25 examples of native ecological communities that are otherwise

1 unprotected; and

2 C. "corporation" means a New Mexico not-for-profit
3 corporation whose primary purpose is the preservation and
4 conservation of lands."

5 SECTION 4. Section 75-5-4 NMSA 1978 (being Laws 1987,
6 Chapter 192, Section 4, as amended) is amended to read:

7 "75-5-4. ADMINISTRATION OF THE ACT.--

8 A. The Natural Lands Protection Act shall be
9 administered by the secretary of energy, minerals and natural
10 resources in consultation with [~~a~~] the natural lands protection
11 committee. [~~consisting~~]

12 B. The "natural lands protection committee" is
13 created and consists of the secretary of energy, minerals and
14 natural resources or the secretary's designee, who shall serve
15 as [~~chairman~~] the chair of the committee, the director of the
16 department of game and fish or the director's designee, the
17 commissioner of public lands or the commissioner's designee,
18 the director of the New Mexico department of agriculture or the
19 director's designee, the director of the New Mexico outdoor
20 recreation division of the economic development department or
21 the director's designee, the secretary of Indian affairs or the
22 secretary's designee, the secretary of cultural affairs or the
23 secretary's designee and three public members appointed by the
24 governor, one of whom shall represent the ranching or farming
25 industry.

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1 C. The public members of the committee shall
2 receive per diem and mileage as provided in the Per Diem and
3 Mileage Act and shall receive no other compensation, perquisite
4 or allowance.

5 [B-] D. The secretary of energy, minerals and
6 natural resources shall present a list of projects to the
7 committee based on priorities generated by the energy, minerals
8 and natural resources department and in consideration of the
9 factors enumerated in Subsection G of this section.

10 [G-] E. The committee shall recommend lands to be
11 acquired under the provisions of the Natural Lands Protection
12 Act. [and]

13 F. Subject to [appropriation for such purpose by
14 the legislature] the availability of funds in the natural lands
15 and heritage conservation fund, the secretary of energy,
16 minerals and natural resources may pay [the state's share of]
17 for acquisitions [No land shall be acquired unless a
18 corporation jointly acquires the land with the state. A
19 corporation must participate in acquiring a minimum of at least
20 ten percent undivided interest in the land or the state cannot
21 participate in the acquisition. Title to lands acquired shall
22 be held as cotenants having undivided interests in proportion
23 to the state's and the corporation's share of the acquisition
24 and shall be held in the name of the state of New Mexico and
25 the corporation] from money in the natural lands and heritage

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1 conservation fund. Title to acquired lands shall be held in
 2 the name of the state, if acquired solely by the state.

3 ~~[D.]~~ G. Priority among projects qualified under the
 4 Natural Lands Protection Act shall be determined in ~~[descending~~
 5 ~~order as follows]~~ consideration of the following factors:

6 (1) the degree to which the lands in question
 7 are subject to the threat of immediate alteration or
 8 destruction;

9 (2) the degree to which ecosystems in question
 10 are unduplicated elsewhere; ~~and]~~

11 (3) the usefulness of the lands in question
 12 for teaching and research;

13 (4) the degree to which the lands in question
 14 increase habitat connectivity, restore wildlife habitat and
 15 preserve migrating species;

16 (5) the degree to which an acquisition
 17 improves river corridors, wetlands and riparian habitat;

18 (6) the degree to which an acquisition
 19 improves recreational access for all New Mexicans and community
 20 health;

21 (7) the degree to which an acquisition
 22 protects lands of cultural significance; and

23 (8) the degree to which the lands in question
 24 are able to sequester carbon and reduce impacts of climate
 25 change."

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1 SECTION 5. Section 75-5-5 NMSA 1978 (being Laws 1987,
2 Chapter 192, Section 5) is amended to read:

3 "75-5-5. MANAGEMENT.--

4 A. The purposes of management shall be for
5 education, research and preservation and, to the extent
6 compatible with the protection of unique and ecologically
7 significant lands in New Mexico, recreation; provided that no
8 use of the lands acquired under the Natural Lands Protection
9 Act shall compromise or endanger the natural attributes for
10 which they were acquired.

11 B. The secretary of energy, minerals and natural
12 resources may assign responsibility for management of lands
13 acquired under the Natural Lands Protection Act to [~~the~~] a
14 division of the energy, minerals and natural resources
15 department or another state agency, including the forestry
16 division of the energy, minerals and natural resources
17 department, the department of game and fish or the cultural
18 affairs department, or to a corporation [~~which~~] that jointly
19 owns [~~the~~] land with the state.

20 C. [~~The~~] A corporation that owns land jointly with
21 the state shall be required to develop and submit to the
22 secretary of energy, minerals and natural resources for review
23 a plan for the management of lands for which they are
24 responsible. The secretary of energy, minerals and natural
25 resources, in consultation with the committee, [~~will~~] shall

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1 review these plans to [~~insure~~] ensure compliance with the
2 purposes of the Natural Lands Protection Act.

3 ~~[D. Lands adjacent to the land acquired under the~~
4 ~~Natural Lands Protection Act shall not be subjected to any~~
5 ~~regulation or restriction as a result of such acquisiton.~~

6 ~~E.]~~ D. Access by the general public to [the] land
7 [by the general public] owned jointly by the state and a
8 corporation may be restricted to visits conducted under the
9 direct supervision of an employee or designated representative
10 of the managing state agency or corporation.

11 ~~[F. The corporation shall annually pay to the state~~
12 ~~and its political subdivisions a sum equal to an amount which~~
13 ~~would have been paid in taxes, levies and assessments. This~~
14 ~~payment shall be in lieu of such taxes, levies and~~
15 ~~assessments.]"~~

16 SECTION 6. A new Section 75-5-7 NMSA 1978 is enacted to
17 read:

18 "75-5-7. [NEW MATERIAL] CORPORATION PARTICIPATION--
19 REQUIREMENTS.--

20 A. A corporation may participate in the Natural
21 Lands Protection Act by jointly acquiring land with the state;
22 provided that a corporation shall acquire a minimum of at least
23 ten percent undivided interest in the land. Title to lands
24 acquired with the participation of a corporation shall be held
25 as cotenants having undivided interests in proportion to the

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1 state's and the corporation's share of the acquisition and
2 shall be held in the name of the state and the corporation.

3 B. A corporation participating in the Natural Lands
4 Protection Act shall annually pay to the state and its
5 political subdivisions a sum equal to an amount that would have
6 been paid in taxes, levies and assessments. This payment shall
7 be in lieu of taxes, levies and assessments."

8 SECTION 7. Section 75-10-1 NMSA 1978 (being Laws 2010,
9 Chapter 83, Section 1) is amended to read:

10 "75-10-1. SHORT TITLE.--~~[This act]~~ Chapter 75, Article 10
11 NMSA 1978 may be cited as the "Natural Heritage Conservation
12 Act"."

13 SECTION 8. Section 75-10-3 NMSA 1978 (being Laws 2010,
14 Chapter 83, Section 3) is amended to read:

15 "75-10-3. DEFINITIONS.--As used in the Natural Heritage
16 Conservation Act:

17 A. "committee" means the natural lands protection
18 committee;

19 B. "conservation entity" means a private nonprofit
20 charitable corporation or trust authorized to do business in
21 New Mexico that has tax-exempt status as a public charity
22 pursuant to the federal Internal Revenue Code of 1986 and that
23 has the power to acquire, hold or maintain land or interests in
24 land;

25 C. "conservation project" means the acquisition of

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1 conservation or agricultural easements from a willing seller or
2 a land restoration project;

3 D. "department" means the energy, minerals and
4 natural resources department;

5 E. "fund" means the natural lands and heritage
6 conservation fund; and

7 F. "qualified entity" means a state agency, a state
8 educational institution named in Article 12, Section 11 of the
9 constitution of New Mexico, a political subdivision of the
10 state or, for conservation projects wholly within New Mexico,
11 an Indian nation, tribe or pueblo."

12 SECTION 9. Section 75-10-4 NMSA 1978 (being Laws 2010,
13 Chapter 83, Section 4) is amended to read:

14 "75-10-4. DEPARTMENT--COMMITTEE--POWERS AND DUTIES.--

15 A. In consultation with the committee, the
16 department may:

17 (1) after consultation with landowners,
18 conservationists and other interested persons, adopt and
19 promulgate rules to carry out the provisions of the Natural
20 Heritage Conservation Act;

21 (2) enter into contracts;

22 (3) enter into joint powers agreements
23 pursuant to the Joint Powers Agreements Act to carry out the
24 provisions of the Natural Heritage Conservation Act;

25 (4) make grants to qualified entities for

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1 conservation projects;

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

6 (6) acquire conservation or agricultural
7 easements by itself or with a conservation entity or qualified
8 entity; and

9 (7) do all other things necessary or
10 appropriate to carry out the provisions of the Natural Heritage
11 Conservation Act.

12 B. The [~~department~~] committee shall:

13 (1) establish a competitive application
14 process for grants from the fund; and

15 (2) establish criteria and priorities for
16 funding conservation projects."

17 SECTION 10. Section 75-10-5 NMSA 1978 (being Laws 2010,
18 Chapter 83, Section 5) is amended to read:

19 "75-10-5. FUND CREATED--PURPOSE--EXPENDITURES.--The
20 "natural lands and heritage conservation fund" is created as a
21 nonreverting fund in the state treasury. The fund consists of
22 appropriations, gifts, grants, donations, bequests, income from
23 investment of the fund and any other money credited to the
24 fund. The fund shall be administered by the department, and
25 money in the fund is appropriated to the department to fund

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1 conservation projects pursuant to the Natural Heritage
2 Conservation Act and to acquire unique and ecologically
3 significant lands pursuant to the Natural Lands Protection Act.
4 Expenditures from the fund shall be by warrants of the
5 secretary of finance and administration upon vouchers signed by
6 the secretary of energy, minerals and natural resources or the
7 secretary's authorized representative."

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