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SENATE BILL 273

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

INTRODUCED BY

Steven P. Neville

AN ACT

RELATING TO NATURAL RESOURCES; ENACTING THE AGRICULTURAL AND
NATURAL RESOURCES TRUST ACT; CREATING THE AGRICULTURAL AND
NATURAL RESOURCES TRUST FUND AND GRANT FUND; CREATING THE
AGRICULTURAL AND NATURAL RESOURCES TRUST BOARD AND OFFICE OF
AGRICULTURAL AND NATURAL RESOURCES TRUST TO ADMINISTER A GRANT
PROGRAM TO CONSERVE AGRICULTURAL, WILDLIFE AND NATURAL
RESOURCES; MAKING AN APPROPRIATION.

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

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

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

A. "board" means the agricultural and natural
resources trust board;

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

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

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

7 A. The "agricultural and natural resources trust
8 fund" is created in the state treasury. The trust fund
9 consists of appropriations, gifts, grants and donations of
10 money. Earnings from investment of the trust fund shall be
11 credited to the trust fund, and unexpended and unencumbered
12 balances in the trust fund at the end of any fiscal year shall
13 not revert to any other fund.

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

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

24 D. Money in the trust fund may be expended in the
25 event that general fund balances, including all authorized

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

11 SECTION 4. [NEW MATERIAL] AGRICULTURAL AND NATURAL
12 RESOURCES TRUST GRANT FUND--CREATED--PURPOSES.--

13 A. The "agricultural and natural resources trust
14 grant fund" is created in the state treasury. The grant fund
15 shall consist of distributions from the trust fund,
16 appropriations, gifts, grants and donations of money. Earnings
17 from investment of the grant fund shall be credited to the
18 grant fund, and unexpended and unencumbered balances in the
19 grant fund at the end of any fiscal year shall not revert to
20 any other fund. The director of the office of agricultural and
21 natural resources trust shall administer the grant fund, and
22 disbursements from the grant fund shall be made by warrant of
23 the secretary of finance and administration pursuant to
24 vouchers signed by the director or the director's authorized
25 representative.

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

5 (1) funding agricultural and natural resources
6 trust grants; and

7 (2) staffing and other administrative expenses
8 to carry out the purposes of the Agricultural and Natural
9 Resources Trust Act; provided that no more than five percent of
10 the distribution from the trust fund in any one year may be
11 used for staffing and other administrative expenses.

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

14 A. The "agricultural and natural resources trust
15 board" is created within the office of agricultural and natural
16 resources trust.

17 B. The board consists of nine members as follows:

18 (1) the commissioner of public lands, or the
19 commissioner's designee;

20 (2) the director of the department of game and
21 fish, or the director's designee;

22 (3) the director of the New Mexico department
23 of agriculture, or the director's designee;

24 (4) six public members appointed by the
25 governor, and confirmed by the senate, including:

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1 (a) two public members with backgrounds
2 in agriculture with at least one member representing acequias
3 and community ditches;

4 (b) one public member representing
5 hunting or fishing interests;

6 (c) one public member representing land
7 conservation interests;

8 (d) one public member who is a member of
9 an Indian nation, tribe or pueblo; and

10 (e) one public member representing
11 energy industry interests; and

12 (5) at least three of the board members shall
13 have advanced degrees in either fisheries or wildlife biology,
14 rangeland science, restoration ecology or soil science.

15 C. Public members of the board shall serve for
16 terms of six years; provided that of the initial appointees,
17 two members shall be appointed for two years, two members shall
18 be appointed for four years and two members shall be appointed
19 for six years. The governor may remove a public board member
20 for misconduct, incompetence, neglect of duty or malfeasance in
21 office. Vacancies shall be filled by the governor for the
22 remainder of the original terms.

23 D. A majority of the board constitutes a quorum.
24 The members of the board shall annually elect from among their
25 membership a chair and vice chair.

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1 E. The board shall meet at least quarterly.

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

7 SECTION 6. [NEW MATERIAL] AGRICULTURAL AND NATURAL
8 RESOURCES TRUST BOARD--POWERS AND DUTIES--RULEMAKING.--

9 A. The board shall:

10 (1) establish an agricultural and natural
11 resources trust grant program;

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

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

17 (a) criteria for evaluating grant
18 proposals, including consideration of the ecological and
19 socioeconomic costs and benefits of the grant proposal and
20 whether the proposal includes partnerships between private and
21 public entities; improves public access to natural areas and
22 outdoor recreation opportunities, including hunting and
23 fishing; provides agricultural and environmental education for
24 youth and beginning farmers and ranchers; or promotes social
25 and economic equity for historically underserved communities,

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1 and equal consideration shall be given to proposals for
2 projects on public, tribal or private land;

3 (b) guidelines for prioritizing projects
4 with matching funds or other in-kind contributions from
5 grantees;

6 (c) a process to evaluate, rank and
7 prioritize grant proposals; and

8 (d) a process to review and monitor
9 grants to grantees, including coordination with appropriate
10 state and local agencies;

11 (4) invite representatives of the United
12 States department of agriculture natural resources conservation
13 service, the United States fish and wildlife service, the
14 United States forest service and the bureau of land management
15 to participate in an advisory capacity to the board in carrying
16 out its duties; and

17 (5) hire a director of the office of
18 agricultural and natural resources trust, who shall be subject
19 to the Personnel Act.

20 B. The board may:

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

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

25 (3) coordinate with for-profit entities to

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1 develop wildlife habitat; provided that the board shall not
2 award grants, or otherwise divert financial resources, to a
3 for-profit entity; and

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

7 C. Annually, no later than September 30, the board
8 shall report to the governor and the appropriate interim
9 legislative committees with respect to all federal grants,
10 state appropriations and other contributions, grants, gifts,
11 bequests and donations received and credited to the trust fund
12 and grant fund during the preceding fiscal year. The report
13 shall include all grants awarded by the board and progress made
14 on grant projects.

15 SECTION 7. [NEW MATERIAL] OFFICE OF AGRICULTURAL AND
16 NATURAL RESOURCES TRUST.--

17 A. The "office of agricultural and natural
18 resources trust" is created and is administratively attached to
19 the office of the governor.

20 B. The director of the office of agricultural and
21 natural resources trust shall:

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

24 (2) act as a liaison for the board to state,
25 federal and local governmental agencies, nonprofit

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1 organizations and members of the public who seek to provide
2 input regarding grant proposals.

3 SECTION 8. [NEW MATERIAL] GRANT PROGRAM--ELIGIBLE
4 ENTITIES AND PROJECTS--GRANT CONDITIONS.--

5 A. The board shall award agricultural and natural
6 resources grants to state agencies, political subdivisions of
7 the state, Indian nations, tribes or pueblos or nonprofit
8 organizations to promote, preserve and enhance the native
9 wildlife, natural resource or environmental heritage of New
10 Mexico and its people. Projects may occur on public, tribal or
11 private land.

12 B. A project funded by a grant shall provide a
13 public benefit and shall:

14 (1) improve stream, wetland and hydrological
15 function, reduce erosion, increase surface and ground water
16 supplies, restore and maintain acequias and community ditches,
17 restore or enhance wetlands, improve water quality or ensure
18 the long-term conservation of water resources;

19 (2) preserve or conserve open space, cultural
20 or agricultural land and resources and habitat for fish,
21 migratory birds, native wildlife or plants through purchase or
22 acquisition of land use easements;

23 (3) improve and maintain habitat necessary to
24 maintain optimum populations of terrestrial or aquatic species;

25 (4) enhance native fish or native wildlife

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1 habitat in areas impacted by residential, energy, mineral or
2 industrial development;

3 (5) use habitat improvements to promote the
4 health of both livestock and native wildlife and reduce
5 potential for disease transmission;

6 (6) protect native flora and fauna, restore
7 degraded habitat or improve or maintain rangeland health and
8 productivity;

9 (7) achieve habitat improvement by restoring
10 natural fire regimes, including using prescribed fire in
11 consultation with the state forester; reducing the risk of
12 catastrophic fire; or restoring watersheds impacted by fire; or

13 (8) implement land and watershed management
14 techniques that promote soil and rangeland health and
15 productivity, increase water infiltration, improve wetland
16 function, increase drought and climate adaptation or improve
17 fish and native wildlife habitat.

18 C. The board shall determine the amount of each
19 grant and any conditions attached to the grant; provided that:

20 (1) grants in an amount over three hundred
21 fifty thousand dollars (\$350,000) shall be approved by the
22 state board of finance before being awarded by the board; and

23 (2) the board shall not require public access
24 to private land as a condition to receive grant funds.

25 D. Grant funds shall not be used for:

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1 (1) the reintroduction of species pursuant to
2 the federal Endangered Species Act of 1973, as amended;

3 (2) legally required mitigation, reclamation
4 or restoration activities, including pursuant to the New Mexico
5 Mining Act, the Water Quality Act or the federal Surface Mining
6 Control and Reclamation Act of 1977; or

7 (3) the operating or administrative costs of a
8 governmental agency, Indian nation, tribe or pueblo or
9 nonprofit organization, except that grant funds may be used for
10 administrative costs directly related to the grant project.

11 E. Grant funds may be used for fee simple
12 acquisition of real property from a willing seller only under
13 the following conditions:

14 (1) funds shall not be expended for
15 acquisition of real property in the first five years of the
16 grant program or until the corpus of the trust fund reaches
17 three hundred million dollars (\$300,000,000), whichever is
18 first;

19 (2) fifty percent matching funds shall be
20 provided by the grantee;

21 (3) water rights shall not be severed from the
22 real property; and

23 (4) the acquisition shall satisfy one of the
24 following purposes:

25 (a) the acquisition of a private

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1 inholding will resolve land management problems;

2 (b) the property is needed to create
3 public access to landlocked public lands;

4 (c) the property is needed to promote
5 the value of agriculture to the state; or

6 (d) the acquisition of terrestrial or
7 aquatic habitat is necessary to attain or preserve desired
8 wildlife or fish population levels when existing habitat is
9 determined critical or is present in minimal amounts.

10 F. Prior to receiving grant funds, the grantee
11 shall certify that no gratuities, kickbacks, gifts,
12 commissions, contingency fees or other considerations have been
13 or will be made in connection with the grant.

14 G. Grants shall not be awarded until the rules
15 adopted by the board have become effective.

16 SECTION 9. [NEW MATERIAL] LAND EASEMENTS.--

17 A. A land easement funded in whole or in part with
18 funding made available by the Agricultural and Natural
19 Resources Trust Act shall bind the parties to the land easement
20 to an agreement that provides that the state is a third-party
21 beneficiary to the easement solely with the contingent right to
22 enforce the terms of the easement if the grantee fails to
23 enforce the terms of the easement. The agreement shall provide
24 that if the easement is transferred for value, sold or
25 extinguished without the consent of the board, the state shall

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1 have the right to either take legal action to enforce the terms
2 of the easement or to recover from the proceeds of the transfer
3 for value, sale or extinguishment the state pro rata share of
4 the proceeds based on the funds the state provided for the
5 creation of the easement.

6 B. Funds disbursed for land easements shall not be
7 used to:

8 (1) prohibit hunting or fishing, if hunting or
9 fishing could be conducted consistent with the underlying
10 purposes and conservation values of the easement; or

11 (2) end or restrict production agriculture on
12 the land.

13 SECTION 10. [NEW MATERIAL] AUDITS.--The state auditor's
14 office shall audit the trust fund and grant fund annually.
15 Copies of the audits shall be provided to the governor and the
16 appropriate interim legislative committees.

17 SECTION 11. APPROPRIATION.--Fifty million dollars
18 (\$50,000,000) is appropriated from the general fund to the
19 agricultural and natural resources trust fund in fiscal year
20 2021 for the purposes of the fund. Any unexpended or
21 unencumbered balance remaining at the end of a fiscal year
22 shall not revert to the general fund.

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