

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

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

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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;
HSEIC→**AUTHORIZING THE AWARD OF GRANTS TO POLITICAL SUBDIVISIONS FOR THE ACQUISITION OF OPEN SPACES AND NATURAL AREAS THAT ARE UNIQUE AND ECOLOGICALLY SIGNIFICANT LANDS;**←HSEIC REORGANIZING

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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:

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

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

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

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

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

"75-5-3. DEFINITIONS.--As used in the Natural Lands

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Protection Act:

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

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

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

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

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

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

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

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

B. The "natural lands protection committee" is created and consists of the secretary of energy, minerals and natural resources or the secretary's designee, who shall serve

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as ~~[chairman]~~ the chair of the committee, the director of the department of game and fish or the director's designee, the commissioner of public lands or the commissioner's designee, the director of the New Mexico department of agriculture or the director's designee, the director of the New Mexico outdoor recreation division of the economic development department or the director's designee, the secretary of Indian affairs or the secretary's designee, the secretary of cultural affairs or the secretary's designee Hfll→, **one representative of the land grant council, one representative of the acequia commission**←Hfll and three public members appointed by the governor, one of whom shall represent the ranching or farming industry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"75-5-5. MANAGEMENT.--

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

B. The secretary of energy, minerals and natural resources may HSEIC→~~assign responsibility for management~~

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~~of~~ ←HSEIC HSEIC → **transfer management responsibility for** ←HSEIC
lands acquired under the Natural Lands Protection Act to [~~the~~]
a division of the energy, minerals and natural resources
department or another state agency, including the forestry
division of the energy, minerals and natural resources
department, the department of game and fish or the cultural
affairs department, or to a corporation [which] that jointly
owns [~~the~~] land with the state HSEIC →; **provided that the state**
agency or corporation consents to assuming management
responsibility ←HSEIC .

C. [~~The~~] A corporation that owns land jointly with
the state shall be required to develop and submit to the
secretary of energy, minerals and natural resources for review
a plan for the management of lands for which they are
responsible. The secretary of energy, minerals and natural
resources, in consultation with the committee, [~~will~~] shall
review these plans to [~~insure~~] ensure compliance with the
purposes of the Natural Lands Protection Act.

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

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

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of the managing state agency or corporation.

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

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

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

A. A corporation may participate in the Natural Lands Protection Act by jointly acquiring land with the state; provided that a corporation shall acquire a minimum of at least ten percent undivided interest in the land. Title to lands acquired with the participation of a corporation shall be held as cotenants having undivided interests in proportion to the state's and the corporation's share of the acquisition and shall be held in the name of the state and the corporation.

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

HSEIC → SECTION 7. A new section of the Natural Lands Protection Act is enacted to read:

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"[NEW MATERIAL] POLITICAL SUBDIVISION PARTICIPATION-- GRANTS.--The secretary of energy, minerals and natural resources may award grants to political subdivisions of the state from the natural lands and heritage conservation fund for a political subdivision to acquire and protect open spaces and natural areas that are unique and ecologically significant lands. Grants shall be made on recommendation of the committee, in consideration of the factors enumerated in Subsection G of Section 75-5-4 NMSA 1978. The secretary of energy, minerals and natural resources, in consultation with the committee, shall establish a competitive application process and may establish additional criteria and priorities for grants pursuant to this section."←HSEIC

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

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

SECTION HSEIC→8.←HSEIC HSEIC→9.←HSEIC Section 75-10-3 NMSA 1978 (being Laws 2010, Chapter 83, Section 3) is amended to read:

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

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

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

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

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

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

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

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

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

~~A. In consultation with the committee, the department may:~~

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

~~(2) enter into contracts;~~

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

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

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

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

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

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

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

~~(2) establish criteria and priorities for~~

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~~funding conservation projects."~~←HSEIC

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

"75-10-5. FUND CREATED--PURPOSE--EXPENDITURES.--The "natural lands and heritage conservation fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations, bequests, income from investment of the fund and any other money credited to the fund. The fund shall be administered by the department, and money in the fund is appropriated to the department to fund conservation projects pursuant to the Natural Heritage Conservation Act and to HSEIC→acquire←HSEIC HSEIC→fund the acquisition of←HSEIC unique and ecologically significant lands pursuant to the Natural Lands Protection Act. Expenditures from the fund shall be by warrants of the secretary of finance and administration upon vouchers signed by the secretary of energy, minerals and natural resources or the secretary's authorized representative."

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