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SENATE BILL 208

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE RIPARIAN ENHANCEMENT  
ACT; CREATING A TASK FORCE; PROVIDING POWERS AND DUTIES;  
CREATING A FUND; 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  
"Riparian Enhancement Act".

Section 2. PURPOSE OF ACT.--The purpose of the Riparian  
Enhancement Act is to create a small grant and technical  
assistance program designed to maintain and recover healthy  
riparian areas upon which both nature and mankind depend.

Section 3. DEFINITIONS.--As used in the Riparian  
Enhancement Act:

A. "appropriate methods" means practices to  
restore riparian and associated uplands that are accepted by

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1 the best available science;

2 B. "associated uplands" means those lands of a  
3 watershed that are critical to the functioning and protection  
4 of a riparian area;

5 C. "commission" means the soil and water  
6 conservation commission;

7 D. "department" means the department of  
8 environment;

9 E. "districts" means the soil and water  
10 conservation districts;

11 F. "enhancement" means improvement of watershed  
12 and riparian area components and characteristics, with the  
13 goal of augmenting the effectiveness of existing riparian area  
14 ecological functions;

15 G. "native plants" means all species of plants  
16 indigenous to New Mexico;

17 H. "riparian area" means a zone of transition from  
18 an aquatic ecosystem to a terrestrial ecosystem, dependent  
19 upon surface or subsurface water, that reveals through the  
20 zone's existing or potential soil and vegetation complex the  
21 influence of surface or subsurface water;

22 I. "task force" means the riparian enhancement  
23 task force; and

24 J. "watershed" means the entire land areas drained  
25 by a stream or system of connected streams resulting in all

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1 stream flow originating from the area being discharged through  
2 a single outlet.

3 Section 4. TASK FORCE CREATED-- MEMBERSHIP-- TERMS--  
4 REIMBURSEMENT-- MEETING-- STAFF. --

5 A. The "riparian enhancement task force" is  
6 created. The task force shall approve grant applications for  
7 watershed and riparian enhancement projects and shall advise  
8 the commission on issues related to riparian restoration and  
9 enhancement. The task force shall consist of twelve members  
10 as follows:

11 (1) the director of the department of game  
12 and fish or his designee;

13 (2) the state engineer or his designee;

14 (3) the secretary of environment or his  
15 designee;

16 (4) the director of the New Mexico department  
17 of agriculture or his designee;

18 (5) the commissioner of public lands or his  
19 designee; and

20 (6) seven public members with appropriate  
21 geographical representation, all of whom shall have experience  
22 or training with riparian projects, appointed by the  
23 commission as follows:

24 (a) a private landowner whose primary  
25 source of income is farming or ranching;

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1 (b) a representative of a New Mexico  
2 soil and water conservation district;

3 (c) a representative of the New Mexico  
4 riparian council;

5 (d) a representative of a tribal  
6 environmental office;

7 (e) a representative of an  
8 environmental organization;

9 (f) a representative of municipal  
10 government; and

11 (g) a representative that is a  
12 university hydrologist or biologist.

13 B. Public members shall be appointed for terms of  
14 four years; provided that initial terms shall be chosen by lot  
15 so that two members serve for terms of four years, two members  
16 serve for terms of three years, two members serve for terms of  
17 two years and one member serves for a term of one year. A  
18 vacancy on the task force shall be filled by appointment by  
19 the commission for the unexpired term. Members shall serve  
20 until their successors have been appointed and qualified.

21 C. The task force shall elect a chairman and other  
22 officers it deems necessary.

23 D. The public members may receive per diem and  
24 mileage as provided in the Per Diem and Mileage Act, but shall  
25 receive no other compensation, perquisite or allowance.

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1           E. The task force shall meet at least semi-  
2 annually and as needed. Meetings shall be called by the  
3 chairman of the task force and may be called upon the request  
4 of three or more members.

5           Section 5. EXPERT ADVICE--AGENCY CORPORATION.--

6           A. The task force may seek the advice of a state  
7 or federal agency, environmental organizations and others it  
8 deems necessary to carry out its duties pursuant to the  
9 Riparian Enhancement Act.

10          B. State agencies may provide assistance as  
11 requested to develop and implement watershed and riparian  
12 enhancement projects.

13           Section 6. TECHNICAL COMMITTEES.--The task force may  
14 establish technical committees as deemed necessary to aid and  
15 advise the task force. The task force shall appoint the  
16 members to a committee in a manner that will ensure broad  
17 representation of public interests, Native American interests  
18 and scientific viewpoints. The chairman of the task force  
19 shall serve as an ex-officio member of each committee.

20           Section 6. TASK FORCE--DEPARTMENT--POWERS AND DUTIES.--

- 21           A. The task force shall:
- 22               (1) approve grant applications for watershed
  - 23 and riparian enhancement projects;
  - 24               (2) adopt guidelines, criteria and standards
  - 25 for watershed and riparian enhancement projects;

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1 (3) make recommendations to the department,  
2 the districts and the commission on matters related to  
3 watershed and riparian enhancement;

4 (4) encourage the use of volunteers in the  
5 implementation of watershed and riparian enhancement projects;

6 (5) assign priority to projects it approves  
7 that involve cooperative efforts and emphasize using  
8 appropriate methods for watershed and riparian enhancement;

9 (6) identify and report gaps in research and  
10 available information about watershed and riparian management;

11 (7) cooperate with appropriate federal  
12 entities to identify the needs and interests of the state to  
13 ensure that federal plans and project schedules relating to  
14 watershed and riparian enhancement incorporate the state's  
15 priorities for watershed and riparian enhancement to the  
16 fullest extent practicable; and

17 (8) solicit and accept gifts, grants and  
18 donations to carry out the provisions of the Riparian  
19 Enhancement Act.

20 B. The department shall:

21 (1) provide support staff for the task force;

22 (2) oversee watershed and riparian  
23 enhancement projects approved by the task force;

24 (3) provide technical advice and assistance  
25 to watershed and riparian enhancement projects;

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- 1 (4) request any expertise required for a
- 2 project from the appropriate state agency;
- 3 (5) provide guidance on educational and
- 4 informational materials that promote public awareness of
- 5 issues involving watershed and riparian health and management;
- 6 (6) make grants to implement approved
- 7 projects; and
- 8 (7) annually report on the design, techniques
- 9 and results of funded projects.

10 C. The districts shall:

- 11 (1) assist landowners in developing and
- 12 implementing watershed and riparian enhancement projects and
- 13 coordinate the activities of persons, agencies and political
- 14 subdivisions that are developing local projects;
- 15 (2) encourage the use of appropriate methods
- 16 and native plants to enhance riparian areas and associated
- 17 uplands of the state's watershed;
- 18 (3) be responsible for monitoring the
- 19 projects' results for at least three years after completion;
- 20 and
- 21 (4) assist the task force and department in
- 22 carrying out their duties.

23 Section 8. RIPARIAN ENHANCEMENT PROGRAM - CRITERIA FOR

24 APPROVAL OF PROJECTS. --

25 A. The task force, in conjunction with the

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1 districts and the department, shall conduct a watershed and  
2 riparian enhancement program. The program shall include  
3 providing education, research, technical assistance and  
4 funding for watershed and riparian enhancement projects.

5 B. Any person, organization, landowner, rancher,  
6 farmer, state agency, political subdivision of the state,  
7 federal agency or tribal government may submit an application  
8 for funding or a request for advice or assistance in  
9 developing a watershed and riparian enhancement project.

10 C. The task force shall establish criteria for  
11 grant applications and awards. Grant applications shall be  
12 submitted in the form and manner prescribed by the task force.  
13 Requests for advice or assistance and grant applications shall  
14 be submitted through the districts or the department.

15 D. Within ninety days of a request, a district or  
16 the department may provide the requested advice or assistance.  
17 The districts shall review grant applications for projects  
18 within their boundaries and forward eligible projects to the  
19 task force within ninety days of receipt. The task force  
20 shall approve or disapprove a grant application.

21 E. The task force shall approve grant applications  
22 for those watershed and riparian enhancement projects that:

- 23 (1) are based on sound principles of  
24 watershed and riparian management;
- 25 (2) use enhancement methods most adapted to



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1 the project locale; and that result in measurable improvement;  
2 and

3 (3) meet all federal, state or local  
4 regulatory requirements, including state water plans  
5 promulgated by the state engineer.

6 F. In addition to other requirements of the  
7 Riparian Enhancement Act, the districts, the department or the  
8 task force shall consider the following when approving  
9 projects seeking technical assistance or funding:

10 (1) provisions satisfactory to the districts  
11 for inspection and evaluation of the project that includes all  
12 necessary agreements to allow the districts and any  
13 cooperating agency providing staff services for the task force  
14 access to the project area;

15 (2) provisions satisfactory to the task force  
16 and the department for controlling the expenditure of an  
17 accounting for any money granted for a project; and

18 (3) provisions for the continued maintenance  
19 of restoration projects by the applicant for the time period  
20 specified.

21 G. A watershed and riparian enhancement project  
22 may use mechanical, biological, vegetative or structural  
23 methods, including livestock grazing management systems;  
24 erosion control; stream bank stabilization; forest, range or  
25 cropland treatment; site-specific in-stream structures; and

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1 other methods approved by the task force. Projects are not  
2 limited to land treatments, but may include resource plans,  
3 demonstration projects and outreach and educational materials  
4 or projects that ultimately result in watershed and riparian  
5 enhancement.

6 H. The task force may approve funding for a  
7 project for the restoration of a riparian area or associated  
8 uplands that is carried out in conjunction with a water  
9 storage structure. The task force shall not approve funding  
10 for any project that consists solely of a water storage  
11 structure.

12 Section 9. FUND CREATED-- ADMINISTRATION. --The "riparian  
13 enhancement fund" is created in the state treasury. The fund  
14 consists of appropriations, gifts, grants, donations and  
15 bequests. Money in the fund shall not revert at the end of  
16 any fiscal year. The fund shall be administered by the  
17 department, and money in the fund is appropriated to the  
18 department to carry out the provisions of the Riparian  
19 Enhancement Act.

20 Section 10. APPROPRIATION. --Seven hundred fifty thousand  
21 dollars (\$750,000) is appropriated from the general fund to  
22 the riparian enhancement fund for expenditure in fiscal year  
23 2000 and subsequent fiscal years to carry out the provisions  
24 of the Riparian Enhancement Act; provided that no more than  
25 fifteen percent of the appropriation shall be expended for

1 administration and per diem and mileage expenses of the  
2 riparian enhancement task force. Any unexpended or  
3 unencumbered balance remaining at the end of a fiscal year  
4 shall not revert to the general fund.

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

SB 208/a

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7 February 11, 1999

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10 Mr. President:

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12 Your CONSERVATION COMMITTEE, to whom has been referred

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14 SENATE BILL 208

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16 has had it under consideration and reports same with  
17 recommendation that it DO PASS, amended as follows:

18  
19 1. On page 3, line 13, after "engineer" strike "or",  
20 insert in lieu thereof a comma and after "designee" insert "or a  
21 representative of the interstate stream commission".

22  
23 2. On page 4, line 6, strike "environmental office" and  
24 insert in lieu thereof "or pueblo government".

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3. On page 5, line 17, after "of" insert "state  
interests,".

4. On page 5, lines 22 and 23, strike "watershed and" and  
after "riparian" insert "and associated upland".

5. On page 5, line 25, strike "watershed and" and after  
"riparian" insert "and associated upland".

6. On page 6, line 3, strike "watershed and", after  
"riparian" insert "and associated upland" and strike  
"enhancement" and insert in lieu thereof "enhancements".

7. On page 6, line 5, strike "watershed and" and after  
"riparian" insert "and associated upland".

8. On page 6, line 7, after "efforts" insert "that do not  
impair New Mexico's ability to meet its obligations under  
interstate compacts and court decrees or utilize water

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apportioned to it under those compacts and decrees,".

9. On page 6, line 8, strike "watershed and", after "riparian" insert "and associated upland" and strike "enhancement" and insert in lieu thereof "enhancements".

10. On page 6, line 10, strike "watershed and" and after "riparian" insert "and associated upland".

11. On page 6, line 14, strike "watershed and", after "riparian" insert "and associated upland" and strike "enhancement" and insert in lieu thereof "enhancements".

12. On page 6, line 15, strike "watershed and" and insert in lieu thereof "maintaining its ability to meet its obligations under interstate compacts and court decrees, for fully utilizing waters apportioned to it by those compacts and decrees, for protecting existing water rights, and for implementing", after "riparian" insert "and associated upland" and strike "enhancement" and insert in lieu thereof "enhancements".

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13. On page 6, line 22, strike "watershed and" and after "riparian" insert "and associated upland".

14. On page 6, line 25, strike "watershed and" and after "riparian" insert "and associated upland".

15. On page 7, line 8, after "report" insert "to the legislature".

16. On page 7, line 12, strike "watershed and" and after "riparian" insert "and associated upland".

17. On page 8, line 1, strike "watershed and".

18. On page 8, line 2, after "riparian" insert "and associated upland".

19. On page 8, line 4, strike "watershed and" and after

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"riparian" insert "and associated upland".

20. On page 8, line 9, strike "watershed and" and after  
"riparian" insert "and associated upland".

21. On page 8, line 22, strike "watershed and" and after  
"riparian" insert "and associated upland".

22. On page 8, line 24, strike "watershed and" and after  
"riparian" insert "and associated upland".

23. On page 9, lines 4 and 5, strike "including state  
water plans promulgated by the state engineer" and insert in  
lieu thereof:

"maintain New Mexico's ability to meet its water delivery  
obligations under interstate compacts and court decrees,  
maintain New Mexico's ability to fully utilize the waters  
apportioned to it by interstate compacts and decrees, protect  
existing water rights, and that may be included in state water

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plans developed by or through the state engineer or the  
interstate stream commission".

24. On page 9, line 21, strike "watershed and" and after  
"riparian" insert "and associated upland".

25. On page 10, line 1, after the period insert "If a  
project includes aerial application of herbicides, notification  
must be made to adjacent landowners, and appropriate buffer  
zones must be included to protect aquatic habitats.".

26. On page 10, line 4, strike "watershed and" and after  
"riparian" insert "and associated upland".,

and thence referred to the FINANCE COMMITTEE.

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Respectfully submitted,

Fernando R. Macias, Chairman

Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 0 Against

Yes: 8

No: None

Excused: Vernon, Rodarte

Absent: None

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