



The Legislature  
of the  
State of New Mexico

49th Legislature, Second Session

LAWS 2010

CHAPTER 83

SENATE FINANCE COMMITTEE SUBSTITUTE FOR

SENATE BILL 186, as amended

Introduced by

**PARTIAL VETO**



# Chapter 83

## AN ACT

1  
2 RELATING TO THE ENVIRONMENT; ENACTING THE NATURAL HERITAGE  
3 CONSERVATION ACT; PROVIDING POWERS AND DUTIES; CREATING A  
4 FUND; PROVIDING FOR THE ACQUISITION OF CONSERVATION AND  
5 AGRICULTURAL EASEMENTS AND FOR RESTORATION PROJECTS;  
6 PROHIBITING THE ACQUISITION OF EASEMENT INTERESTS OR OTHER  
7 RIGHTS OF ACCESS THROUGH EMINENT DOMAIN OR OTHER CONDEMNATION  
8 PROCESS; MAKING AN APPROPRIATION.

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

11 Section 1. SHORT TITLE.--This act may be cited as the  
12 "Natural Heritage Conservation Act".

13 Section 2. PURPOSE.--The purpose of the Natural  
14 Heritage Conservation Act is to protect the state's natural  
15 heritage, customs and culture by funding conservation and  
16 agricultural easements and by funding land restoration to  
17 protect the land and water available for forests and  
18 watersheds, natural areas, wildlife and wildlife habitat,  
19 agricultural production on working farms and ranches, outdoor  
20 recreation and trails and land and habitat restoration and  
21 management.

22 Section 3. DEFINITIONS.--As used in the Natural  
23 Heritage Conservation Act:

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

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

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

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

12           E. "fund" means the natural heritage conservation  
13 fund; and

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

19           Section 4. DEPARTMENT--POWERS AND DUTIES.--

20           A. The department may:

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

25                   (2) enter into contracts;

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

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

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

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

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

16                  B. The department shall:

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

19                   (2) establish criteria and priorities for  
20 funding conservation projects.

21                  Section 5. FUND CREATED--PURPOSE--EXPENDITURES.--The  
22 "natural heritage conservation fund" is created as a  
23 nonreverting fund in the state treasury. The fund consists  
24 of appropriations, gifts, grants, donations, bequests, income  
25 from investment of the fund and any other money credited to

1 the fund. The fund shall be administered by the department,  
2 and money in the fund is appropriated to the department to  
3 fund conservation projects. Expenditures from the fund shall  
4 be by warrants of the secretary of finance and administration  
5 upon vouchers signed by the secretary or the secretary's  
6 authorized representative.

7 Section 6. CONSERVATION PROJECTS--PROCEDURES.--

8 A. All conservation projects shall be maintained  
9 to protect the public health and welfare and shall be for:

10 (1) preserving and conserving water quality  
11 and quantity;

12 (2) protecting agricultural production on  
13 working farms, ranches and other agricultural lands;

14 (3) protecting and restoring New Mexico's  
15 forests and watersheds;

16 (4) conserving wildlife habitat;

17 (5) maintaining natural areas;

18 (6) providing outdoor recreation  
19 opportunities, including hunting and fishing; or

20 (7) preserving cultural and historic sites  
21 with natural resource heritage value.

22 B. The department, working with the committee,  
23 landowners, conservationists and other interested persons,  
24 shall establish criteria for evaluating possible conservation  
25 projects. Criteria shall include:

1                   (1) the degree to which the conservation  
2 project serves the purposes of the Natural Heritage  
3 Conservation Act;

4                   (2) the amount of matching financial support  
5 for the conservation project from sources other than the  
6 state;

7                   (3) the technical qualifications of the  
8 applicant and its ability to complete and maintain the  
9 proposed conservation project;

10                   (4) the degree to which the conservation  
11 project fosters and integrates with existing conservation  
12 plans, strategies and initiatives;

13                   (5) the potential for benefits at landscape  
14 and ecosystem scale;

15                   (6) the potential for improved public access  
16 for outdoor recreation opportunities, including hunting and  
17 fishing;

18                   (7) the potential for economic benefits of  
19 the completed conservation project; and

20                   (8) other measurements and requirements  
21 required by the department and the committee.

22                   C. The committee shall receive applications for  
23 conservation projects and shall evaluate them against the  
24 department's criteria. The committee may reject any  
25 incomplete applications or applications that do not meet the

1 established criteria. After review, the committee shall make  
2 its recommendations on all evaluated conservation projects to  
3 the department.

4 ~~DK D. The department shall make recommendations to~~  
5 ~~the legislature from the committee's recommendation for~~  
6 ~~approval.~~ *DK*

7 Section 7. CONSERVATION PROJECTS--PUBLIC-PRIVATE  
8 PROJECTS.--

9 A. The department may acquire conservation or  
10 agricultural easements and hold them in the name of the  
11 state.

12 B. When approving a conservation project that is  
13 the acquisition of a conservation or agricultural easement by  
14 a conservation entity, the department shall require the  
15 conservation entity to:

16 (1) acquire no less than ten percent of the  
17 easement, and title to the easement shall be held by the  
18 conservation entity and a qualified entity as cotenants  
19 having undivided interests in proportion to each one's share  
20 of the acquisition; and

21 (2) submit a plan for the management of  
22 lands for which the conservation entity and the qualified  
23 entity are responsible. The department, in consultation with  
24 the committee, shall review the plan to ensure compliance  
25 with the purposes of the Natural Heritage Conservation Act.

1 C. When approving a conservation project that is  
2 for land restoration by a conservation entity, the department  
3 shall require that the conservation entity provide at least  
4 ten percent of the cost of the conservation project.

5 Section 8. CONSERVATION PROJECTS--LIMITATIONS.--The  
6 department may acquire or receive by gift or bequest  
7 conservation or agricultural easement interests in real  
8 property to advance the purposes of the Natural Heritage  
9 Conservation Act. No easement interests, water rights or  
10 other rights of access shall be acquired pursuant to the  
11 Natural Heritage Conservation Act through exercise of the  
12 state's power of eminent domain or any other condemnation  
13 process. Land adjacent to any land subject to a conservation  
14 or agricultural easement that was acquired pursuant to the  
15 Natural Heritage Conservation Act shall not be subjected to  
16 any rules or restrictions as a result of such easement  
17 acquisition.

18 Section 9. ANNUAL REPORT TO THE GOVERNOR AND THE  
19 LEGISLATURE.--The department and the committee shall report  
20 annually to the governor and the legislature on the status of  
21 applications and funded conservation projects. \_\_\_\_\_



*Diane D. Denish*

Diane D. Denish, President  
Senate

*Lenore M. Naranjo*  
Lenore M. Naranjo, Chief Clerk  
Senate

*Ben Lujan*

Ben Lujan, Speaker  
House of Representatives

*Stephen R. Arias*  
Stephen R. Arias, Chief Clerk  
House of Representatives

Approved by me this 8<sup>th</sup> day of March, 2010

*Bill Richardson*

Governor Bill Richardson  
State of New Mexico

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