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HOUSE BILL 266

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Paul C. Bandy and Peter Wirth

AN ACT

RELATING TO NATURAL RESOURCES; ENACTING THE FOREST AND  
WATERSHED RESTORATION ACT; ESTABLISHING A BOARD; PROVIDING  
POWERS AND DUTIES; PROVIDING CRITERIA FOR THE EVALUATION AND  
FUNDING OF PROJECTS; MAKING A DISTRIBUTION FROM THE NEW MEXICO  
IRRIGATION WORKS CONSTRUCTION FUND AND THE IMPROVEMENT OF RIO  
GRANDE INCOME FUND.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 6 of this act may be cited as the "Forest and Watershed  
Restoration Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
Forest and Watershed Restoration Act:

A. "board" means the forest and watershed advisory  
board;

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1           B. "division" means the forestry division of the  
2 energy, minerals and natural resources department;

3           C. "project" means a large-scale forest and  
4 watershed restoration project on any lands in the state that  
5 increases the adaptability and resilience to recurring drought  
6 and extreme weather events of the state's forests and  
7 watersheds; protects water sources; reduces the risk of  
8 wildfire, including plans for watershed conservation; restores  
9 burned areas or thins forests; and includes a related economic  
10 or workforce development project or a wildlife conservation or  
11 habitat improvement project; and

12           D. "sponsor" means a federal, state or local  
13 government agency, tribal entity, corporation or organization  
14 that applies for a project or is conducting a project in  
15 conjunction with the division.

16           SECTION 3. [NEW MATERIAL] FOREST AND WATERSHED ADVISORY  
17 BOARD CREATED--MEMBERSHIP--APPOINTMENTS--TERMS--COMPENSATION.--

18           A. The "forest and watershed advisory board" is  
19 created and is administratively attached to the energy,  
20 minerals and natural resources department. The board consists  
21 of the following members:

- 22                   (1) the New Mexico state forester;  
23                   (2) the commissioner of public lands or the  
24 commissioner's designee;  
25                   (3) the secretary of economic development or

1 the secretary's designee;

2 (4) the secretary of environment or the  
3 secretary's designee;

4 (5) the director of the department of game  
5 and fish or the director's designee;

6 (6) the state fire marshal or the fire  
7 marshal's designee; and

8 (7) three public members appointed by the  
9 governor from a list of nominees submitted to the governor  
10 jointly by the president pro tempore of the senate and the  
11 speaker of the house of representatives:

12 (a) one of whom shall be a  
13 representative of the forest products industry;

14 (b) one of whom shall be a  
15 representative of local government interests, such as a member  
16 of New Mexico counties or the soil and water conservation  
17 commission; and

18 (c) one of whom shall be a  
19 representative of an academic or nonprofit conservation  
20 organization with a focus on ecological restoration science.

21 B. Public members of the board shall serve until  
22 their successors have been appointed.

23 C. A majority of the members of the board  
24 constitutes a quorum for transaction of business. The board  
25 shall elect a chair from among its members.

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1           D. Members of the board are entitled to receive per  
2 diem and mileage pursuant to the Per Diem and Mileage Act and  
3 shall receive no other compensation, perquisite or allowance.

4           SECTION 4. [NEW MATERIAL] BOARD--DIVISION--POWERS AND  
5 DUTIES.--

6           A. The board shall:

7                   (1) recommend guidelines, protocols and best  
8 management practices for projects;

9                   (2) foster partnerships and cooperation  
10 among federal, state and county agencies, tribal entities,  
11 political subdivisions of the state, soil and water  
12 conservation districts, the forest products industry and other  
13 public or private organizations dedicated to forest and  
14 watershed conservation and restoration programs or projects or  
15 wildlife conservation or habitat improvement programs or  
16 projects; and

17                   (3) evaluate and recommend projects to the  
18 division for funding.

19           B. The division may:

20                   (1) seek and accept all public and private  
21 funds and gifts, devises, grants and donations from others to  
22 carry out the provisions of the Forest and Watershed  
23 Restoration Act;

24                   (2) beginning July 1, 2019, provide partial or  
25 full funding for approved projects and facilitate and

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1 coordinate funding from multiple sources for projects, when  
2 appropriate; and

3 (3) adopt rules to carry out the purposes of  
4 the Forest and Watershed Restoration Act.

5 SECTION 5. [NEW MATERIAL] USE OF FOREST AND WATERSHED  
6 RESTORATION FUND--PROJECT EVALUATION AND PRIORITIZATION.--

7 A. Money in the forest land protection revolving  
8 fund may be used to administer and carry out the purposes of  
9 the Forest and Watershed Restoration Act and to fund projects  
10 authorized by the division on any lands in the state for:

- 11 (1) on-the-ground restoration treatments;  
12 (2) project planning;  
13 (3) economic development programs to advance  
14 the use of small-diameter trees and wood biomass removed for  
15 hazardous fuel reduction and forest and watershed restoration;  
16 or  
17 (4) workforce development for wood utilization  
18 projects.

19 B. A project is eligible for funding if the  
20 project is for a public benefit and:

- 21 (1) is part of a current state forest and  
22 watershed health plan or forest action plan, a community  
23 wildfire protection plan, other comprehensive forest and  
24 watershed treatment plan or wildlife conservation or habitat  
25 improvement plan approved by the board;

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1 (2) incorporates actions recommended by  
2 current plans or, where new plans are developed, seeks to  
3 integrate forest, fire and water management with community and  
4 economic development plans;

5 (3) protects watersheds that are the  
6 source of drinking or irrigation water;

7 (4) targets an area at high risk of  
8 catastrophic wildfire; or

9 (5) has obtained all requisite state and  
10 federal permits and authorizations necessary to initiate the  
11 project, if the project is other than a planning project.

12 C. A project that is eligible for funding in  
13 accordance with Subsection B of this section shall be given  
14 priority for funding by the division if the project:

15 (1) leverages federal, state, local, tribal or  
16 private sources and, if available, support from other public or  
17 private water, forest, fire, wildlife habitat or economic  
18 development programs;

19 (2) is in an area:

20 (a) with a wood supply that can be used  
21 as biomass for energy production;

22 (b) where small-diameter trees may be  
23 put to commercial use; or

24 (c) where traditional forest products  
25 may be produced;

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1 (3) is clustered around priority areas that  
2 are able to supply a useful amount of wood products for  
3 industry; or

4 (4) creates incentives to increase  
5 investment by federal, state, local, tribal or private  
6 entities, including investment by downstream water users to  
7 manage forested headwaters and water sources.

8 D. Beginning July 1, 2019, sponsors may apply to  
9 the division for project funding.

10 SECTION 6. [NEW MATERIAL] REPORT BY DIVISION.--At least  
11 forty-five days prior to each legislative session, the division  
12 shall submit a report concerning its activities, the projects  
13 implemented and any recommended legislation to the governor  
14 and the legislature.

15 SECTION 7. Section 68-2-28 NMSA 1978 (being Laws 1987,  
16 Chapter 143, Section 6, as amended) is amended to read:

17 "68-2-28. FOREST LAND PROTECTION REVOLVING FUND  
18 CREATED.--

19 A. There is created in the state treasury a  
20 revolving fund to be known as the "forest land protection  
21 revolving fund". The forest land protection revolving fund  
22 shall consist of all receipts as provided by Section 68-2-26  
23 NMSA 1978, appropriations, gifts, grants, donations and [~~from~~]  
24 revenue received by the forestry division of the energy,  
25 minerals and natural resources department from the federal

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1 government or other state agencies and other sources for  
2 conducting forest and watershed management projects. Subject  
3 to legislative appropriation, expenditures may be made from the  
4 forest land protection revolving fund upon vouchers signed by  
5 the state forester and warrants issued by the secretary of  
6 finance and administration:

7 (1) for the administration and enforcement of  
8 the Forest Conservation Act; ~~and~~

9 (2) to administer forest and watershed  
10 management projects, including acquisition of tools and  
11 equipment and expenses incurred by the forestry division in  
12 planning and supervising forest and watershed management  
13 projects; and

14 (3) to fund approved projects pursuant to the  
15 Forest and Watershed Restoration Act.

16 B. Money in the forest land protection revolving  
17 fund shall not revert to the general fund."

18 **SECTION 8.** Section 72-14-6 NMSA 1978 (being Laws 1935,  
19 Chapter 24, Section 3, as amended by Laws 1997, Chapter 241,  
20 Section 3 and also by Laws 1997, Chapter 246, Section 3) is  
21 amended to read:

22 "72-14-6. APPROPRIATION--HOW DISBURSEMENTS ARE TO BE  
23 MADE.--

24 A. Annually, one million dollars (\$1,000,000) shall  
25 be distributed from the improvement of Rio Grande income fund

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1 to the forest land protection revolving fund.

2           B. There is appropriated annually all money  
3 remaining in the improvement of the Rio Grande income fund  
4 after the distribution pursuant to Subsection A of this section  
5 or as much thereof as may be necessary for the purpose of  
6 complying with Sections 72-14-4 through 72-14-6 and 72-14-9  
7 through 72-14-28 NMSA 1978 and to fulfill and carry out their  
8 purposes and intentions. The appropriations authorized shall  
9 be paid, from time to time as may be necessary, upon vouchers  
10 approved by the interstate stream commission."

11           SECTION 9. Section 72-14-23 NMSA 1978 (being Laws 1955,  
12 Chapter 266, Section 15, as amended) is amended to read:

13           "72-14-23. NEW MEXICO IRRIGATION WORKS CONSTRUCTION FUND  
14 CREATED--LIMITATION OF LIABILITY UNDER ACT--REPARATION OF  
15 DAMAGES CAUSED IN CARRYING OUT POWERS GRANTED--AUTHORITY OF  
16 COMMISSION TO RECEIVE CONTRIBUTIONS.--

17           A. There is [~~hereby~~] created a fund to be known  
18 as the "New Mexico irrigation works construction fund", which  
19 shall consist of the income creditable to the permanent  
20 reservoirs for irrigation purposes income fund not otherwise  
21 pledged under Section [~~75-34-19 New Mexico Statutes Annotated,~~  
22 ~~1953 Compilation, (being Laws 1955, Chapter 266, Section 11)]~~  
23 72-14-19 NMSA 1978 and all other [~~moneys which~~] money that may  
24 be appropriated by the [~~state~~] legislature to [~~said~~] the  
25 construction fund. [~~Such~~] The fund shall be a continuing fund

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1 and shall not revert to the general fund [~~of the state~~] or to  
2 any other fund [~~of the state at the end of any biennium~~].

3 B. Annually, one million dollars (\$1,000,000) shall  
4 be distributed from the New Mexico irrigation works  
5 construction fund to the forest land protection revolving fund.

6 C. The cost of investigations and construction as  
7 authorized in Section [~~75-34-11 New Mexico Statutes Annotated,~~  
8 ~~1953 Compilation (being Laws 1955, Chapter 266, Section 3)~~]  
9 72-14-11 NMSA 1978 shall be paid from [~~said~~] the New Mexico  
10 irrigation works construction fund and also the cost of all  
11 preliminary work on any project, and all expenses directly  
12 chargeable to such project, prior to the receipt of the  
13 proceeds of bonds, shall be paid from the construction fund.  
14 The amount of all such expenses on account of any project [~~or~~  
15 ~~projects~~] and such part of the general administrative expenses  
16 of the commission and the cost of investigation [~~or~~  
17 ~~investigations~~] as shall be properly chargeable, in the opinion  
18 of the commission, to such project [~~or projects~~] shall be  
19 reimbursed to the construction fund upon the receipt of the  
20 proceeds of bonds issued for such project [~~or projects~~]. No  
21 liability or obligation shall be incurred under the provisions  
22 of Sections [~~75-34-9 to 75-34-27 New Mexico Statutes, 1953~~  
23 ~~Compilation (being Laws 1955, Chapter 266, Sections 1 to 19)~~]  
24 72-14-9 through 72-14-28 NMSA 1978 beyond the extent to which  
25 the money [~~shall have~~] has been provided under the authority of

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1     ~~[this act]~~ those sections. All public and private property  
2     damaged or destroyed in carrying out the powers granted under  
3     ~~[this act]~~ those sections shall be restored or repaired and  
4     placed in ~~[their]~~ its original condition, as nearly as  
5     practicable, or adequate compensation made therefor out of  
6     funds provided by ~~[this act]~~ those sections.

7             D. The commission shall also have authority to pay  
8     the cost of such investigations and construction on any project  
9     from ~~[said]~~ the New Mexico irrigation works construction fund  
10    when contracts in form satisfactory to it ~~[shall]~~ have been  
11    entered into whereby title to works ~~[shall]~~ have been  
12    mortgaged, deeded, assigned or transferred by the owner  
13    ~~[thereof]~~ to the commission, and a program for reimbursement of  
14    all amounts expended, together with operation and maintenance  
15    charges, ~~[shall]~~ have been agreed upon; provided that no  
16    construction contract shall be entered into without the prior  
17    approval of the state board of finance. The commission shall  
18    also have authority to receive and accept appropriations and  
19    contributions from any source of either money or property or  
20    other things of value to be held, used and applied for the  
21    purposes ~~[in this act]~~ provided in Sections 72-14-9 through  
22    72-14-28 NMSA 1978."