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SENATE BILL 462

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

INTRODUCED BY

Jeff Steinborn and Nathan P. Small
and Angelica Rubio and D. Wonda Johnson

AN ACT

RELATING TO OUTDOOR RECREATION; CREATING THE NEW MEXICO OUTDOOR RECREATION DIVISION IN THE ECONOMIC DEVELOPMENT DEPARTMENT AND THE OUTDOOR RECREATION ADVISORY COMMITTEE; CREATING THE SPECIAL PROJECTS AND OUTDOOR RECREATION INFRASTRUCTURE FUND; CREATING THE OUTDOOR EQUITY GRANT PROGRAM AND FUND; MAKING AN APPROPRIATION.

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

SECTION 1. Section 9-15-4 NMSA 1978 (being Laws 1983, Chapter 297, Section 4, as amended) is amended to read:

"9-15-4. DEPARTMENT ESTABLISHED.--There is created in the executive branch the "economic development department". The department shall be a cabinet department and shall consist of, but not be limited to, ~~five~~ six divisions as follows:

- A. the administrative services division;

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- 1 B. the economic development division;
- 2 C. the New Mexico film division;
- 3 D. the technology enterprise division; ~~[and]~~
- 4 E. the trade and Mexican affairs division; and
- 5 F. the New Mexico outdoor recreation division."

6 SECTION 2. Section 9-15-6 NMSA 1978 (being Laws 1983,
7 Chapter 297, Section 6, as amended) is amended to read:

8 "9-15-6. SECRETARY--DUTIES AND GENERAL POWERS.--

9 A. The secretary is responsible to the governor for
10 the operation of the department. It is ~~[his]~~ the secretary's
11 duty to manage all operations of the department and to
12 administer and enforce the laws with which ~~[he]~~ the secretary
13 or the department is charged.

14 B. To perform ~~[his]~~ the secretary's duties, the
15 secretary has every power expressly enumerated in the laws,
16 whether granted to the secretary or the department or any
17 division of the department, except where authority conferred
18 upon any division is explicitly exempted from the secretary's
19 authority by statute. In accordance with these provisions, the
20 secretary shall:

- 21 (1) except as otherwise provided in the
- 22 Economic Development Department Act, exercise general
- 23 supervisory and appointing authority over all department
- 24 employees, subject to any applicable personnel laws and
- 25 ~~[regulations]~~ rules;

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1 (2) delegate authority to subordinates as [~~he~~]
2 the secretary deems necessary and appropriate, clearly
3 delineating such delegated authority and the limitations
4 thereto;

5 (3) organize the department into those
6 organizational units [~~he~~] the secretary deems will enable it to
7 function most efficiently;

8 (4) within the limitations of available
9 appropriations and applicable laws, employ and fix the
10 compensation of those persons necessary to discharge [~~his~~] the
11 secretary's duties;

12 (5) take administrative action by issuing
13 orders and instructions, not inconsistent with the law, to
14 assure implementation of and compliance with the provisions of
15 law for whose administration or execution [~~he~~] the secretary is
16 responsible and to enforce those orders and instructions by
17 appropriate administrative action in the courts;

18 (6) conduct research and studies that will
19 improve the operations of the department and the provision of
20 services to the citizens of the state;

21 (7) provide for courses of instruction and
22 practical training for employees of the department and other
23 persons involved in the administration of programs, with the
24 objective of improving the operations and efficiency of
25 administration;

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1 (8) prepare an annual budget of the department
2 based upon the five-year economic development plan approved by
3 the commission. The economic development plan shall be updated
4 and approved annually by the commission;

5 (9) provide cooperation, at the request of
6 heads of administratively attached agencies, in order to:

7 (a) minimize or eliminate duplication of
8 services;

9 (b) coordinate activities and resolve
10 problems of mutual concern; and

11 (c) resolve by agreement the manner and
12 extent to which the department shall provide budgeting,
13 [~~record-keeping~~] recordkeeping and related clerical assistance
14 to administratively attached agencies;

15 (10) appoint a "director" for each division,
16 except for the director of the New Mexico outdoor recreation
17 division. These appointed positions are exempt from the
18 provisions of the Personnel Act. Persons appointed to these
19 positions shall serve at the pleasure of the secretary, except
20 for the director of the New Mexico outdoor recreation division,
21 who shall serve at the pleasure of the governor;

22 (11) give bond in the penal sum of twenty-five
23 thousand dollars (\$25,000) and require directors to each give
24 bond in the penal sum of ten thousand dollars (\$10,000)
25 conditioned upon the faithful performance of duties, as

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1 provided in the Surety Bond Act. The department shall pay the
2 costs of these bonds; and

3 (12) require performance bonds of such
4 department employees and officers as ~~[he]~~ the secretary deems
5 necessary, as provided in the Surety Bond Act. The department
6 shall pay the costs of these bonds.

7 C. The secretary may apply for and receive in the
8 name of the department any public or private funds, including
9 ~~[but not limited to]~~ United States government funds, available
10 to the department to carry out its programs, duties or
11 services.

12 D. The secretary may make and adopt such reasonable
13 ~~[and]~~ procedural rules ~~[and regulations]~~ as may be necessary to
14 carry out the duties of the department and its divisions. No
15 rule ~~[or regulation]~~ promulgated by the director of any
16 division in carrying out the functions and duties of the
17 division shall be effective until approved by the secretary
18 unless otherwise provided by statute. Unless otherwise
19 provided by statute, no ~~[regulation]~~ rule affecting any person
20 or agency outside the department shall be adopted, amended or
21 repealed without a public hearing on the proposed action before
22 the secretary or a hearing officer designated by ~~[him]~~ the
23 secretary. The public hearing shall be held in Santa Fe unless
24 otherwise permitted by statute. Notice of the subject matter
25 of the ~~[regulation]~~ rule, the action proposed to be taken, the

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1 time and place of the hearing, the manner in which interested
2 persons may present their views and the method by which copies
3 of the proposed [~~regulation~~] rule or proposed amendment or
4 repeal of an existing [~~regulation~~] rule may be obtained shall
5 be published once at least thirty days prior to the hearing
6 date in a newspaper of general circulation and mailed at least
7 thirty days prior to the hearing date to all persons who have
8 made a written request for advance notice of hearing. All
9 rules [~~and regulations~~] shall be filed in accordance with the
10 State Rules Act."

11 SECTION 3. A new section of the Economic Development
12 Department Act is enacted to read:

13 "[NEW MATERIAL] NEW MEXICO OUTDOOR RECREATION DIVISION--
14 DUTIES--DIRECTOR.--

15 A. The New Mexico outdoor recreation division of
16 the department shall:

17 (1) increase outdoor recreation-based economic
18 development, tourism and ecotourism in the state and its
19 communities;

20 (2) work to expand outdoor recreation
21 infrastructure by promoting and assisting communities in
22 applying for funding opportunities to develop outdoor
23 recreation infrastructure, including funding opportunities
24 through the federal recreational trails program, the federal
25 transportation alternatives program, the federal land and water

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1 conservation fund, the federal safe routes to schools program
2 and the state and federal youth conservation corps programs;

3 (3) assist in the promotion and marketing of
4 outdoor recreation opportunities and events that exist within
5 the state;

6 (4) assist New Mexico residents in
7 establishing outdoor recreation-based businesses and connecting
8 outdoor recreation-based businesses with economic development
9 resources and opportunities;

10 (5) recruit out-of-state based outdoor
11 recreation businesses to locate in New Mexico;

12 (6) promote stewardship and preservation of
13 New Mexico's unique environment and cultural assets;

14 (7) promote education and use of outdoor
15 recreation assets to enhance public health; and

16 (8) support outdoor recreation programs at New
17 Mexico educational institutions.

18 B. The department, the tourism department, the
19 state land office, the Rio Grande trail commission, the state
20 parks division of the energy, minerals and natural resources
21 department, the department of game and fish, the cultural
22 affairs department, the Indian affairs department, the
23 department of health and the department of transportation shall
24 work in conjunction with the New Mexico outdoor recreation
25 division to support the division's duties as they relate to the

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1 purposes of the respective departments and agencies.

2 C. The New Mexico outdoor recreation division shall
3 work in partnership with interested Indian nations, tribes or
4 pueblos in accordance with the State-Tribal Collaboration Act,
5 and, where appropriate, use provisions in existing statutes to
6 enter into intergovernmental agreements.

7 D. The governor shall appoint a director of the New
8 Mexico outdoor recreation division of the department.

9 E. For the purposes of this section:

10 (1) "ecotourism" means a form of tourism that
11 involves visiting areas of ecological interest and is intended
12 as a low-impact and often small-scale alternative to standard
13 commercial tourism; and

14 (2) "outdoor recreation" means a pursuit that
15 occurs in a natural environment and includes various active and
16 passive sports and activities, including:

17 (a) trail-dependent sports and
18 activities, including hiking, recreational cycling, mountain
19 biking and recreational equestrianism;

20 (b) natural-landscape-dependent sports
21 and activities, including camping, wildlife viewing, hunting,
22 mountain and rock climbing and spelunking;

23 (c) water-dependent sports and
24 activities, including kayaking, water skiing, surfing, fishing
25 and rafting; and

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1 (d) snow-dependent sports and
2 activities, including skiing, sledding and snowmobiling."

3 SECTION 4. A new section of the Economic Development
4 Department Act is enacted to read:

5 "[NEW MATERIAL] OUTDOOR RECREATION ADVISORY COMMITTEE--
6 CREATION--MEMBERSHIP--DUTIES.--

7 A. The "outdoor recreation advisory committee" is
8 created and administratively attached to the New Mexico outdoor
9 recreation division of the department. The committee shall
10 advise the division.

11 B. The director of the New Mexico outdoor
12 recreation division shall appoint members of the outdoor
13 recreation advisory committee. The committee shall be composed
14 of diverse members from the outdoor recreation industry and
15 communities across the state and representatives of the
16 department, the tourism department, the state land office, the
17 Rio Grande trail commission, the acequia commission, the state
18 parks division of the energy, minerals and natural resources
19 department, the department of game and fish, the cultural
20 affairs department, the Indian affairs department, the
21 department of health and the department of transportation.

22 C. The director shall invite representatives of
23 Indian nations, tribes and pueblos, the federal land management
24 agencies, land grants and acequias to serve as members of the
25 outdoor recreation advisory committee.

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1 D. The number of appointed members shall be set by
2 the director of the New Mexico outdoor recreation division, and
3 the members shall serve at the pleasure of the director. The
4 members' appointments shall be reviewed at will.

5 E. The director of the New Mexico outdoor
6 recreation division shall appoint a chair from among the
7 members of the outdoor recreation advisory committee, and the
8 chair shall serve in that capacity at the pleasure of the
9 director.

10 F. The outdoor recreation advisory committee shall
11 meet, pursuant to the Open Meetings Act, at the call of the
12 chair.

13 G. A majority of the members present constitutes a
14 quorum for the conduct of business.

15 H. The outdoor recreation advisory committee shall:

16 (1) hold meetings to provide for the exchange
17 of ideas with respect to the mission of the New Mexico outdoor
18 recreation division of the department; and

19 (2) make recommendations and provide advice to
20 the New Mexico outdoor recreation division related to carrying
21 out the duties of the division.

22 I. Staff and other administrative support for the
23 outdoor recreation advisory committee shall be provided by the
24 New Mexico outdoor recreation division.

25 J. Members of the outdoor recreation advisory

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1 committee shall not be paid per diem and mileage or other
2 compensation for their services."

3 SECTION 5. A new section of Economic Development
4 Department Act is enacted to read:

5 "[NEW MATERIAL] NEW MEXICO OUTDOOR RECREATION DIVISION--
6 SPECIAL PROJECTS AND OUTDOOR RECREATION INFRASTRUCTURE FUND--
7 CREATED.--The "special projects and outdoor recreation
8 infrastructure fund" is created in the state treasury. The
9 fund consists of appropriations, gifts, grants, donations,
10 income from investment of the fund and money otherwise accruing
11 to the fund. Money in the fund at the end of a fiscal year
12 shall not revert to any other fund. The fund shall be
13 administered by the New Mexico outdoor recreation division, and
14 money in the fund is appropriated to the New Mexico outdoor
15 recreation division for special projects and outdoor recreation
16 infrastructure determined by the division to be necessary to
17 carry out the purpose of the division. Money in the fund shall
18 be disbursed on warrants signed by the secretary of finance and
19 administration pursuant to vouchers signed by the director of
20 the New Mexico outdoor recreation division or the director's
21 designee."

22 SECTION 6. Section 9-5B-1 NMSA 1978 (being Laws 1992,
23 Chapter 91, Section 1) is amended to read:

24 "9-5B-1. SHORT TITLE.--~~[This act]~~ Chapter 9, Article 5B
25 NMSA 1978 may be cited as the "New Mexico Youth Conservation

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1 Corps Act".

2 SECTION 7. Section 9-5B-6 NMSA 1978 (being Laws 1992,
3 Chapter 91, Section 6) is amended to read:

4 "9-5B-6. COMMISSION--POWERS AND DUTIES.--

5 A. The commission may:

6 (1) accept gifts, devises, grants and
7 donations from others to carry out the provisions of the New
8 Mexico Youth Conservation Corps Act;

9 (2) request assistance and staff support from
10 the department;

11 (3) employ such personnel as necessary to
12 carry out the provisions of the New Mexico Youth Conservation
13 Corps Act;

14 (4) delegate responsibility for the
15 administration and implementation of conservation projects,
16 corps members' employment and supervision, project coordination
17 and other program matters;

18 (5) establish work camps and long-term
19 residential facilities to house corps members and their
20 supervisors; and

21 (6) contact potential sponsors and funding
22 sources for support.

23 B. The commission shall:

24 (1) adopt rules [~~and regulations~~] that are
25 necessary for the proper administration of the New Mexico Youth

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1 Conservation Corps Act, including the outdoor equity grant
2 program;

3 (2) administer and enforce the provisions of
4 the New Mexico Youth Conservation Corps Act and rules [~~and~~
5 ~~regulations~~] adopted pursuant to Paragraph (1) of this
6 subsection;

7 (3) develop and approve corps work projects,
8 activities and contracts with project sponsors;

9 (4) administer the outdoor equity grant
10 program;

11 [~~(4)~~] (5) establish standards, procedures and
12 policies for selecting, hiring, providing compensation for and
13 other personnel matters involving corps members and other
14 personnel;

15 [~~(5)~~] (6) foster partnerships and cooperation
16 between the corps and New Mexico's secondary and post-secondary
17 schools to assist corps members in obtaining education and job
18 training; and

19 [~~(6)~~] (7) hire a program manager, who shall be
20 the administrative officer of the corps."

21 SECTION 8. A new section of the New Mexico Youth
22 Conservation Corps Act is enacted to read:

23 "[NEW MATERIAL] OUTDOOR EQUITY GRANT PROGRAM--CREATED--
24 PURPOSE--FINDINGS--ADMINISTRATION--GRANT CRITERIA.--

25 A. The "outdoor equity grant program" is created in

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1 the department to be administered by the commission.

2 B. The purpose of the outdoor equity grant program
3 is to provide low-income New Mexico youth with opportunities to
4 engage in outdoor recreation activities on state parks, state
5 trust land, federal public lands and waterways and other
6 designated outdoor locations.

7 C. The legislature finds that equitable
8 opportunities for outdoor recreation are beneficial to the
9 physical, spiritual and emotional health of New Mexico youth
10 and, therefore, are beneficial to the well-being of families
11 and residents in the state overall.

12 D. Each fiscal year, competitive grants shall be
13 awarded to applicants for the sole purpose of funding outdoor
14 recreation programs, in whole or in part, for youth up to the
15 age of eighteen.

16 E. Annually, the commission shall establish a
17 minimum and maximum number of grants available based on the
18 funding appropriated to the outdoor equity grant program fund
19 for that fiscal year.

20 F. The commission shall award grants to applicants
21 through a competitive process and based upon the following
22 minimum criteria:

23 (1) at least forty percent of the population
24 served by the applicant are low-income youth up to the age of
25 eighteen;

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1 (2) the applicant has a well-developed,
2 written plan to engage low-income youth in outdoor recreation
3 activities; and

4 (3) the applicant has an educational plan to
5 educate youth about climate and the environment as part of its
6 outdoor recreation program.

7 G. The commission shall establish grant reporting
8 requirements that meet the general purpose of this section.

9 H. For the purposes of this section:

10 (1) "applicant" means a county, municipality
11 or other political subdivision of the state, a nonprofit
12 organization or an Indian nation, tribe or pueblo that applies
13 for an outdoor equity grant; and

14 (2) "outdoor recreation" means a pursuit that
15 occurs in a natural environment and includes various active and
16 passive sports and activities, including:

17 (a) trail-dependent sports and
18 activities, including hiking, recreational cycling, mountain
19 biking and recreational equestrianism;

20 (b) natural-landscape-dependent sports
21 and activities, including camping, wildlife viewing, hunting,
22 mountain and rock climbing and spelunking;

23 (c) water-dependent sports and
24 activities, including kayaking, water skiing, surfing, fishing
25 and rafting; and

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1 (d) snow-dependent sports and
2 activities, including skiing, sledding and snowmobiling."

3 SECTION 9. A new section of the New Mexico Youth
4 Conservation Corps Act is enacted to read:

5 "[NEW MATERIAL] OUTDOOR EQUITY GRANT PROGRAM FUND--
6 CREATED.--

7 A. The "outdoor equity grant program fund" is
8 created in the state treasury. All appropriations, gifts,
9 devises, grants and donations received shall be deposited in
10 the fund. Money in the fund is appropriated to the commission
11 for the purpose of carrying out the outdoor equity grant
12 program pursuant to the provisions of the New Mexico Youth
13 Conservation Corps Act. Any money appropriated to the fund or
14 accruing to it through gifts, grants, bequests or interest
15 shall remain in the fund. Money in the fund shall not revert
16 at the end of a fiscal year.

17 B. The fund shall be administered by the
18 department. Disbursements from the fund shall be made only
19 upon warrant drawn by the secretary of finance and
20 administration pursuant to vouchers signed by the chair of the
21 commission or the chair's designee for the purpose of carrying
22 out the outdoor equity grant program pursuant to the provisions
23 of the New Mexico Youth Conservation Corps Act."

24 SECTION 10. APPROPRIATION.--

25 A. One million five hundred thousand dollars

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1 (\$1,500,000) is appropriated from the general fund to the
2 economic development department for expenditure in fiscal year
3 2020 for the operation of the New Mexico outdoor recreation
4 division. Any unexpended or unencumbered balance remaining at
5 the end of fiscal year 2020 shall revert to the general fund.

6 B. One hundred thousand dollars (\$100,000) is
7 appropriated from the general fund to the outdoor equity grant
8 program fund for expenditure in fiscal year 2020 and subsequent
9 fiscal years for the New Mexico youth conservation corps
10 commission to provide grants through the outdoor equity grant
11 program. Any unexpended or unencumbered balance remaining at
12 the end of a fiscal year shall not revert to the general fund.

13 SECTION 11. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2019.