SENATE BILL 462

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

INTRODUCED BY

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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;
B. the economic development division;
C. the New Mexico film division;
D. the technology enterprise division; [and]
E. the trade and Mexican affairs division; and
F. the New Mexico outdoor recreation division."

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

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

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

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

(1) except as otherwise provided in the
Economic Development Department Act, exercise general
supervisory and appointing authority over all department
employees, subject to any applicable personnel laws and
[regulations] rules;
(2) delegate authority to subordinates as [he]
the secretary deems necessary and appropriate, clearly
delineating such delegated authority and the limitations
thereto;

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

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

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

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

(7) provide for courses of instruction and
practical training for employees of the department and other
persons involved in the administration of programs, with the
objective of improving the operations and efficiency of
administration;
(8) prepare an annual budget of the department
based upon the five-year economic development plan approved by
the commission. The economic development plan shall be updated
and approved annually by the commission;

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

(a) minimize or eliminate duplication of
services;

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

(c) resolve by agreement the manner and
extent to which the department shall provide budgeting,
recordkeeping and related clerical assistance
to administratively attached agencies;

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

(11) give bond in the penal sum of twenty-five
thousand dollars ($25,000) and require directors to each give
bond in the penal sum of ten thousand dollars ($10,000)
conditioned upon the faithful performance of duties, as
provided in the Surety Bond Act. The department shall pay the
costs of these bonds; and

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

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

D. The secretary may make and adopt such reasonable
[and] procedural rules [and regulations] as may be necessary to
carry out the duties of the department and its divisions. No
rule [or regulation] promulgated by the director of any
division in carrying out the functions and duties of the
division shall be effective until approved by the secretary
unless otherwise provided by statute. Unless otherwise
provided by statute, no [regulation] rule affecting any person
or agency outside the department shall be adopted, amended or
repealed without a public hearing on the proposed action before
the secretary or a hearing officer designated by [him] the
secretary. The public hearing shall be held in Santa Fe unless
otherwise permitted by statute. Notice of the subject matter
of the [regulation] rule, the action proposed to be taken, the
time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed [regulation] rule or proposed amendment or repeal of an existing [regulation] rule may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules [and regulations] shall be filed in accordance with the State Rules Act."

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

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

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

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

(2) work to expand outdoor recreation infrastructure by promoting and assisting communities in applying for funding opportunities to develop outdoor recreation infrastructure, including funding opportunities through the federal recreational trails program, the federal transportation alternatives program, the federal land and water...."
conservation fund, the federal safe routes to schools program
and the state and federal youth conservation corps programs;

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

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

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

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

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

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

B. The department, the tourism department, the
state land office, the Rio Grande trail commission, the state
parks division of the energy, minerals and natural resources
department, the department of game and fish, the cultural
affairs department, the Indian affairs department, the
department of health and the department of transportation shall
work in conjunction with the New Mexico outdoor recreation
division to support the division's duties as they relate to the
purposes of the respective departments and agencies.

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

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

E. For the purposes of this section:

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

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

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

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

(c) water-dependent sports and activities, including kayaking, water skiing, surfing, fishing and rafting; and
(d) snow-dependent sports and activities, including skiing, sledding and snowmobiling."

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

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

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

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

C. The director shall invite representatives of Indian nations, tribes and pueblos, the federal land management agencies, land grants and acequias to serve as members of the outdoor recreation advisory committee.
D. The number of appointed members shall be set by the director of the New Mexico outdoor recreation division, and the members shall serve at the pleasure of the director. The members' appointments shall be reviewed at will.

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

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

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

H. The outdoor recreation advisory committee shall:

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

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

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

J. Members of the outdoor recreation advisory
committee shall not be paid per diem and mileage or other compensation for their services."

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

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

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

"9-5B-1. SHORT TITLE.--[This act] Chapter 9, Article 5B NMSA 1978 may be cited as the "New Mexico Youth Conservation
SECTION 7. Section 9-5B-6 NMSA 1978 (being Laws 1992, Chapter 91, Section 6) is amended to read:

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

A. The commission may:

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

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

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

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

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

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

B. The commission shall:

(1) adopt rules \[and regulations\] that are necessary for the proper administration of the New Mexico Youth Conservation Corps Act."
Conservation Corps Act, including the outdoor equity grant program;

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

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

(4) administer the outdoor equity grant program;

(5) establish standards, procedures and policies for selecting, hiring, providing compensation for and other personnel matters involving corps members and other personnel;

(6) foster partnerships and cooperation between the corps and New Mexico's secondary and post-secondary schools to assist corps members in obtaining education and job training; and

(7) hire a program manager, who shall be the administrative officer of the corps."

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

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

A. The "outdoor equity grant program" is created in
the department to be administered by the commission.

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

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

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

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

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

(1) at least forty percent of the population served by the applicant are low-income youth up to the age of eighteen;
(2) the applicant has a well-developed, written plan to engage low-income youth in outdoor recreation activities; and

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

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

H. For the purposes of this section:

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

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

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

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

(c) water-dependent sports and activities, including kayaking, water skiing, surfing, fishing and rafting; and
(d) snow-dependent sports and activities, including skiing, sledding and snowmobiling."

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

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

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

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

SECTION 10. APPROPRIATION.--

A. One million five hundred thousand dollars
($1,500,000) is appropriated from the general fund to the economic development department for expenditure in fiscal year 2020 for the operation of the New Mexico outdoor recreation division. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

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

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