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CULTURAL PROPERTIES RESTORATION FUND GRANT PROGRAM LEGISLATION



Photographs, CPRF Round 1 Awardees, Top Row, L to R, City of Santa Fe, Main Library; City of Deming, Luna Mimbres Museum
Bottom Row, Town of Silver City, Silver City Waterworks; State Land Office, Dinétah Puebloitos;
City of Albuquerque, Albuquerque Rail Yards Fire House

DECEMBER 2024

SENATE BILL 9 – LAND OF ENCHANTMENT LEGACY FUND

SENATE FINANCE COMMITTEE SUBSTITUTE FOR SENATE BILL 9
56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO CONSERVATION; CREATING THE CONSERVATION LEGACY PERMANENT FUND; CREATING THE LAND OF ENCHANTMENT LEGACY FUND; INCLUDING THE CONSERVATION LEGACY PERMANENT FUND IN THE PERMANENT FUNDS INVESTED BY THE STATE INVESTMENT COUNCIL.

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

SECTION 1. Section 6-8-1 NMSA 1978 (being Laws 1957, Chapter 179, Section 1, as amended) is amended to read:

"6-8-1. DEFINITIONS. --As used in Chapter 6, Article 8 NMSA 1978:

- A. "council" means the state investment council;
- B. "department" means the department of finance and administration;
- C. "land grant permanent funds" means the permanent school fund established by Article 12, Section 2 of the constitution of New Mexico and all other permanent funds derived from lands granted or confirmed to the state by the act of congress of June 20, 1910, entitled "An Act To enable the people of New Mexico to form a constitution and state government and be admitted into the Union on an equal footing with the original States...";
- D. "permanent funds" means the land grant permanent funds, rural libraries endowment fund, severance tax permanent fund, tobacco settlement permanent fund, conservation legacy permanent fund and water trust fund;
- E. "secretary" means the secretary of finance and administration;
- F. "severance tax permanent fund" means the fund established by Article 8, Section 10 of the constitution of New Mexico;
- G. "tobacco settlement permanent fund" means the fund established by Section 6-4-9 NMSA 1978; and
- H. "water trust fund" means the fund established by Article 16, Section 6 of the constitution of New Mexico."

SECTION 2. A new section of Chapter 75 NMSA 1978 is enacted to read:

"[NEW MATERIAL] CONSERVATION LEGACY PERMANENT FUND-- CREATED--INVESTMENT--DISTRIBUTION.—"

- A. The "conservation legacy permanent fund" is created as a non-reverting fund in the state treasury. The fund consists of distributions, appropriations, gifts, grants, donations and income from investment of the fund. Money in the fund shall be invested by the state investment officer with the same risk and return profile as land grant permanent funds are invested pursuant to Chapter 6, Article 8 NMSA 1978. Earnings from investment of the fund shall be credited to the fund. Money in the fund shall be expended only as provided by this section.
- B. If, on July 1 of each year, the conservation legacy permanent fund exceeds one hundred fifty million dollars (\$150,000,000) and the investment income to the fund for the previous fiscal year exceeded five

million dollars (\$5,000,000), any investment income to the fund from the previous fiscal year in excess of five million dollars (\$5,000,000) shall be distributed to the land of enchantment legacy fund."

SECTION 3. A new section of Chapter 75 NMSA 1978 is enacted to read:

"[NEW MATERIAL] LAND OF ENCHANTMENT LEGACY FUND--CREATED-- DISTRIBUTION--

- A. The "land of enchantment legacy fund" is created as a non-reverting fund in the state treasury. The fund consists of distributions, appropriations, gifts, grants, donations and bequests made to the fund. The department of finance and administration shall administer the fund. Any interest earned by the land of enchantment legacy fund shall be credited to the fund. Money in the fund shall be distributed and expended only as provided in this section.
- B. On July 1, 2024 and on July 1 of each year thereafter, the department of finance and administration shall make an annual distribution from the land of enchantment legacy fund in an amount that is the greater of twelve million five hundred thousand dollars (\$12,500,000) or twenty-five percent of the total balance of the land of enchantment legacy fund; provided that, if the total balance in the fund is less than twelve million five hundred thousand dollars (\$12,500,000), the annual distribution shall be the total fund balance. The annual distribution shall be distributed as follows:
 1. twenty-two and one-half percent shall be distributed to the energy, minerals and natural resources department, of which:
 - a. fifty percent shall be allocated to the forestry division of the energy, minerals and natural resources department to carry out: 1) projects and programs pursuant to the Forest Conservation Act; 2) forest and watershed management projects; 3) approved projects pursuant to the Forest and Watershed Restoration Act; and 4) projects and programs pursuant to the Prescribed Burning Act; and
 - b. fifty percent shall be allocated for projects pursuant to the Natural Heritage Conservation Act;
 2. twenty-two and one-half percent shall be distributed to the board of regents of New Mexico state university for the New Mexico department of agriculture to carry out programs and projects pursuant to the Noxious Weed Management Act, the Healthy Soil Act and the Soil and Water Conservation District Act;
 3. ten percent shall be distributed to the department of environment to plan, design and construct projects to improve surface water quality and river habitat statewide;
 4. fifteen percent shall be distributed to the economic development department, of which:
 - a. twenty-five percent shall be allocated to the New Mexico outdoor recreation division of the economic development department to carry out projects under the outdoor equity grant program; and
 - b. seventy-five percent shall be allocated to the New Mexico outdoor recreation division for special projects and outdoor recreation infrastructure;
 5. eight percent shall be distributed to the cultural affairs department to carry out projects and programs pursuant to the Cultural Properties Protection Act; and
 6. twenty-two percent shall be distributed to the department of game and fish to carry out projects and programs for the protection and propagation of game and fish.
- C. Any unencumbered balances from distributions made pursuant to Subsection B of this section shall revert to the land of enchantment legacy fund at the end of the fiscal year following the fiscal year in which the funds were distributed.
- D. Distributions made pursuant to this section shall not be used for the purposes of eminent domain."

New Mexico Cultural Properties Protection Act

N.M. Stat. §§ 18-6A-1 through 6

18-6A-1. Short title.

18-6A-2. Definitions.

18-6A-3. Fund; created; purpose

18-6A-4. Administration; regulatory authority 18-6A-5. Professional surveys.

18-6A-6. Joint powers agreement.

18-6A-1. Short title.

Chapter 18, Article 6A NMSA 1978 may be cited as the "Cultural Properties Protection Act".

18-6A-2. Definitions.

As used in the Cultural Properties Protection Act [18-6A-1 NMSA 1978]:

- A. "committee" means the cultural properties review committee;
- B. "cultural property" means a structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance;
- C. "division" means the historic preservation division of the cultural affairs department;
- D. "fund" means the cultural properties restoration fund;
- E. "interpretation" means the inventory, registration, mapping and analysis of cultural properties and public educational programs designed to prevent the loss of cultural properties;
- F. "officer" means the state historic preservation officer;
- G. "preservation" means sustaining the existing form, integrity and material of a cultural property or the existing form and vegetative cover of a cultural property and may include protective maintenance or stabilization where necessary in the case of archaeological sites;
- H. "professional survey" means an archaeological or architectural survey;
- I. "protection" means safeguarding the physical condition or environment of a cultural property from deterioration or damage caused by weather or other natural, animal or human intrusions;
- J. "restoration" means recovering the general historic appearance of a cultural property or the form and details of an object or structure by removing incompatible natural or human-caused accretions and replacing missing elements as appropriate;
- K. "stabilization" means reestablishing the structural stability or weather-resistant condition of a cultural property or arresting deterioration that may lead to structural failure;
- L. "state agency" means a department, agency, institution or political subdivision of the state; and
- M. "state land" means property owned, controlled or operated by a state agency.

18-6A-3. Fund; created; purpose

- A. The "cultural properties restoration fund" is created in the state treasury. The fund may receive money appropriated by the legislature or gifts, grants, bequests or payments for services rendered by the division from any public or private source. All money appropriated to the fund or accruing to the fund as a result of gifts, grants, bequests, payments for services rendered, investment of the fund or from any other source

shall not be transferred to another fund but shall remain in the fund to be encumbered and disbursed according to the provisions of the Cultural Properties Protection Act [18-6A-1 NMSA 1978]. Money in the fund shall not revert to the general fund or to any other fund from which money was appropriated.

- B. Money in the fund shall be used solely for the purpose of providing grants for interpretation, restoration, preservation, stabilization and protection of cultural property that is state property.
- C. Disbursements from the fund shall be made only upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the officer.

18-6A-4. Administration; regulatory authority

- A. The officer shall administer the provisions of the Cultural Properties Protection Act [18-6A-1 NMSA 1978] and shall adopt rules, regulations and criteria for reviewing and awarding grants as necessary to carry out the provisions of that act.
- B. Rules and regulations shall include:
 1. the method to be used to determine the eligibility of a state agency to receive grants from the fund;
 2. a procedure for application, approval and rejection of grant proposals;
 3. a requirement that an interpretation, restoration, preservation, stabilization or protection project be undertaken in accordance with specifications approved by the officer; and
 4. a requirement that a cultural property assisted by a grant be preserved and protected for a specified period of time, but in no case less than ten years.
- C. Criteria for reviewing and awarding grants shall include the:
 1. degree of physical damage or deterioration of the cultural property;
 2. special status of the cultural property, including whether the property is listed on a national, state, or local register of historic places; and
 3. suitability of the cultural property for interpretation.
- D. At least annually, the officer, in consultation with the committee and with the approval of the officials having jurisdiction over cultural properties being considered, shall select:
 1. cultural properties to be restored, preserved, stabilized, and protected; and
 2. programs for interpretation.
- E. The officer may contract with state agencies, architectural and engineering firms, private nonprofit organizations or individuals for interpretation, restoration, preservation, stabilization, and protection.

18-6A-5. Professional surveys.

The officer shall, in cooperation with the heads of state agencies, establish a system of professional surveys of cultural properties on state lands. State agencies shall cooperate with the officer and exercise due caution to ensure that cultural properties are not inadvertently damaged or destroyed.

18-6A-6. Joint powers agreement.

As authorized by the Joint Powers Agreements Act [11-1-1 NMSA 1978], any state agency may enter into a joint powers agreement with the division to effect the purposes of the Cultural Properties Protection Act [18-6A-1 NMSA 1978].

**STATE OF NEW MEXICO OFFICE OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION**

**TITLE4 CULTURAL RESOURCES
CHAPTER 10 CULTURAL PROPERTIES AND HISTORIC PRESERVATION
PART 13 AWARDING OF GRANTS FROM THE CULTURAL PROPERTIES RESTORATION FUND**

4.10.13.1 ISSUING AGENCY: Office of Cultural Affairs, State Historic Preservation Division. [11/15/97; 4.10.13.1 NMAC - Rn, 4 NMAC 10.13.1, 1/1/08]

4.10.13.2 SCOPE: State agencies that own or administer cultural properties may receive grants from the Cultural Properties Restoration Fund according to the procedures and criteria established in this regulation. [11/15/97; 4.10.13.2 NMAC - Rn, 4 NMAC 10.13.2, 1/1/08]

4.10.13.3 STATUTORY AUTHORITY: This regulation is created pursuant to the Cultural Properties Protection Act, NMSA 1978 Sections 18-6A-1 through 18-6A-6, which requires the state historic preservation officer to issue regulations and criteria for reviewing and awarding grants as necessary for carrying out the provisions of the act. [11/23/94; 4.10.13.3 NMAC - Rn, 4 NMAC 10.13.3, 1/1/08]

4.10.13.4 DURATION: Permanent. [11/15/97; 4.10.13.4 NMAC - Rn, 4 NMAC 10.13.4, 1/1/08]

4.10.13.5 EFFECTIVE DATE: 11/23/94, unless a later date is cited at the end of a section or paragraph. Reformatted in NMAC format effective 11/15/97. [11/15/97; 4.10.13.5 NMAC - Rn, 4 NMAC 10.13.5, 1/1/08] [Note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

4.10.13.6 OBJECTIVE: The purpose of this regulation is to establish a procedure to provide grants from the cultural properties restoration fund, when funds are available, for interpretation, restoration, preservation, stabilization, and protection of cultural properties that are state properties. [11/23/94; 4.10.13.6 NMAC - Rn, 4 NMAC 10.13.6, 1/1/08]

4.10.13.7 DEFINITIONS:

- A. "Committee" means the cultural properties review committee as created in Section 18-6-5 NMSA 1978.
- B. "Cultural property" means a structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance.
- C. "Division" means the historic preservation division of the office of cultural affairs.
- D. "Fund" means the cultural properties restoration fund.
- E. "Interpretation" means the inventory, registration, mapping and/or analysis of cultural properties and public educational programs designed to prevent the loss of cultural properties.
- F. "Officer" means the state historic preservation officer.
- G. "Preservation" means sustaining the existing form, integrity, and material of a cultural property or the existing form and vegetative cover of a cultural property, and may include protective maintenance or stabilization where necessary in the case of archaeological sites.
- H. "Professional survey" means an archaeological or architectural survey.
- I. "Protection" means safeguarding the physical condition or environment of cultural property from deterioration or damage caused by weather or other natural, animal or human intrusions.
- J. "Reconstruction" means depicting by means of new construction the form, features, and details of a non-surviving site, landscape, building, structure or object for the purposes of replicating its historic appearance.
- K. "Restoration" means recovering the general historic appearance of a cultural property or the form and details of an object or structure by removing incompatible natural or human-caused accretions and

replacing missing elements as appropriate.

- L. "Stabilization" means reestablishing the structural stability or weather-resistant failure.
- M. "State agency" means a department, agency, institution or political subdivision of the state.
- N. "State land" means property owned, controlled or operated by a state

agency. [11/23/94; 4.10.13.7 NMAC - Rn, 4 NMAC 10.13.7, 1/1/08]

4.10.13.8 METHOD TO DETERMINE ELIGIBILITY TO RECEIVE GRANT FUNDS: In order to receive a grant from the fund, an applicant must be a state agency, own or administer a cultural property that is state property, and have a demonstrated ability to administer grants. [11/23/94; 4.10.13.8 NMAC - Rn, 4 NMAC 10.13.8, 1/1/08]

4.10.13.9 PROCEDURE FOR APPLICATION, APPROVAL, AND REJECTION OF GRANT PROPOSALS: At least once during each state fiscal year, if funds are available, the officer shall notify state agencies of the opportunity to submit proposals for grants from the fund. This notification shall contain information about the date that proposals must be submitted, the format, and the required content. The officer may also solicit proposals on an emergency basis for threatened cultural properties. Proposals will be evaluated by the staff of the division and the committee following the criteria for reviewing and awarding grants as described below. [11/23/94; 4.10.13.9 NMAC - Rn, 4 NMAC 10.13.9, 1/1/08]

4.10.13.10 CRITERIA FOR REVIEWING AND AWARDING GRANTS: The staff of the division and the committee shall review and award grants based on the following criteria:

- A. the demonstrated degree of physical damage or deterioration of the cultural property and demonstrable threats to the stability of the property;
- B. special status of the cultural property, including whether the property is listed on the national, state, or a local register of historic places and the rarity or uniqueness for the property;
- C. suitability of the property for interpretation;
- D. compliance of the proposed grant project with applicable professional standards for interpretation, preservation, or stabilization;
- E. comprehensiveness of the interpretation, restoration, preservation, stabilization or protection plan;
- F. availability of matching funds;
- G. availability of appropriate professional expertise for overseeing a restoration, interpretation, preservation, stabilization, or protection program for a cultural property;
- H. viable provisions for long-term preservation, protection and management of the grant-assisted cultural property, including provisions that the property shall be preserved and protected for no less than 10 years

[11/23/94; 4.10.13.10 NMAC - Rn, 4 NMAC 10.13.10, 1/1/08]

4.10.13.11 ADMINISTRATION OF GRANTS: When the division and the committee award a grant for restoration, interpretation, preservation, stabilization or protection of a cultural property, the grant shall be administered under the terms of a joint powers agreement (JPA) between the division and the state agency having jurisdiction over the cultural property. The JPA will specify the nature of the work to be done, payment schedule, reporting requirements, long-term preservation and protection measures, and other requirements of the grant. [11/23/94; 4.10.13.11 NMAC - Rn, 4 NMAC 10.13.11, 1/1/08]

4.10.13.12 PROHIBITIONS: The division and the committee shall not award grants from the fund for the purpose of reconstruction of cultural properties. [11/23/94; 4.10.13.12 NMAC - Rn, 4 NMAC 10.13.12, 1/1/08]

HISTORY OF 4.10.13 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records, state records center and archives under: HPD Rule 94-1, Regulations for the Awarding of Grants from the Cultural Properties Restoration Fund, filed 11/23/94.

History of Repealed Material: [RESERVED]

Other History: HPD Rule 94-1, Regulations for the Awarding of Grants from the Cultural Properties Restoration Fund (filed 11/23/94) was renumbered, reformatted and replaced by 4 NMAC 10.13, Awarding of Grants from the Cultural Properties Restoration Fund, effective 11/15/97.

4 NMAC 10.13, Awarding of Grants from the Cultural Properties Restoration Fund (filed 11/03/97) renumbered, reformatted and replaced by 4.10.13 NMAC, Awarding of Grants from the Cultural Properties Restoration Fund, effective 1/1/08.