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SENATE BILL 404

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Pat Woods

AN ACT

RELATING TO PUBLIC LANDS; CREATING THE TRANSFER OF PUBLIC LANDS ACT; DEFINING PUBLIC LANDS TO BE TRANSFERRED FROM THE FEDERAL GOVERNMENT TO THE STATE; DEVELOPING A MECHANISM FOR THE TRANSFER OF FEDERAL PUBLIC LANDS TO THE STATE; CREATING THE PUBLIC LANDS TRANSFER TASK FORCE.

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

SECTION 1. SHORT TITLE.--This act may be cited as the "Transfer of Public Lands Act".

SECTION 2. DEFINITIONS.--As used in the Transfer of Public Lands Act:

A. "public lands" means lands within the exterior boundaries of this state except:

(1) lands to which title is held by a person who is not a governmental entity;

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1 (2) lands owned or held in trust by this
2 state, a political subdivision of this state or an independent
3 entity;

4 (3) lands reserved for use by the state for
5 education and internal improvements, as described in the
6 provisions of the Enabling Act for New Mexico;

7 (4) lands within the exterior boundaries as of
8 January 1, 2013 of the following that are designated as
9 national parks or national historical parks:

10 (a) Carlsbad caverns national park;

11 (b) Chaco culture national historical
12 park; and

13 (c) Pecos national historical park;

14 (5) lands within the exterior boundaries as of
15 January 1, 2013 of the following national monuments managed by
16 the national park service as of January 1, 2013:

17 (a) Aztec ruins national monument;

18 (b) Bandelier national monument;

19 (c) Capulin volcano national monument;

20 (d) El Malpais national monument;

21 (e) El Morro national monument;

22 (f) Fort Union national monument;

23 (g) Gila cliff dwellings national
24 monument;

25 (h) Kasha-Katuwe tent rocks national

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1 monument;

2 (i) Petroglyph national monument;

3 (j) Prehistoric trackways national
4 monument;

5 (k) Salinas Pueblo missions national
6 monument; and

7 (l) White Sands national monument;

8 (6) lands within the exterior boundaries as of
9 January 1, 2013 of the following wilderness areas located in
10 the state that, as of January 1, 2013, are designated as part
11 of the national wilderness preservation system under the
12 federal Wilderness Act of 1964:

13 (a) Aldo Leopold wilderness;

14 (b) Apache kid wilderness;

15 (c) Bandelier wilderness;

16 (d) Bisti/De-Na-Zin wilderness;

17 (e) Blue range wilderness;

18 (f) Bosque del Apache wilderness;

19 (g) Capitan mountains wilderness;

20 (h) Carlsbad caverns wilderness;

21 (i) Cebolla wilderness;

22 (j) Chama river canyon wilderness;

23 (k) Cruces basin wilderness;

24 (l) Dome wilderness;

25 (m) Gila wilderness;

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- 1 (n) Latir peak wilderness;
- 2 (o) Manzano mountain wilderness;
- 3 (p) Ojito wilderness;
- 4 (q) Pecos wilderness;
- 5 (r) Sabinoso wilderness;
- 6 (s) Salt creek wilderness;
- 7 (t) San Pedro parks wilderness;
- 8 (u) Sandia mountain wilderness;
- 9 (v) West Malpais wilderness;
- 10 (w) Wheeler peak wilderness;
- 11 (x) White mountain wilderness; and
- 12 (y) Withington wilderness;

13 (7) lands with respect to which the
14 jurisdiction is ceded to the United States as provided in
15 Sections 19-2-6 through 19-2-9 and 19-2-11 NMSA 1978 or under
16 Clause 17 of Section 8 of Article I of the United States
17 constitution;

18 (8) real property or tangible personal
19 property owned by the United States if the property is within
20 the boundaries of a municipality; or

21 (9) lands, including water rights, belonging
22 to an Indian nation, tribe, pueblo, band or community that is
23 held in trust by the United States or is subject to a
24 restriction against alienation imposed by the United States;

25 B. "task force" means the public lands transfer

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1 task force; and

2 C. "net proceeds" means the proceeds from the sale
3 of public lands, after subtracting expenses incident to the
4 sale of the public lands.

5 SECTION 3. LAND GRANTS.--Nothing in the Transfer of
6 Public Lands Act shall be construed as to prejudice or
7 adversely affect any rights, claims or privileges of New
8 Mexico's historic land grants.

9 SECTION 4. TRANSFER OF PUBLIC LANDS.--

10 A. On or before December 31, 2015, the United
11 States shall:

- 12 (1) extinguish title to public lands; and
13 (2) transfer title to public lands to the
14 state.

15 B. If the state transfers title to any public lands
16 with respect to which the state receives title under Paragraph
17 (2) of Subsection A of this section, the state shall:

- 18 (1) retain five percent of the net proceeds
19 the state receives from the transfer of title; and
20 (2) pay ninety-five percent of the net
21 proceeds the state receives from the transfer of title to the
22 United States.

23 C. In accordance with Article 12, Section 2 of the
24 constitution of New Mexico, the amounts the state retains in
25 accordance with Paragraph (1) of Subsection B of this section

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1 shall be deposited into the permanent school fund.

2 SECTION 5. PUBLIC LANDS TRANSFER TASK FORCE.--

3 A. The "public lands transfer task force" is
4 created. The task force shall be composed of the following
5 members:

6 (1) four members of the legislature, two from
7 each chamber, appointed by the speaker of the house of
8 representatives and the president pro tempore of the senate;

9 (2) the commissioner of public lands or the
10 commissioner's designee;

11 (3) the secretary of energy, minerals and
12 natural resources or the secretary's designee;

13 (4) the state forester or the state forester's
14 designee;

15 (5) the director of the state parks division
16 of the energy, minerals and natural resources department or the
17 director's designee;

18 (6) the secretary of general services or the
19 secretary's designee;

20 (7) the state treasurer or the state
21 treasurer's designee;

22 (8) the secretary of transportation or the
23 secretary's designee;

24 (9) the secretary of cultural affairs or the
25 secretary's designee;

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1 (10) the secretary of finance and
2 administration or the secretary's designee;

3 (11) the secretary of Indian affairs or the
4 secretary's designee;

5 (12) the president of the land grant council
6 or the president's designee; and

7 (13) the executive director of the New Mexico
8 association of counties or the executive director's designee.

9 B. The co-chairs of the task force shall be the
10 commissioner of public lands or the commissioner's designee,
11 and the secretary of energy, minerals and natural resources or
12 the secretary's designee.

13 C. The legislative council service, the state land
14 office and the energy, minerals and natural resources
15 department shall provide staff for the task force.

16 D. The task force shall hold its first meeting on
17 or before July 1, 2013, shall meet regularly and shall report
18 annually to the legislature with an update on the progress the
19 task force has made concerning facilitating the transfer of
20 public lands to the state. Staff for the task force shall meet
21 before the first meeting of the task force to prepare for that
22 meeting.

23 E. The task force shall report at least one time
24 during the interim to the legislative finance committee and to
25 any interim committee created by the New Mexico legislative

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1 council to consider Native American affairs, land grant issues,
2 water and natural resources or economic and rural development.
3 The task force shall promptly agree to any request for a report
4 to any other interim legislative committee that desires an
5 update on its work.

6 F. The task force shall take testimony from
7 representatives of a wide spectrum of groups, including
8 environmental organizations, farmers, hunting and fishing
9 organizations, ranchers and outdoor sporting organizations,
10 before proposing any legislation.

11 G. During the 2013 interim, the task force shall
12 prepare proposed legislation:

13 (1) creating a public lands commission to:

14 (a) administer the transfer of title of
15 public lands to the state; and

16 (b) address the management of public
17 lands and the management of multiple uses of public lands,
18 including addressing managing open spaces, access to public
19 lands, local planning and the sustainable yield of natural
20 resources on public lands;

21 (2) establishing actions that shall be taken
22 to secure, preserve and protect the state's rights and benefits
23 related to the United States' duty to have extinguished title
24 to public lands, in the event that the United States does not
25 meet the requirements of the Transfer of Public Lands Act;

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1 (3) making any necessary modifications to the
2 definition of "public lands" in the Transfer of Public Lands
3 Act, including any necessary modifications to the list provided
4 in Paragraphs (4) through (6) of Subsection A of Section 2 of
5 the Transfer of Public Lands Act;

6 (4) making a determination of or a process for
7 determining interests, rights or uses related to:

- 8 (a) easements;
- 9 (b) geothermal resources;
- 10 (c) grazing;
- 11 (d) land grants;
- 12 (e) mining;
- 13 (f) natural gas;
- 14 (g) oil;
- 15 (h) recreation;
- 16 (i) rights of entry;
- 17 (j) special uses;
- 18 (k) timber;
- 19 (l) water; or
- 20 (m) other natural resources or other
21 resources; and

22 (5) determining what constitutes "expenses
23 incident to the sale of public lands" described in Subsection C
24 of Section 2 of the Transfer of Public Lands Act.

25 H. During the 2013 interim, the task force shall

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1 study and determine whether to prepare proposed legislation:

2 (1) administering the process for:

3 (a) the United States to extinguish
4 title to public lands;

5 (b) the state to receive title to public
6 lands from the United States; or

7 (c) the state to transfer title to any
8 public lands the state receives in accordance with the Transfer
9 of Public Lands Act;

10 (2) establishing a prioritized list of
11 management actions for the state and the political subdivisions
12 of the state to perform on public lands:

13 (a) before and after the United States
14 extinguishes title to public lands; and

15 (b) to preserve and promote the state's
16 interest in: 1) protecting public health and safety; 2)
17 preventing catastrophic wildfire and forest insect infestation;
18 3) preserving watersheds; 4) preserving and enhancing energy
19 and the production of minerals; 5) preserving and improving
20 range conditions; and 6) increasing plant diversity and
21 reducing invasive weeds on range and woodland portions of the
22 public lands;

23 (3) establishing procedures and requirements
24 for subjecting public lands to property taxation;

25 (4) establishing other requirements related to

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1 national forests, national recreation areas or other public
2 lands administered by the United States; and

3 (5) addressing the indemnification of a
4 political subdivision of the state for actions taken in
5 furtherance of the Transfer of Public Lands Act.

6 I. The task force may study any other issue related
7 to public lands as determined by the task force.

8 SECTION 6. TEMPORARY PROVISION.--The public lands
9 transfer task force is terminated on July 1, 2016.

10 SECTION 7. SEVERABILITY.--If any part or application of
11 the Transfer of Public Lands Act is held invalid, the remainder
12 or its application to other situations or persons shall not be
13 affected.

14 SECTION 8. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2013.