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SENATE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

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; DEVELOPING A PROCESS FOR THE TRANSFER OF PUBLIC LANDS FROM THE STATE TO LAND GRANTS.

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

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

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Transfer of Public Lands Act:

A. "net proceeds" means the proceeds from the sale of public lands, after subtracting expenses incident to the sale of the public lands;

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1           B. "public lands" means lands within the exterior  
2 boundaries of this state except:

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

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

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

11                   (4) lands within the exterior boundaries as of  
12 January 1, 2019 of the following that are designated as  
13 national parks or national historical parks:

14                           (a) Carlsbad Caverns national park;

15                           (b) Chaco Culture national historical  
16 park; and

17                           (c) Pecos national historical park;

18                   (5) lands within the exterior boundaries as of  
19 January 1, 2019 of the following national monuments managed by  
20 the national park service or the federal bureau of land  
21 management as of January 1, 2019:

22                           (a) Aztec Ruins national monument;

23                           (b) Bandelier national monument;

24                           (c) Capulin Volcano national monument;

25                           (d) El Malpais national monument;

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- 1 (e) El Morro national monument;  
2 (f) Fort Union national monument;  
3 (g) Gila Cliff Dwellings national  
4 monument;  
5 (h) Kasha-Katuwe Tent Rocks national  
6 monument;  
7 (i) Organ Mountains-Desert Peaks  
8 national monument;  
9 (j) Petroglyph national monument;  
10 (k) Prehistoric Trackways national  
11 monument;  
12 (l) Rio Grande del Norte national  
13 monument;  
14 (m) Salinas Pueblo Missions national  
15 monument; and  
16 (n) White Sands national monument;  
17 (6) lands within the exterior boundaries as of  
18 January 1, 2019 of the following wilderness areas located in  
19 the state that, as of January 1, 2019, are designated as part  
20 of the national wilderness preservation system under the  
21 federal Wilderness Act:  
22 (a) Aldo Leopold wilderness;  
23 (b) Apache Kid wilderness;  
24 (c) Bandelier wilderness;  
25 (d) Bisti/De-Na-Zin wilderness;

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- 1 (e) Blue Range wilderness;
- 2 (f) Bosque del Apache wilderness;
- 3 (g) Capitan Mountains wilderness;
- 4 (h) Carlsbad Caverns wilderness;
- 5 (i) Cebolla wilderness;
- 6 (j) Chama River Canyon wilderness;
- 7 (k) Cruces Basin wilderness;
- 8 (l) Dome wilderness;
- 9 (m) Gila wilderness;
- 10 (n) Latir Peak wilderness;
- 11 (o) Manzano Mountain wilderness;
- 12 (p) Ojito wilderness;
- 13 (q) Pecos wilderness;
- 14 (r) Sabinoso wilderness;
- 15 (s) Salt Creek wilderness;
- 16 (t) San Pedro Parks wilderness;
- 17 (u) Sandia Mountain wilderness;
- 18 (v) West Malpais wilderness;
- 19 (w) Wheeler Peak wilderness;
- 20 (x) White Mountain wilderness; and
- 21 (y) Withington wilderness;

22 (7) lands with respect to which the  
23 jurisdiction is ceded to the United States as provided in  
24 Sections 19-2-6 through 19-2-9 and 19-2-11 NMSA 1978 or under  
25 Clause 17 of Section 8 of Article 1 of the United States

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1 constitution;

2 (8) real property or tangible personal  
3 property owned by the United States if the property is within  
4 the boundaries of a municipality; or

5 (9) lands, including water rights, belonging  
6 to an Indian nation, tribe, pueblo, band or community that are  
7 held in trust by the United States or are subject to a  
8 restriction against alienation imposed by the United States;

9 C. "task force" means the public lands transfer  
10 task force; and

11 D. "treaty of Guadalupe Hidalgo" means the Treaty  
12 of Peace, Friendship, Limits and Settlement between the United  
13 States of America and the Republic of Mexico signed February 2,  
14 1848.

15 SECTION 3. [NEW MATERIAL] TRANSFER OF PUBLIC LANDS.--

16 A. On or before December 31, 2021, the United  
17 States shall:

18 (1) extinguish title to public lands; and

19 (2) transfer title to public lands to the  
20 state.

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

24 (1) retain five percent of the net proceeds  
25 the state receives from the transfer of title; and

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1                   (2) pay ninety-five percent of the net  
2 proceeds the state receives from the transfer of title to the  
3 United States.

4                   C. In accordance with Article 12, Section 2 of the  
5 constitution of New Mexico, the amounts the state retains in  
6 accordance with Paragraph (1) of Subsection B of this section  
7 shall be deposited into the permanent school fund.

8                   SECTION 4. [NEW MATERIAL] PUBLIC LANDS TRANSFER TASK  
9 FORCE.--

10                   A. The "public lands transfer task force" is  
11 created. The task force shall be composed of the following  
12 members:

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

16                   (2) the commissioner of public lands or the  
17 commissioner's designee;

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

20                   (4) the state forester or the state forester's  
21 designee;

22                   (5) the director of the state parks division  
23 of the energy, minerals and natural resources department or the  
24 director's designee;

25                   (6) the secretary of general services or the

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1 secretary's designee;

2 (7) the state treasurer or the state  
3 treasurer's designee;

4 (8) the secretary of transportation or the  
5 secretary's designee;

6 (9) the secretary of cultural affairs or the  
7 secretary's designee;

8 (10) the secretary of finance and  
9 administration or the secretary's designee;

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

12 (12) the chair of the land grant council or  
13 the chair's designee; and

14 (13) the executive director of New Mexico  
15 counties or the executive director's designee.

16 B. The co-chairs of the task force shall be the  
17 commissioner of public lands or the commissioner's designee and  
18 the secretary of energy, minerals and natural resources or the  
19 secretary's designee.

20 C. The legislative council service, the state land  
21 office and the energy, minerals and natural resources  
22 department shall provide staff for the task force.

23 D. The task force shall hold its first meeting on  
24 or before October 1, 2019, shall meet regularly and shall  
25 report annually to the legislature with an update on the

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1 progress the task force has made concerning facilitating the  
2 transfer of public lands to the state. Staff for the task  
3 force shall meet before the first meeting of the task force to  
4 prepare for that meeting.

5 E. The task force shall report at least one time  
6 during the interim to the legislative finance committee and to  
7 any interim committee created by the New Mexico legislative  
8 council to consider Native American affairs, land grant issues,  
9 water and natural resources or economic and rural development.  
10 The task force shall promptly agree to any request for a report  
11 to any other interim legislative committee that desires an  
12 update on its work.

13 F. The task force shall take testimony from  
14 representatives of a wide spectrum of groups, including  
15 environmental organizations, farmers, hunting and fishing  
16 organizations, ranchers and outdoor sporting organizations,  
17 before proposing any legislation.

18 G. During the 2019 interim, the task force shall  
19 prepare proposed legislation:

- 20 (1) creating a public lands commission to:
- 21 (a) administer the transfer of title of  
22 public lands to the state;
- 23 (b) address the management of public  
24 lands and the management of multiple uses of public lands,  
25 including addressing managing open spaces, access to public

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1 lands, local planning and the sustainable yield of natural  
2 resources on public lands;

3 (c) establish a Valles Caldera state  
4 preserve to manage the lands within the exterior boundaries of  
5 the Valles Caldera national preserve managed by the national  
6 park service as of January 1, 2019; and

7 (d) approve land claims submitted under  
8 Section 5 of the Transfer of Public Lands Act and manage the  
9 transfer of lands for approved claims;

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

15 (3) making any necessary modifications to the  
16 definition of "public lands" in the Transfer of Public Lands  
17 Act, including any necessary modifications to the lists  
18 provided in Paragraphs (4) through (6) of Subsection B of  
19 Section 2 of the Transfer of Public Lands Act;

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

- 22 (a) easements;
- 23 (b) geothermal resources;
- 24 (c) grazing;
- 25 (d) land grants;

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- 1 (e) mining;
- 2 (f) natural gas;
- 3 (g) oil;
- 4 (h) recreation;
- 5 (i) rights of entry;
- 6 (j) special uses;
- 7 (k) timber;
- 8 (l) water; or
- 9 (m) other natural resources or other
- 10 resources; and

11 (5) determining what constitutes "expenses  
12 incident to the sale of public lands" described in Subsection A  
13 of Section 2 of the Transfer of Public Lands Act.

14 H. During the 2019 interim, the task force shall  
15 study and determine whether to prepare proposed legislation:

- 16 (1) administering the process for:
  - 17 (a) the United States to extinguish
  - 18 title to public lands;
  - 19 (b) the state to receive title to public
  - 20 lands from the United States; or
  - 21 (c) the state to transfer title to any
  - 22 public lands the state receives in accordance with the Transfer
  - 23 of Public Lands Act;

24 (2) establishing a prioritized list of  
25 management actions for the state and the political subdivisions

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1 of the state to perform on public lands:

2 (a) before and after the United States  
3 extinguishes title to public lands; and

4 (b) to preserve and promote the state's  
5 interest in: 1) protecting public health and safety; 2)  
6 preventing catastrophic wildfire and forest insect infestation;  
7 3) preserving watersheds; 4) preserving and enhancing energy  
8 and the production of minerals; 5) preserving and improving  
9 range conditions; and 6) increasing plant diversity and  
10 reducing invasive weeds on range and woodland portions of the  
11 public lands;

12 (3) establishing procedures and requirements  
13 for subjecting public lands to property taxation;

14 (4) establishing other requirements related to  
15 national forests, national recreation areas or other public  
16 lands administered by the United States; and

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

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

22 SECTION 5. [NEW MATERIAL] LAND GRANTS--SUBMISSION AND  
23 EXAMINATION OF PETITIONS--REPORT.--

24 A. Within two years of the enactment of the  
25 Transfer of Public Lands Act, any entity that is managed as a

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1 land grant under Chapter 49 NMSA 1978 and wishes to receive a  
2 transfer of public lands to reacquire its historic lands that  
3 were protected under the treaty of Guadalupe Hidalgo shall  
4 submit a petition to the land grant council.

5 B. A petition submitted under Subsection A of this  
6 section shall be signed by the officers of the entity, be  
7 notarized and contain the following:

8 (1) the names, titles and addresses of the  
9 officers of the entity submitting the petition;

10 (2) the date of the original grant of land to  
11 the entity from the government of Spain or the government of  
12 Mexico;

13 (3) the extent of the lands claimed, including  
14 any surveys or maps of the land; and

15 (4) all facts known by the petitioners  
16 concerning the claimed land, including copies of all relevant  
17 documents.

18 C. Beginning in August 2019, within the first week  
19 of each month through July 2021, the land grant council shall  
20 compile a list of the petitions made under this section and  
21 provide copies of each petition and supporting documents to the  
22 Guadalupe Hidalgo treaty division of the office of the attorney  
23 general and to the land grant studies program at the university  
24 of New Mexico.

25 D. The Guadalupe Hidalgo treaty division of the

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1 office of the attorney general and the land grant studies  
2 program at the university of New Mexico shall jointly:

3 (1) examine each petition submitted under this  
4 section and create a report evaluating each petition's strength  
5 of documentation and any recommendations for supplementation;  
6 and

7 (2) every six months beginning in January 2020  
8 and ending in January 2022, provide a report to the task force  
9 regarding the number of petitions reviewed, the number of acres  
10 claimed, the locations of the claimed lands and recommendations  
11 for approval of individual claims or recommendations for a  
12 general approval process for claims.

13 SECTION 6. TEMPORARY PROVISION.--The public lands  
14 transfer task force is terminated on July 1, 2022.

15 SECTION 7. SEVERABILITY.--If any part or application of  
16 the Transfer of Public Lands Act is held invalid, the remainder  
17 or its application to other situations or persons shall not be  
18 affected.

19 SECTION 8. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2019.