

1 HOUSE BILL 258

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO EXECUTIVE ORGANIZATION; MOVING THE STATE PARKS  
12 DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES  
13 DEPARTMENT TO THE TOURISM DEPARTMENT; TRANSFERRING FUNCTIONS,  
14 PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY, CONTRACTUAL  
15 OBLIGATIONS AND STATUTORY REFERENCES.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 9-5A-3 NMSA 1978 (being Laws 1987,  
19 Chapter 234, Section 3, as amended by Laws 1997, Chapter 137,  
20 Section 1 and also by Laws 1997, Chapter 149, Section 2) is  
21 amended to read:

22 "9-5A-3. DEPARTMENT ESTABLISHED.--

23 A. ~~[There is created in the executive branch]~~ The  
24 "energy, minerals and natural resources department" is created  
25 in the executive branch. The department shall be a cabinet

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1 department and shall include but not be limited to the  
2 following organizational units:

- 3 (1) the administrative services division;  
4 [~~(2)~~ the state parks division;  
5 ~~(3)~~] (2) the forestry division;  
6 [~~(4)~~] (3) the energy conservation and  
7 management division;  
8 [~~(5)~~] (4) the mining and minerals division;  
9 and  
10 [~~(6)~~] (5) the oil conservation division.

11 B. The state game commission is administratively  
12 attached to the department."

13 SECTION 2. Section 9-5A-4 NMSA 1978 (being Laws 1987,  
14 Chapter 234, Section 4, as amended by Laws 2016, Chapter 71,  
15 Section 12 and by Laws 2016, Chapter 78, Section 12) is amended  
16 to read:

17 "9-5A-4. DIVISIONS--DUTIES.--In addition to the duties  
18 assigned to each division of the energy, minerals and natural  
19 resources department by the secretary of energy, minerals and  
20 natural resources:

21 A. the administrative services division shall  
22 provide clerical, recordkeeping and administrative support to  
23 the department in the areas of personnel, budget, procurement  
24 and contracting;

25 B. the energy conservation and management division

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1 shall plan, administer, review, provide technical assistance,  
2 maintain records, monitor state and federal energy conservation  
3 and alternative energy technology programs and administer laws  
4 and regulations relating to geothermal resources;

5 C. the forestry division shall enforce and  
6 administer laws and regulations relating to forestry on lands  
7 within the state;

8 D. the mining and minerals division shall enforce  
9 and administer laws and regulations relating to mine safety,  
10 coal surface mine reclamation and abandoned mine lands  
11 reclamation; and

12 E. the oil conservation division shall administer  
13 laws and regulations relating to oil and gas resources, except  
14 those laws specifically administered by another authority [and

15 ~~F. the state parks division shall develop,  
16 maintain, manage and supervise all state parks and state-owned  
17 or state-leased recreation areas]."~~

18 SECTION 3. Section 9-15A-3 NMSA 1978 (being Laws 1991,  
19 Chapter 21, Section 3, as amended by Laws 2007, Chapter 286,  
20 Section 1 and by Laws 2007, Chapter 287, Section 1) is amended  
21 to read:

22 "9-15A-3. DEPARTMENT ESTABLISHED.--The "tourism  
23 department" is created in the executive branch. The department  
24 shall be a cabinet department and shall consist of, but not be  
25 limited to, [~~six~~] seven divisions as follows:

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- 1           A. the promotion division;
- 2           B. the New Mexico magazine division;
- 3           C. the sports authority division;
- 4           D. the tourism development division;
- 5           E. the marketing division; ~~and~~
- 6           F. the state parks division; and
- 7           ~~[F.]~~ G. the administrative services division."

8           SECTION 4. Section 9-5A-6.1 NMSA 1978 (being Laws 1997,  
9 Chapter 149, Section 3) is recompiled in the Tourism Department  
10 Act and is amended to read:

11           "STATE PARKS DIVISION--DESIGNATION--DUTY.--

12           A. As used in the NMSA 1978, "state park and  
13 recreation division" means the state parks division of the  
14 ~~[energy, minerals and natural resources]~~ tourism department.

15           B. The state parks division shall develop,  
16 maintain, manage and supervise all state parks and state-owned  
17 or state-leased recreation areas."

18           SECTION 5. Section 9-5C-1 NMSA 1978 (being Laws 2015,  
19 Chapter 20, Section 1) is amended to read:

20           "9-5C-1. RIO GRANDE TRAIL COMMISSION CREATED--  
21 MEMBERSHIP--FUND CREATED--ENERGY, MINERALS AND NATURAL  
22 RESOURCES DEPARTMENT.--

23           A. The "Rio Grande trail commission" is created to  
24 establish the Rio Grande trail to run the length of the state  
25 from Colorado to Texas. The Rio Grande trail shall be a

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1 recreation trail for New Mexico residents and visitors to enjoy  
2 the natural beauty of New Mexico and the Rio Grande and learn  
3 about the culture and history of New Mexico. The trail shall  
4 be established in a manner that seeks to minimize environmental  
5 impacts and preserve sensitive habitat. The commission shall  
6 define and recommend viable path routes of the Rio Grande  
7 trail, mitigate challenges related to its establishment and  
8 define and recommend other features, facilities and  
9 enhancements needed on the trail. The commission shall also  
10 make recommendations to the legislature as needed and report  
11 annually to the governor and the appropriate interim committees  
12 that deal with water and natural resources and rural and  
13 economic development. The commission shall consist of members  
14 appointed by the secretary of energy, minerals and natural  
15 resources and shall include:

- 16 (1) the secretary of energy, minerals and  
17 natural resources or the secretary's designee;
- 18 (2) the secretary of economic development or  
19 the secretary's designee;
- 20 (3) the secretary of Indian affairs or the  
21 secretary's designee;
- 22 (4) the secretary of transportation or the  
23 secretary's designee;
- 24 (5) the secretary of tourism or the  
25 secretary's designee;

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1 (6) a representative from each of the  
2 following:

3 (a) an organization with trail  
4 management experience;

5 (b) the state parks division of the  
6 [~~energy, minerals and natural resources~~] tourism department;

7 (c) an organization that specializes in  
8 river ecology and conservation, with specific experience in the  
9 stated area of the organization's expertise; and

10 (d) an organization that specializes in  
11 bird ecology and conservation, with specific experience in the  
12 stated area of the organization's expertise; and

13 (7) two members of the public interested in  
14 the Rio Grande trail development.

15 B. The secretary shall appoint the chair from among  
16 the members of the commission and invite federal entities to be  
17 a part of the commission as non-voting members, including the:

18 (1) bureau of land management;

19 (2) bureau of reclamation;

20 (3) international boundary and water  
21 commission;

22 (4) national park service;

23 (5) United States army corps of engineers;

24 (6) United States fish and wildlife service;

25 (7) United States forest service; and

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1 (8) [~~the~~] offices of the New Mexico  
2 congressional delegation.

3 C. The commission shall collaborate and cooperate  
4 with the national park service's historic trails project for  
5 the El Camino Real historic trail from Mexico to northern New  
6 Mexico when appropriate.

7 D. The commission shall be administratively  
8 attached to and staffed by the energy, minerals and natural  
9 resources department. Members of the commission are entitled  
10 to per diem and mileage as provided in the Per Diem and Mileage  
11 Act and shall receive no other compensation, perquisite or  
12 allowance, contingent upon money being available for this  
13 purpose.

14 E. The commission shall:

15 (1) meet at least three times annually;  
16 (2) define and recommend viable path routes of  
17 the Rio Grande trail that shall be contiguous where possible  
18 and include only land that is expressly authorized by the  
19 owner, including Indian nations, tribes or pueblos, for  
20 inclusion in the Rio Grande trail and not to be acquired by  
21 eminent domain;

22 (3) mitigate challenges related to the Rio  
23 Grande trail's establishment, including facilitating  
24 negotiations and discussions with landowners and jurisdictions  
25 surrounding the Rio Grande;

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1 (4) define and recommend other features,  
2 facilities and enhancements needed on the Rio Grande trail;

3 (5) identify appropriate opportunities for  
4 river recreation along the trail;

5 (6) establish a Rio Grande trail commission  
6 ~~[web site]~~ website to publish meeting notices, meeting minutes,  
7 commission trail recommendations and other appropriate  
8 materials;

9 (7) ensure that any recommended designation,  
10 construction and use of the trail will minimize environmental  
11 impacts;

12 (8) endeavor to avoid areas of significant  
13 habitat value and ensure that any recommended designation,  
14 design, construction or use of the trail will minimize the  
15 impact on habitat;

16 (9) consider the impacts on private and  
17 commercial interests;

18 (10) make recommendations to the legislature  
19 as needed;

20 (11) prepare and report annually to the  
21 governor and the appropriate interim legislative committees  
22 related to water and natural resources and economic  
23 development;

24 (12) consult with representatives of the  
25 following regarding issues within their jurisdiction in

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1 development of the Rio Grande trail:

2 (a) each of the conservancy or  
3 irrigation districts served by water in the Rio Grande;

4 (b) acequias adjoining the Rio Grande;

5 (c) counties adjoining the Rio Grande;

6 (d) land grants adjoining the Rio  
7 Grande;

8 (e) municipalities adjoining the Rio  
9 Grande; and

10 (f) Indian nations, tribes or pueblos  
11 adjoining the Rio Grande;

12 (13) actively engage the public in the  
13 planning process of the Rio Grande trail and display meeting  
14 notices, meeting minutes and official commission trail  
15 proposals on the Rio Grande trail commission's [~~web site~~]  
16 website;

17 (14) where feasible, develop multiple options  
18 of trail routing, construction design and potential  
19 enhancements;

20 (15) prior to making any final decisions  
21 regarding trail designation, design and construction, hold  
22 public meetings to solicit public input and allow for a written  
23 comment period;

24 (16) make a final recommendation based on all  
25 factors, including public comments and environmental impacts.

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1 In implementation of the Rio Grande trail, the secretary of  
2 energy, minerals and natural resources shall describe and  
3 publish any variance from commission recommendations on the  
4 commission's ~~[web site]~~ website;

5 (17) to the extent feasible, select existing  
6 trails for the route of the Rio Grande trail;

7 (18) to the extent feasible, in the case of  
8 non-motorized existing trails, avoid widening these trails;

9 (19) in the case of new trails on public  
10 lands, construct the trails for non-motorized use; provided,  
11 however, that such trails may, but are not required to, be open  
12 to power-driven mobility devices for individuals with mobility  
13 impairments; and

14 (20) to the extent possible, avoid  
15 introduction of non-native material on the trail.

16 F. Eminent domain shall not be used to establish or  
17 construct the Rio Grande trail or features, facilities or  
18 enhancements associated with the trail.

19 G. The "Rio Grande trail fund" is created in the  
20 state treasury. The fund consists of appropriations,  
21 donations, grants to the fund, income from investment of the  
22 fund and money otherwise accruing to the fund. Money in the  
23 fund shall not revert to any other fund at the end of a fiscal  
24 year. The energy, minerals and natural resources department  
25 shall administer the fund, and money in the fund is subject to

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1 appropriation by the legislature to the energy, minerals and  
2 natural resources department to develop, establish and support  
3 the Rio Grande trail. Money in the fund shall be disbursed on  
4 warrants signed by the secretary of finance and administration  
5 pursuant to vouchers signed by the secretary of energy,  
6 minerals and natural resources or the secretary's authorized  
7 representative."

8 SECTION 6. Section 7-1-6.38 NMSA 1978 (being Laws 1994,  
9 Chapter 145, Section 1, as amended) is amended to read:

10 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL GROSS RECEIPTS  
11 TAX.--

12 A. A distribution pursuant to Section 7-1-6.1 NMSA  
13 1978 shall be made in amounts equal to the following  
14 percentages of the net receipts attributable to the  
15 governmental gross receipts tax, less the net receipts  
16 attributable to a hospital licensed by the department of  
17 health:

18 (1) seventy-five percent to the public project  
19 revolving fund administered by the New Mexico finance  
20 authority;

21 (2) [~~twenty-four~~] ten percent to the energy,  
22 minerals and natural resources department [~~provided that forty-~~  
23 ~~one and two-thirds percent of the distribution is appropriated~~  
24 ~~to the energy, minerals and natural resources department~~] to  
25 implement the provisions of the New Mexico Youth Conservation

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1 Corps Act [~~and fifty-eight and one-third percent of the~~  
2 ~~distribution is appropriated to the energy, minerals and~~  
3 ~~natural resources~~];

4 (3) fourteen percent to the tourism department  
5 for state park and recreation area capital improvements,  
6 including the costs of planning, engineering, design,  
7 construction, renovation, repair, equipment and furnishings and  
8 including principal and interest payments on state park and  
9 recreation bonds; and

10 [~~3~~] (4) one percent to the cultural affairs  
11 department for capital improvements at state museums and  
12 monuments administered by the cultural affairs department.

13 B. The state pledges to and agrees with the holders  
14 of any bonds or notes issued by the New Mexico finance  
15 authority or by the energy, minerals and natural resources  
16 department prior to the effective date of this 2021 act for  
17 state park and recreation purposes or issued by the state parks  
18 division before or after the effective date of this 2021 act  
19 and payable from the net receipts attributable to the  
20 governmental gross receipts tax distributed to the New Mexico  
21 finance authority or the [~~energy, minerals and natural~~  
22 ~~resources~~] tourism department pursuant to this section that the  
23 state will not limit, reduce or alter the distribution of the  
24 net receipts attributable to the governmental gross receipts  
25 tax to the New Mexico finance authority or the [~~energy,~~

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1 ~~minerals and natural resources~~ tourism department or limit,  
2 reduce or alter the rate of imposition of the governmental  
3 gross receipts tax until the bonds or notes together with the  
4 interest [~~thereon~~] on the bonds or notes are fully met and  
5 discharged. The New Mexico finance authority and the [~~energy,~~  
6 ~~minerals and natural resources~~] tourism department are  
7 authorized to include this pledge and agreement of the state in  
8 any agreement with the holders of the bonds or notes."

9 SECTION 7. Section 7-1-6.49 NMSA 1978 (being Laws 2005,  
10 Chapter 87, Section 1, as amended) is amended to read:

11 "7-1-6.49. DISTRIBUTION--CONTRIBUTIONS TO THE STATE PARKS  
12 DIVISION.--A distribution pursuant to Section 7-1-6.1 NMSA 1978  
13 shall be made to the [~~energy, minerals and natural resources~~]  
14 tourism department in an amount equal to the money designated  
15 pursuant to Section 7-2-30.2 NMSA 1978 as contributions to the  
16 state parks division [~~of the energy, minerals and natural~~  
17 ~~resources department~~] for the kids in parks education program.  
18 The [~~energy, minerals and natural resources~~] tourism department  
19 shall remit the amount designated for the state parks division  
20 to the state parks division for expenditure for the kids in  
21 parks education program."

22 SECTION 8. Section 7-2-30.2 NMSA 1978 (being Laws 2005,  
23 Chapter 87, Section 2) is amended to read:

24 "7-2-30.2. OPTIONAL DESIGNATION OF TAX REFUND  
25 CONTRIBUTION--~~[ENERGY, MINERALS AND NATURAL RESOURCES]~~ TOURISM

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1 DEPARTMENT--STATE PARKS DIVISION.--

2 A. Except as otherwise provided in Subsection C of  
3 this section, an individual whose state income tax liability  
4 after application of allowable credits and tax rebates in a  
5 year is lower than the amount of money held by the department  
6 to the credit of such individual for that tax year may  
7 designate a portion of the income tax refund due to the  
8 individual to be paid to the state parks division of the  
9 [~~energy, minerals and natural resources~~] tourism department for  
10 the kids in parks education program. In the case of a joint  
11 return, both individuals must make such designation.

12 B. The department shall revise the state income tax  
13 form to allow the designation of such contributions in the  
14 following form:

15 "State Parks Division – Check if you wish to   
16 contribute a part or all of your tax refund  
17 to the state parks division of the [~~energy,~~  
18 ~~minerals and natural resources~~] tourism department  
19 for the kids in parks education program. Enter  
20 here \$\_\_\_\_\_ the amount of your contribution.".

21 C. The provisions of this section do not apply to  
22 income tax refunds subject to interception under the provisions  
23 of the Tax Refund Intercept Program Act, and any designation  
24 made under the provisions of this section to such refunds is  
25 void."

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1           SECTION 9. Section 16-2-2 NMSA 1978 (being Laws 1977,  
2 Chapter 254, Section 113, as amended) is amended to read:

3           "16-2-2. STATE PARKS ADVISORY BOARD CREATED--MEMBERSHIP--  
4 COMPENSATION--DUTIES.--

5           A. The "advisory board" to the state parks division  
6 of the [~~energy, minerals and natural resources~~] tourism  
7 department is created. It shall be composed of seven to eleven  
8 members appointed by the governor.

9           B. The advisory board shall provide advice and make  
10 recommendations relating to the administration of the state  
11 parks division. It shall advise on all matters of policy,  
12 [~~regulations~~] rules, the formulation of a comprehensive  
13 statewide recreation plan and such other matters as may be  
14 requested by the director of that division.

15           C. The advisory board shall meet quarterly or at  
16 the call of the [~~chairman~~] chair.

17           D. Each member of the advisory board shall annually  
18 elect a [~~chairman~~] chair and vice [~~chairman~~] chair from its  
19 membership. The director of the state parks division shall  
20 serve as the executive secretary of the board."

21           SECTION 10. Section 16-2-2.1 NMSA 1978 (being Laws 2005,  
22 Chapter 39, Section 1) is amended to read:

23           "16-2-2.1. STATE PARK VOLUNTEERS.--

24           A. The state parks division of the [~~energy,~~  
25 ~~minerals and natural resources~~] tourism department may develop

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1 a program to recruit, train and accept the services of  
2 volunteers who support programs administered by the division.  
3 Volunteers may provide services for or in aid of interpretive  
4 functions, visitor services, conservation measures and  
5 development or other activities in and related to state parks  
6 and other conservation and natural resource activities  
7 administered by the division. Volunteers shall comply with  
8 applicable rules and policies of the department and the  
9 division.

10 B. A volunteer shall not be deemed to be a state  
11 employee and shall not be subject to the provisions of law  
12 relating to state employment, including those relating to hours  
13 of work, rates of compensation, leave, unemployment  
14 compensation and state employee benefits.

15 C. A volunteer traveling at the request of the  
16 state parks division ~~[may]~~ is entitled to receive per diem and  
17 mileage pursuant to the Per Diem and Mileage Act as well as  
18 reimbursement for uniforms, supplies and equipment used for the  
19 volunteer's work at the park; provided that the director of the  
20 division shall not authorize any reimbursement in excess of the  
21 value of services rendered to the division by the volunteer.

22 D. A volunteer may use state vehicles in the  
23 performance of division-related duties subject to those rules  
24 governing use of state vehicles by paid staff. A volunteer  
25 performing work under the terms of this section and who

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1 operates a state vehicle shall be treated for the purposes of  
2 insurability and tort claims liability as an employee of the  
3 state.

4 E. A volunteer may use state computers in the  
5 performance of division-related duties, subject to those rules,  
6 policies and directives governing use of state computers by  
7 state employees."

8 SECTION 11. Section 16-2-3 NMSA 1978 (being Laws 1977,  
9 Chapter 254, Section 12, as amended) is amended to read:

10 "16-2-3. MEANING OF DESIGNATIONS.--Wherever in the laws  
11 of New Mexico, whether or not the statutes have been compiled  
12 in NMSA 1978, reference is made to the "state park and  
13 recreation commission" [~~or to the "commission"~~], the term shall  
14 mean the state [~~park and recreation division of the energy,~~  
15 ~~minerals and natural resources~~] parks division of the tourism  
16 department. As used in Chapter 16 NMSA 1978, "secretary" means  
17 the secretary of [~~energy, minerals and natural resources~~]  
18 tourism."

19 SECTION 12. Section 16-2-5 NMSA 1978 (being Laws 1935,  
20 Chapter 57, Section 4, as amended) is amended to read:

21 "16-2-5. DIRECTOR OF DIVISION--QUALIFICATIONS.--The  
22 director of the state [~~park and recreation~~] parks division of  
23 the [~~energy, minerals and natural resources~~] tourism department  
24 shall be qualified for that office if [~~he~~] the director has:

25 A. education and practical field experience in the

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1 field of parks and recreation; and

2 B. demonstrated administrative capabilities in  
3 parks management."

4 SECTION 13. Section 16-2-7.1 NMSA 1978 (being Laws 1999,  
5 Chapter 174, Section 2, as amended) is amended to read:

6 "16-2-7.1. FREE STATE PARK PASSES TO DISABLED VETERANS.--

7 A. The state parks division of the [~~energy,~~  
8 ~~minerals and natural resources~~] tourism department shall  
9 provide to a fifty percent or more disabled veteran residing in  
10 the state:

11 (1) one day-use pass for unlimited entry into  
12 state parks or recreation areas operated by the division; and

13 (2) one three-day camping pass per year for  
14 the use of camping areas operated by the division, whether for  
15 consecutive or nonconsecutive days.

16 B. Proof of disability satisfactory to the division  
17 is required to obtain the free passes."

18 SECTION 14. Section 16-2-9.1 NMSA 1978 (being Laws 2005,  
19 Chapter 174, Section 1) is amended to read:

20 "16-2-9.1. STATE PARK PASSES--VENDORS.--The director of  
21 the state parks division of the [~~energy, minerals and natural~~  
22 ~~resources~~] tourism department may authorize vendors to sell  
23 state park passes, permits and other state park products in  
24 compliance with rules adopted by the secretary. A vendor  
25 authorized to sell park passes, permits or other state park

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1 products may retain a portion of the sale price."

2 SECTION 15. Section 16-2-10 NMSA 1978 (being Laws 1935,  
3 Chapter 57, Section 10, as amended) is amended to read:

4 "16-2-10. SECRETARY AND EMPLOYEES PROHIBITED FROM HAVING  
5 INTEREST IN CONCESSIONS.--Neither the secretary nor any member  
6 of the [~~energy, minerals and natural resources~~] tourism  
7 department shall have any interest in, directly or indirectly,  
8 or in any manner be connected with any concession granted to  
9 any person within any state park or recreation area."

10 SECTION 16. Section 16-2-11 NMSA 1978 (being Laws 1935,  
11 Chapter 57, Section 11, as amended) is amended to read:

12 "16-2-11. ACQUISITION OF LANDS FOR PARK AND RECREATIONAL  
13 PURPOSES--CRITERIA.--

14 A. The state is authorized to acquire lands or  
15 interests in lands for state park or state recreational  
16 purposes by gift, donation, devise or purchase. Acquired lands  
17 or interests in lands shall be held for the use of the state to  
18 develop, maintain and operate them as state parks or state  
19 recreational areas. In acquiring real property or any interest  
20 in real property, the power of eminent domain shall not be  
21 used. The criteria for acquisition and development shall be  
22 those specified in Subsections B through G of this section.

23 B. Sites that may be designated as state parks or  
24 state recreational areas shall be only those:

25 (1) having a diversity of resources, including

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1 areas of scientific, aesthetic, geologic, natural or historic  
2 value;

3 (2) providing recreational opportunities  
4 significant enough to assure patronage from a region or  
5 preferably from the state as a whole; and

6 (3) conforming to the state comprehensive  
7 outdoor recreation plan.

8 C. Lands designated for acquisition or development  
9 as state parks or state recreational areas shall be those  
10 that:

11 (1) are adjacent to existing parks or  
12 recreational areas and are necessary for successful park or  
13 recreational area protection and development;

14 (2) help meet recreation and open space  
15 demands of metropolitan area residents by emphasizing park or  
16 recreational areas within easy access of population centers;

17 (3) preserve the most significant examples of  
18 New Mexico natural scenic landscape; or

19 (4) meet the pressure on primary vacation  
20 regions not adequately supplied with public recreation  
21 opportunities.

22 D. Lands that are acquired or developed as state  
23 parks or state recreational areas shall be managed and  
24 developed according to the following objectives:

25 (1) outdoor recreation shall be recognized as

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1 the dominant or primary resources management objective;

2 (2) physical development shall promote the  
3 outdoor recreation objective through the use of proper design,  
4 materials and construction to enhance and promote the use and  
5 enjoyment of the recreational resources in the area;

6 (3) within economical limits, state parks or  
7 state recreational facilities shall be landscaped and developed  
8 to achieve an environment that is aesthetically pleasing,  
9 ecologically functional and complementary to the native  
10 environment;

11 (4) use periods for parks or recreational  
12 facilities shall be extended by providing a variety of  
13 facilities that will attract visitors during all seasons of the  
14 year; and

15 (5) all significant historic structures  
16 contained in state parks or state recreational areas shall be,  
17 within economical limits, reconstructed, restored or stabilized  
18 to provide for continued user benefit.

19 E. Factors to be taken into consideration when  
20 lands are considered for acquisition or development as state  
21 parks or state recreational areas are:

22 (1) the character of the land resources, such  
23 as soil, vegetation, topography and water, that affects the  
24 suitability of the lands for development as parks or  
25 recreational areas;

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1 (2) facilities development to meet the average  
2 and slightly higher than average demands rather than the peak  
3 demands of summer and the holiday weekends;

4 (3) development priority based upon  
5 demonstrated use and demand, balance and distribution of  
6 existing facilities and the availability of lands suitable for  
7 development; and

8 (4) resources protection shall also be  
9 considered a priority if the resources need urgent attention,  
10 but the priority shall be determined by the relative value of  
11 the resources involved.

12 F. The cost of lands to be proposed for acquisition  
13 or development as state parks or state recreational areas  
14 should be reasonable, with consideration given to the  
15 recreational value of the land on which the state park or state  
16 recreational area is to be located. No property shall be  
17 purchased that involves commitments, privileges or conditions  
18 to any private interest, except that property may be purchased  
19 that has restrictions limiting its use to that of a state park  
20 or state recreational area.

21 G. All lands considered for acquisition or  
22 development as new state parks or state recreational areas  
23 shall undergo a feasibility study prior to acquisition or  
24 development. Feasibility studies shall include:

25 (1) a determination that the proposed area meets

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1 the criteria set forth in this section;

2 (2) an estimate of the total development cost,  
3 including land acquisition, planning and construction and  
4 recommendations for methods of financing the development costs;

5 (3) an estimate of the annual costs for  
6 operation and maintenance;

7 (4) an estimate of demand and a projection of  
8 visitor use for the proposed area; and

9 (5) an analysis of the proposed area as it  
10 relates to plans or development by other governmental agencies  
11 or the private sector in adjacent areas.

12 H. The state is authorized, upon the execution of a  
13 written agreement between the director of the state parks  
14 division of the ~~[energy, minerals and natural resources]~~  
15 tourism department and the department, service or agency of the  
16 United States having jurisdiction of lands of the United  
17 States, to develop, protect, maintain and operate in accordance  
18 with the agreement federally owned lands as state parks or  
19 state recreational areas, but the state may not acquire the fee  
20 title to or a permanent right in the lands pursuant to such an  
21 agreement.

22 I. The designation of sites as suitable for state  
23 parks or recreational areas, the designation of certain lands  
24 for acquisition or development, the consideration of lands for  
25 acquisition or studying the feasibility of acquisition or

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1 development of lands shall not create a right of action on the  
2 part of any person to force action by the state parks division  
3 ~~[of the energy, minerals and natural resources department]~~ or  
4 the state.

5 J. Any acquisition of land or any interest in land  
6 for a new state park or recreational area shall be approved by  
7 the legislature prior to the execution of a written agreement  
8 binding the state to expenditure of funds for acquisition or  
9 development of state parks or recreational areas. Lands that  
10 are adjacent or contiguous to existing state parks or  
11 recreational areas or are necessary for successful park or  
12 recreational area protection and development and will become  
13 part of the park or recreational area may be acquired without  
14 legislative approval if the state parks division consults with  
15 local government entities on the acquisition and if the state  
16 board of finance approves the acquisition and funds for the  
17 acquisition are available to the state parks division ~~[of the~~  
18 ~~energy, minerals and natural resources department]~~ or the land  
19 is donated to the division.

20 K. Only lands or interests in lands acquired or  
21 retained in accordance with the provisions of this section and  
22 operated pursuant to the authority of the state parks division  
23 ~~[of the energy, minerals and natural resources department]~~ may  
24 use the designation of "state park" or "state recreational  
25 area".

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1           SECTION 17. Section 16-2-12 NMSA 1978 (being Laws 1963,  
2 Chapter 149, Section 1, as amended) is amended to read:

3           "16-2-12. ACQUISITION OF FEDERAL LAND FOR PARK AND  
4 RECREATIONAL USES.--The legislature of New Mexico, taking  
5 cognizance that the federal government, under the provisions of  
6 the Recreation and Public Purposes Act of June 14, 1926, as  
7 amended, has authorized the department of the interior to sell  
8 to the states federal land at a price of two dollars fifty  
9 cents (\$2.50) per acre or to lease to the states land at the  
10 price of twenty-five cents (\$.25) per acre a year for  
11 recreational purposes, and the legislature taking further  
12 cognizance of the fact that public park and recreation areas  
13 are of vital importance in the development and growth of this  
14 state and noting that valuable and scenic land areas within New  
15 Mexico may be purchased or leased at minimal cost for  
16 development as park and recreational areas from either private  
17 or federal ownership, hereby authorizes the state [~~park and~~  
18 ~~recreation~~] parks division of the tourism department to  
19 purchase or lease such lands in the name of the state."

20           SECTION 18. Section 16-2-15 NMSA 1978 (being Laws 1951,  
21 Chapter 45, Section 1, as amended) is amended to read:

22           "16-2-15. SECRETARY'S POWER TO AUTHORIZE TRANSFER OF PARK  
23 LANDS.--The secretary has the right to authorize the  
24 commissioner of public lands to quitclaim to any state  
25 educational institution or other state agency, department or

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1 public body having authority to hold, and a use therefor, any  
2 lands acquired for state park or state recreational purposes  
3 for such nominal consideration and upon such conditions and  
4 subject to such reservations as in each case may be prescribed  
5 by the secretary; provided, however, that disposition of any  
6 such lands shall, in any case, relate only to lands held in  
7 excess of the reasonable needs of the state [~~park and~~  
8 ~~recreation~~] parks division of the [~~energy, minerals and natural~~  
9 ~~resources~~] tourism department for public parks and recreational  
10 purposes."

11 SECTION 19. Section 16-2-19.1 NMSA 1978 (being Laws 1983,  
12 Chapter 211, Section 38, as amended by Laws 1987, Chapter 234,  
13 Section 23 and also by Laws 1987, Chapter 322, Section 1) is  
14 amended to read:

15 "16-2-19.1. MOTORBOAT FUEL TAX FUND--APPROPRIATION.--  
16 [~~There is created in the state treasury~~] The "motorboat fuel  
17 tax fund" is created in the state treasury. Money in the fund  
18 is appropriated to the state [~~park and recreation~~] parks  
19 division of the [~~energy, minerals and natural resources~~]  
20 tourism department for use under the regular budgeting  
21 procedure of the state. Seventy-five percent of the money in  
22 the fund is to be used to construct, purchase, improve and  
23 maintain boating and related facilities or equipment in this  
24 state under the jurisdiction of the state [~~park and recreation~~]  
25 parks division. Twenty-five percent of the money in the fund

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1 is to be used for any boating-related purpose whatsoever under  
2 the jurisdiction of the state [~~park and recreation~~] parks  
3 division."

4 SECTION 20. Section 16-2-20 NMSA 1978 (being Laws 1965,  
5 Chapter 280, Section 1) is amended to read:

6 "16-2-20. SHORT TITLE.--~~[This act]~~ Sections 16-2-20  
7 through 16-2-29 NMSA 1978 may be cited as the "State Park and  
8 Recreation Bond Act".

9 SECTION 21. Section 16-2-22 NMSA 1978 (being Laws 1965,  
10 Chapter 280, Section 3, as amended) is amended to read:

11 "16-2-22. BONDING AUTHORITY.--Whenever the secretary  
12 determines by written order that it is necessary to raise funds  
13 to provide for developing, operating and maintaining state  
14 parks or recreation areas, the state [~~park and recreation~~  
15 ~~division of the energy, minerals and natural resources~~  
16 ~~department]~~ parks division may issue and sell bonds of the  
17 state as provided for in the State Park and Recreation Bond  
18 Act. The purposes for which the bonds are to be issued and the  
19 amount of each bond issue shall be approved by the state board  
20 of finance before issuance of the bonds."

21 SECTION 22. A new section of the State Park and  
22 Recreation Bond Act, Section 16-2-22.1 NMSA 1978, is enacted to  
23 read:

24 "16-2-22.1. [NEW MATERIAL] BONDS NOT IMPAIRED BECAUSE OF  
25 EXECUTIVE REORGANIZATION.--State park and recreation bonds are  
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1 not impaired or otherwise affected by an executive  
2 reorganization or name change of the state parks division."

3 SECTION 23. Section 16-2-23 NMSA 1978 (being Laws 1965,  
4 Chapter 280, Section 4, as amended) is amended to read:

5 "16-2-23. FORM OF BONDS.--The state [~~park and recreation~~]  
6 parks division of the tourism department, except as otherwise  
7 specifically provided in the State Park and Recreation Bond  
8 Act, shall determine at its discretion the terms, covenants and  
9 conditions of state park and recreation bonds, including but  
10 not limited to date of issue, denominations, maturities, rate  
11 or rates of interest, call features, call premiums,  
12 registration, refundability and other covenants covering  
13 general and technical aspects of the issuance of the bonds.  
14 The bonds shall be in such form as the [~~state park and~~  
15 ~~recreation~~] division shall determine, and successive issues  
16 shall be identified by alphabetical, numerical or other proper  
17 series or designation. Except with respect to bonds issued in  
18 book entry or similar form without the delivery of physical  
19 securities, signatures of the governor, state treasurer and  
20 director of the [~~state park and recreation~~] division shall be  
21 affixed in compliance with the Uniform Facsimile Signature of  
22 Public Officials Act, and the coupons, if any, attached to the  
23 bonds shall bear the facsimile signature of the state treasurer  
24 in office at the time of the preparation of the bonds."

25 SECTION 24. Section 16-2-24 NMSA 1978 (being Laws 1965,

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1 Chapter 280, Section 5, as amended) is amended to read:

2 "16-2-24. SALE OF BONDS.--Bonds issued under [~~this~~] the  
3 State Park and Recreation Bond Act shall be sold at not less  
4 than par value plus accrued interest to the date of delivery  
5 and may be sold at public or private sale as determined by the  
6 director of the state [~~park and recreation director~~] parks  
7 division of the tourism department. If sold at public sale,  
8 the director shall give notice of the time, place and terms of  
9 the sale by publication in a newspaper published in Santa Fe,  
10 New Mexico, not less than ten days prior to date of sale.  
11 Bonds issued under the State Park and Recreation Bond Act shall  
12 not be purchased by the state investment officer or state  
13 investment council."

14 SECTION 25. Section 16-2-26 NMSA 1978 (being Laws 1965,  
15 Chapter 280, Section 7, as amended) is amended to read:

16 "16-2-26. CONSTRUCTION.--[~~This~~] The State Park and  
17 Recreation Bond Act is sole authority for the authorization and  
18 issuance by the state [~~park and recreation~~] parks division of  
19 the tourism department of bonds authorized by the state board  
20 of finance, and the division may do anything necessary to carry  
21 out the powers granted by [~~this~~] the State Park and Recreation  
22 Bond Act."

23 SECTION 26. Section 16-2-28 NMSA 1978 (being Laws 1965,  
24 Chapter 280, Section 9, as amended) is amended to read:

25 "16-2-28. REFUNDING.--Any bonds issued under the State  
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1 Park and Recreation Bond Act may be refunded under the terms of  
2 written orders issued by the director of the state parks  
3 division of the tourism department subject to any contractual  
4 limitations involved with outstanding bonds, claims or other  
5 obligations. Proceeds of refunding bonds shall be applied to  
6 retirement of the bonds to be retired or refunded or placed in  
7 escrow to be applied to payment of the bonds upon presentation  
8 for payment by the holders. Refunding bonds shall be issued  
9 under all applicable conditions prescribed in the State Park  
10 and Recreation Bond Act for the issuance of original bonds."

11 SECTION 27. Section 16-2-29 NMSA 1978 (being Laws 1965,  
12 Chapter 280, Section 10, as amended) is amended to read:

13 "16-2-29. SECURITY--RETIREMENT OF BONDS.--The state [~~park~~  
14 ~~and recreation division of the energy, minerals and natural~~  
15 ~~resources~~] parks division of the tourism department may pledge  
16 for the retirement of bonds issued all or any part of the  
17 revenues to be produced from any project to be constructed with  
18 bond funds, all or any part of the governmental gross receipts  
19 tax distributions pursuant to Section 7-1-6.38 NMSA 1978  
20 appropriated to the energy, minerals and natural resources  
21 department for state park and recreation area capital  
22 improvements or the tourism department for state park and  
23 recreation area capital improvements on or after the effective  
24 date of this 2021 act and, except as may be prohibited by  
25 existing contractual arrangements, may also pledge money

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1 derived from the operation of present or future state parks or  
2 recreation areas or from gifts, donations, bequests or  
3 endowments for state park or recreation purposes or any portion  
4 of the same. Bonds are payable solely from the funds  
5 enumerated in this section and are not general obligations of  
6 the state."

7 SECTION 28. Section 16-2-30 NMSA 1978 (being Laws 1935,  
8 Chapter 57, Section 17, as amended) is amended to read:

9 "16-2-30. POLICE POWERS VESTED IN DIRECTOR AND STATE  
10 PARKS EMPLOYEES DESIGNATED BY THE SECRETARY.--

11 A. The director of the state parks division of the  
12 tourism department and state parks division employees  
13 designated by the secretary are vested with general police  
14 power and shall be state park law enforcement officers with the  
15 authority of conservators of the peace within state parks and  
16 recreation areas. It shall be their duty to enforce the laws  
17 of the state and the rules [~~and regulations of the energy,~~  
18 ~~minerals and natural resources~~] of the department within state  
19 parks and recreation areas. They shall have the further power  
20 of forcibly ejecting from a state park or recreation area a  
21 person who knowingly, willfully or wantonly violates a rule [~~or~~  
22 ~~regulation~~] of the department within a state park or recreation  
23 area.

24 B. State park law enforcement officers, in emergency  
25 situations, shall be considered on duty and within the scope of

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1 their employment for employee benefits when they follow  
2 specific instructions from a duly qualified full-time peace  
3 officer and aid the peace officer in carrying out ~~[his]~~ the  
4 officer's duties. State park law enforcement officers shall  
5 respond in emergency situations, subject to the needs of the  
6 park to which they are assigned, and they shall have law  
7 enforcement powers outside the park so long as they follow  
8 specific instructions from the peace officer who requested aid.

9 C. As used in this section, "emergency" means a  
10 sudden, unexpected occurrence or an unforeseen combination of  
11 circumstances that calls for immediate action without time for  
12 deliberation."

13 SECTION 29. Section 16-2-32 NMSA 1978 (being Laws 1935,  
14 Chapter 57, Section 19, as amended) is amended to read:

15 "16-2-32. CRIMINAL OFFENSES--PENALTY.--A person who  
16 commits any of the following acts is guilty of a petty  
17 misdemeanor and shall be sentenced in accordance with the  
18 provisions of Section 31-19-1 NMSA 1978:

19 A. cut, break, injure, destroy, take or remove a  
20 tree, shrub, timber, plant or natural object in any state park  
21 and recreation area, except in areas designated by the  
22 secretary and permitted by rules adopted by the secretary.  
23 Such rules shall only permit the removal of a tree, shrub,  
24 timber, plant or natural object for scientific study or for  
25 noncommercial use by ~~[an individual]~~ a person as a souvenir.

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1 The quantity of material authorized for removal from any area  
2 shall be strictly regulated by park personnel in order to  
3 minimize resource damage;

4 B. kill, cause to be killed or pursue with intent to  
5 kill a bird or animal in a state park and recreation area,  
6 except in areas designated by the secretary and except in  
7 conformity with the provisions of general law and the rules of  
8 the state game commission;

9 C. take a fish from the waters of a state park and  
10 recreation area, except in conformity with the provisions of  
11 general law and the rules of the state game commission;

12 D. willfully mutilate, injure, deface or destroy any  
13 guidepost, notice, tablet, fence, enclosure or work that is for  
14 the protection or ornamentation of a state park and recreation  
15 area;

16 E. light a fire in a state park and recreation area,  
17 except in those places authorized for fires by the secretary,  
18 or willfully or carelessly permit any fire that is authorized  
19 and that the person has [~~lighted~~] lit or caused to be [~~lighted~~]  
20 lit or under the person's charge to spread or extend to or burn  
21 the shrubbery, trees, timber, ornaments or improvements in a  
22 state park and recreation area or leave a campfire that the  
23 person has [~~lighted~~] lit or that has been left in the person's  
24 charge unattended by a competent person without extinguishing  
25 it;

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1 F. place in a state park and recreation area or  
2 affix to an object in a state park and recreation area a word,  
3 character or device designed to advertise a business,  
4 profession, article, thing, exhibition, matter or event without  
5 a written license from the secretary permitting the person to  
6 do it; or

7 G. violate a rule adopted by the secretary pursuant  
8 to the provisions of Chapter 16, Article 2 NMSA 1978 when the  
9 violation has caused or contributed to the cause of an accident  
10 resulting in injury or death to a person or disappearance of a  
11 person."

12 SECTION 30. Section 16-2-33 NMSA 1978 (being Laws 2013,  
13 Chapter 136, Section 1) is amended to read:

14 "16-2-33. STATE PARKS DIVISION PENALTY ASSESSMENT  
15 MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

16 A. As used in Chapter 16, Article 2 NMSA 1978,  
17 "penalty assessment misdemeanor" means a violation of any rule  
18 of the state parks division of the [~~energy, minerals and~~  
19 ~~natural resources~~] tourism department promulgated pursuant to  
20 Chapter 16, Article 2 NMSA 1978.

21 B. The term "penalty assessment misdemeanor" does not  
22 include a violation that has caused or contributed to the cause  
23 of an accident resulting in injury or death to a person or  
24 disappearance of a person, nor does it include a violation of  
25 Section 16-2-32 NMSA 1978.

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1 C. Whenever a person is arrested for violation of a  
2 penalty assessment misdemeanor, the arresting officer shall  
3 advise the person of the option either to accept the penalty  
4 assessment and pay it to the court or to appear in court. The  
5 arresting officer, using a uniform non-traffic citation, shall  
6 complete the information section, prepare the penalty  
7 assessment and prepare a notice to appear in court specifying  
8 the time and place to appear. The arresting officer shall have  
9 the person sign the citation as a promise either to pay the  
10 penalty assessment as prescribed or to appear in court as  
11 specified, give a copy of the citation to the person and  
12 release the person from custody. An officer shall not accept  
13 custody of payment of any penalty assessment.

14 D. The arresting officer may issue a warning notice,  
15 but shall fill in the information section of the citation and  
16 give a copy to the arrested person after requiring a signature  
17 on the warning notice as an acknowledgment of receipt. No  
18 warning notice issued under this section shall be used as  
19 evidence of conviction for purposes of Subsection L of this  
20 section.

21 E. In order to secure release, the arrested person  
22 must give a written promise to appear in court or to pay the  
23 penalty assessment prescribed or to acknowledge receipt of a  
24 warning notice.

25 F. The magistrate court or metropolitan court in the  
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1 county where the alleged violation occurred has jurisdiction  
2 for any case arising from a penalty assessment misdemeanor  
3 issued for violation of a rule of the state parks division  
4 promulgated pursuant to Chapter 16, Article 2 NMSA 1978.

5 G. A penalty assessment citation issued by a law  
6 enforcement officer shall be submitted to the appropriate  
7 magistrate or metropolitan court within three business days of  
8 issuance. If the citation is not submitted within three  
9 business days, it may be dismissed with prejudice.

10 H. It is a misdemeanor for any person to violate a  
11 written promise to pay the penalty assessment or to appear in  
12 court given to an officer upon issuance of a citation  
13 regardless of the disposition of the charge for which the  
14 citation was issued.

15 I. A citation with a written promise to appear in  
16 court or to pay the penalty assessment is a summons. If a  
17 person fails to appear or to pay the penalty assessment by the  
18 appearance date, a warrant for failure to appear may be issued.

19 J. A written promise to appear in court may be  
20 complied with by appearance of counsel.

21 K. When an alleged violator of a penalty assessment  
22 misdemeanor elects to appear in court rather than to pay the  
23 penalty assessment to the court, no fine imposed upon later  
24 conviction shall exceed the penalty assessment established for  
25 the particular penalty assessment misdemeanor.

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1 L. The penalty assessment for a first violation of  
2 any promulgated rule of the state parks division [~~promulgated~~]  
3 pursuant to Chapter 16, Article 2 NMSA 1978 is thirty dollars  
4 (\$30.00). This penalty assessment is in addition to any  
5 magistrate or metropolitan court costs as provided in  
6 Subsection B of Section 35-6-4 NMSA 1978. Upon a second  
7 conviction or acceptance of a notice of penalty assessment for  
8 violation of any promulgated rule of the state parks division  
9 [~~promulgated~~] pursuant to Chapter 16, Article 2 NMSA 1978, the  
10 penalty assessment shall be fifty dollars (\$50.00). Upon a  
11 third or subsequent conviction or acceptance of a notice of  
12 penalty assessment, the penalty assessment shall be one hundred  
13 fifty dollars (\$150)."

14 SECTION 31. Section 19-10-50 NMSA 1978 (being Laws 1949,  
15 Chapter 82, Section 1, as amended) is amended to read:

16 "19-10-50. OIL, GAS AND MINERAL LEASES ON STATE PARK  
17 LANDS.--The director of the state [~~park and recreation~~  
18 ~~director~~] parks division of the tourism department has the  
19 right to authorize the commissioner [~~of public lands~~] to lease  
20 for oil and gas and other minerals any lands acquired by the  
21 state for state park or state recreational purposes upon such  
22 terms and conditions as may be prescribed by the [~~state park~~  
23 ~~and recreation~~] director where, in the discretion of the [~~state~~  
24 ~~park and recreation~~] director, the leasing of such lands for  
25 oil and gas will not materially interfere with the use of

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1 [such] the lands for state park or state recreational purposes  
2 or where it is deemed necessary or advisable and for the best  
3 interest of the state that [such] the lands be leased for  
4 [~~said~~] that purpose."

5 SECTION 32. Section 19-10-51 NMSA 1978 (being Laws 1949,  
6 Chapter 82, Section 2, as amended) is amended to read:

7 "19-10-51. TERMS AND CONDITIONS OF LEASES ON STATE PARK  
8 LANDS--DISPOSITION OF RENTALS AND ROYALTIES.--The commissioner  
9 [~~of public lands~~] has the right to lease for oil and gas and  
10 other minerals any lands acquired by the state for state park  
11 or state recreational purposes when authorized so to do by the  
12 director of the state [~~park and recreation director~~] parks  
13 division of the tourism department, the [~~same~~] lands to be  
14 leased upon such terms and conditions as may be prescribed by  
15 the [~~state park and recreation~~] director. All bonuses, rentals  
16 and royalties [~~which~~] that may be collected under the terms of  
17 any such lease by the commissioner [~~of public lands~~] shall be  
18 placed to the credit of the state park and recreation fund."

19 SECTION 33. Section 32A-3A-12 NMSA 1978 (being Laws 2019,  
20 Chapter 132, Section 1) is amended to read:

21 "32A-3A-12. FOSTER FAMILIES--FREE ADMISSION TO MUSEUMS  
22 AND STATE PARKS.--Foster parents and children in the custody of  
23 foster parents who are residents of the state shall be provided  
24 free admission to state-owned museums and state parks; provided  
25 that eligibility for free admission shall be contingent upon

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1 demonstration of proof of identity, residency and status as a  
2 foster parent or child in the custody of a foster parent, in  
3 accordance with rules of the:

4 A. cultural affairs department, for free day-use  
5 admission to state-owned museums; and

6 B. ~~[energy, minerals and natural resources]~~ tourism  
7 department, for free day-use admission to state parks."

8 SECTION 34. Section 66-12-3 NMSA 1978 (being Laws 1959,  
9 Chapter 338, Section 3, as amended) is amended to read:

10 "66-12-3. DEFINITIONS.--As used in the Boat Act:

11 A. "vessel" means every description of watercraft,  
12 other than a seaplane on the water, used or capable of being  
13 used as a means of transportation on water;

14 B. "motorboat" means ~~[any]~~ a vessel propelled by  
15 machinery, whether or not machinery is the principal source of  
16 propulsion, but does not include a vessel that has a valid  
17 marine document issued by the bureau of customs of the United  
18 States government or any federal agency successor thereto;  
19 "motorboat" includes any vessel propelled or designed to be  
20 propelled by sail and that does not have a valid document  
21 issued by a federal agency, but does not include a sailboard or  
22 windsurf board;

23 C. "owner" means a person, other than a lienholder,  
24 having the property in or title to a motorboat; "owner"  
25 includes a person entitled to the use or possession of a

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1 motorboat subject to an interest in another person, reserved or  
2 created by agreement and securing payment or performance of an  
3 obligation, but excludes a lessee under a lease not intended as  
4 security;

5 D. "waters of this state" means waters within the  
6 territorial limits of this state;

7 E. "person" means an individual, partnership, firm,  
8 corporation, association or other entity;

9 F. "operate" means to navigate or otherwise use a  
10 motorboat or a vessel;

11 G. "state agency" means [~~any~~] a department,  
12 institution, board, bureau, commission, district or committee  
13 of the government of this state and means every office or  
14 officer of any state agency;

15 H. "subdivision of the state" means every county,  
16 county institution, board, bureau or commission, incorporated  
17 city, town or village, drainage, conservancy, irrigation or  
18 other district and every office or officer of any subdivision  
19 of this state;

20 I. "division" means the state parks division of the  
21 [~~energy, minerals and natural resources~~] tourism department;

22 J. "boat" means a motorboat that is ten feet in  
23 length or longer;

24 K. "dealer" means [~~any~~] a person who engages in whole  
25 or in part in the business of buying, selling or exchanging new

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1 and unused motorboats or used motorboats, or both, either  
2 outright or on conditional sale, bailment, lease, chattel  
3 mortgage or otherwise and who has an established place of  
4 business for sale, trade and display of motorboats; "dealer"  
5 includes a yacht broker;

6 L. "lien" means every chattel mortgage, conditional  
7 sales contract, lease, purchase lease, sales lease, contract,  
8 security interest under the Uniform Commercial Code or other  
9 instrument in writing having the effect of a mortgage or lien  
10 or encumbrance upon, or intended to hold the title to any boat  
11 in the former owner, possessor or grantor;

12 M. "manufacturer" means ~~[any]~~ a person engaged in the  
13 business of manufacturing or importing new and unused  
14 motorboats for the purpose of sale or trade;

15 N. "demonstration" means:

16 (1) the operation of a motorboat on the waters  
17 of this state for the purpose of selling, transferring,  
18 bartering, trading, negotiating or attempting to negotiate the  
19 sale or exchange of an interest in a motor boat; or

20 (2) the operation of a motorboat by a  
21 manufacturer for the purpose of testing the motorboat; and

22 O. "established place of business" means a salesroom  
23 in an enclosed building or structure that the dealer owns or  
24 leases, where the business of bartering, trading and selling of  
25 motorboats is conducted and where the books, records and files

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1 necessary to conduct the business are maintained."

2 SECTION 35. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,  
3 PERSONNEL, MONEY, APPROPRIATIONS, RECORDS AND PROPERTY--  
4 CONTRACTUAL OBLIGATIONS--STATUTORY REFERENCES.--

5 A. On the effective date of this act, all functions,  
6 personnel, money, appropriations, records, furniture, equipment  
7 and other property of the state parks division of the energy,  
8 minerals and natural resources department are transferred to  
9 the state parks division of the tourism department.

10 B. On the effective date of this act, contractual  
11 obligations, including obligations pursuant to the State Park  
12 and Recreation Bond Act, of the state parks division of the  
13 energy, minerals and natural resources department shall be  
14 binding on the state parks division of the tourism department.

15 C. On the effective date of this act, all references  
16 in law to the state parks division of the energy, minerals and  
17 natural resources department shall be deemed to be references  
18 to the state parks division of the tourism department.

19 SECTION 36. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2021.

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