

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 227

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JEANNETTE WALLACE

AN ACT

RELATING TO LAND; AMENDING SECTION 16-2-11 NMSA 1978 (BEING LAWS 1935, CHAPTER 57, SECTION 11, AS AMENDED) TO MAKE CHANGES IN THE LAW RELATING TO ACQUISITION OF LANDS FOR PARK AND RECREATIONAL PURPOSES AND TO RESTRICT THE USE OF THE TERMS "STATE PARK" OR "STATE RECREATIONAL AREA".

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

Section 1. Section 16-2-11 NMSA 1978 (being Laws 1935, Chapter 57, Section 11, as amended) is amended to read:

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

A. The state is authorized to acquire lands or interests in lands for state park or state recreational purposes by gift, donation, devise or purchase. Acquired lands or interests in lands shall be held for the use of the state ~~and~~

Underscored material = new  
[bracketed material] = delete

Underscored material = new  
[bracketed material] = delete

1 to develop ~~[hold]~~, maintain and operate ~~[the same]~~ them as state  
2 parks or state recreational areas ~~[in accordance with the~~  
3 ~~provisions of this article and as it may be supplemented by~~  
4 ~~other state laws]~~. In acquiring real property or any interest  
5 ~~[therein]~~ in real property, the power of eminent domain shall  
6 not be used. The criteria for ~~[such]~~ acquisition and  
7 development shall be ~~[as provided]~~ those specified in  
8 Subsections B through G of this section.

9 B. Sites ~~[which]~~ that may be designated as state  
10 parks or state recreational areas shall be only those ~~[which]~~:

11 (1) ~~[contain]~~ having a diversity of resources,  
12 including areas of scientific, aesthetic, geologic, natural or  
13 historic value;

14 (2) ~~[provide]~~ providing recreational  
15 opportunities significant enough to assure patronage from a  
16 region or preferably from the state as a whole; and

17 (3) ~~[conform]~~ conforming to the state  
18 comprehensive outdoor recreation plan.

19 C. Lands designated for acquisition or development  
20 as state parks or state recreational areas shall be those  
21 ~~[which]~~ that:

22 (1) are adjacent to existing parks or  
23 recreational areas and are necessary for successful park or  
24 recreational area protection and development;

25 (2) help meet recreation and open space demands

Underscored material = new  
[bracketed material] = delete

1 of metropolitan area residents by emphasizing park or  
2 recreational areas within easy access of population centers;

3 (3) preserve the most significant examples of  
4 New Mexico natural scenic landscape; and

5 (4) meet the pressure on primary vacation  
6 regions not adequately supplied with public recreation  
7 opportunities.

8 D. Lands [~~which~~] that are acquired or developed as  
9 state parks or state recreational areas shall be managed and  
10 developed according to the following objectives:

11 (1) outdoor recreation shall be recognized as  
12 the dominant or primary resources management objective;

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

17 (3) within economical limits, state parks or  
18 state recreational facilities shall be landscaped and developed  
19 to achieve an environment that is aesthetically pleasing,  
20 ecologically functional and complementary to the native  
21 environment;

22 (4) use periods for parks or recreational  
23 facilities shall be extended by providing a variety of  
24 facilities that will attract visitors during all seasons of the  
25 year; and

Underscored material = new  
[bracketed material] = delete

1 (5) all significant historic structures  
2 contained in state parks or state recreational areas shall be,  
3 within economical limits, reconstructed, restored or stabilized  
4 to provide for continued user benefit.

5 E. Factors to be taken into consideration when lands  
6 are considered for acquisition or development as state parks or  
7 state recreational areas are:

8 (1) the character of the land resources, such  
9 as soil, vegetation, topography and water, ~~which~~ that affects  
10 the suitability of the lands for development as parks or  
11 recreational areas;

12 (2) facilities development to meet the average  
13 and slightly higher than average demands rather than the peak  
14 demands of summer and the holiday weekends; ~~and~~

15 (3) development priority based upon  
16 demonstrated use and demand, balance and distribution of  
17 existing facilities and the availability of lands suitable for  
18 development; and

19 (4) resources protection ~~projects will~~ shall  
20 also be considered a priority if ~~they demand~~ the resources  
21 need urgent attention, ~~and only according to~~ but the priority  
22 shall be determined by the relative value of the resources  
23 involved.

24 F. The cost of lands to be proposed for acquisition  
25 or development as state parks or state recreational areas should

Underscored material = new  
[bracketed material] = delete

1 be reasonable, with consideration given to the recreational  
2 value of the land on which the state park or state recreational  
3 area is to be located. No property shall be purchased ~~[which]~~  
4 that involves commitments, privileges or conditions to any  
5 private interest, except that property may be purchased ~~[which]~~  
6 that has restrictions limiting its use to that of a state park  
7 or state recreational area.

8 G. All lands considered for acquisition or development  
9 as state parks or state recreational areas shall ~~have~~  
10 ~~undergone~~ undergo a feasibility study prior to acquisition or  
11 development. ~~[If the state park and recreation division is~~  
12 ~~unable to provide a feasibility study, the legislature shall~~  
13 ~~appropriate the required funds to finance the cost of such a~~  
14 ~~study]~~ Ongoing projects ~~[which]~~ that have already received an  
15 appropriation at the effective date of this ~~[act]~~ section are  
16 exempted from the requirements of this ~~[act]~~ section.

17 Feasibility studies shall include:

18 (1) a determination that the proposed area meets  
19 the criteria set forth in this section;

20 (2) an estimate of the total development cost,  
21 including land acquisition, planning and construction and  
22 recommendations for methods of financing the development costs  
23 ~~[should be recommended];~~

24 (3) an estimate of the annual costs for operation  
25 and maintenance;

Underscored material = new  
[bracketed material] = delete

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

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

6 H. The state is [~~also~~] authorized, [~~and empowered~~]  
7 upon the execution of a written agreement [by] between the  
8 director of the state park and recreation division [with] and  
9 the department, service or agency of the United States having  
10 jurisdiction of lands of the United States, to develop, protect,  
11 maintain and operate in accordance with [such] the agreement  
12 [such] federally owned lands as state parks or state  
13 recreational areas, [~~although~~] but the state may not acquire [~~by~~  
14 ~~such an agreement~~] the fee title to or a permanent right in  
15 [such] the lands pursuant to such an agreement.

16 I. The designation of sites as suitable for state  
17 parks or recreation areas, [~~or~~] the designation of certain lands  
18 for acquisition or development, [~~or considering~~] the  
19 consideration of lands for acquisition or studying the  
20 feasibility of acquisition or development of lands shall not  
21 create a right of action on the part of any person [~~or group~~] to  
22 force action [~~on the part of~~] by the state park and recreation  
23 division or the state.

24 J. Any acquisition of [~~real property~~] land or any  
25 interest [~~therein~~] in land for state park or recreation purposes

1 shall be approved by the legislature prior to the execution of  
2 [~~any~~] a written agreement binding the state to expenditure of  
3 [~~any~~] funds for acquisition or development of state parks or  
4 recreation areas.

5 K. Only lands or interests in lands acquired or  
6 retained in accordance with the provisions of this section and  
7 operated pursuant to the authority of the state park and  
8 recreation division may use the designation of "state park" or  
9 "state recreational area".

10 Section 2. EFFECTIVE DATE. --The effective date of the  
11 provisions of this act is July 1, 1999.

Underscored material = new  
[bracketed material] = delete

**State of New Mexico**  
**House of Representatives**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**FORTY-THIRD LEGISLATURE**  
**FIRST SESSION, 1997**

January 31, 1997

Mr. Speaker:

Your ENERGY AND NATURAL RESOURCES COMMITTEE, to  
whom has been referred

HOUSE BILL 227

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
JUDICIARY COMMITTEE.

Underscored material = new  
[bracketed material] = delete

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Respectfully submitted,

\_\_\_\_\_  
James Roger Madalena, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Macko, Roberts

Absent: None

M \H0227

# **State of New Mexico House of Representatives**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

February 14, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 227

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

---

Thomas P. Foy, Chairman

FORTY- THIRD LEGISLATURE  
FIRST SESSION, 1997

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Carpenter, King, Rios, Sanchez

Absent: None

M \H0227

Underscored material = new  
[bracketed material] = delete

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

Page 12

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 6, 1997

Mr. President:

Your CONSERVATION COMMITTEE, to whom has been referred

HOUSE BILL 227

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
JUDICIARY COMMITTEE.

Respectfully submitted,

---

Michael S. Sanchez, Chairman

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

No: None

Excused: Eisenstadt, Griego, Lyons

Absent: None

H0227C01

Underscored material = new  
[bracketed material] = delete

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

Page 14

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 16, 1997

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 227

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

---

Fernando R. Macias, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Sanchez, Vernon

Absent: None

H0227JU1

Underscored material = new  
[bracketed material] = delete