

AOC PUBLIC LANDS & NATURAL RESOURCES
SUBCOMMITTEE ON TRANSFER OF FEDERAL LANDS TO THE STATE

**Activities related to transfer of federal lands to the state in other Western States
with large federal ownership.**

[as known on September 11, 2014]

Alaska:

- The State is exceedingly unlikely to pursue a general transfer of federal lands to the State for several reasons stated here.
- Since the passage of the Alaska Native Claims Settlement Act (1971), the Alaska Statehood Act (1959), the Native Allotment Act, and the Native Veteran Allotment Act, there have been several transfers going on from federal public lands to individual Alaska Natives, Native Corporations, and the State.
- There are thousands of land title applications to still adjudicate. Most of the above players are very frustrated by the slow, creeping timeline of conveyances.
- In 2004, the Alaska Land Transfer Acceleration Act was passed (its intent is self-explanatory).
- Moreover, when Alaska became a State in 1959, most of the State had never been surveyed, so that fact in itself has slowed things down.
- There are too many players who have not yet realized a conveyance on the land they were promised as far back as 1959 (Statehood) or 1971 (ANCSA), so a Utah-style law would be extremely problematic.

Arizona:

- SB 1332 (2012), related to conveyance of federal lands, passed but was vetoed by then Governor Janet Napolitano.
- Subsequent presentations and stakeholder meetings at the Capitol. Significant legislative interest but lack of an effective champion in 2013.
- As 2014 progressed, stakeholder meetings and periodic visits by Utah State Representative Ken Ivory broadened the discussion to include more mainstream conservative and county and legislative leadership to consider “creative” approaches to maintain access and availability of federal lands in the State.
- Ongoing discussions at the county level, with anticipation of a broad discussion in October at the Legislative Summit of the County Supervisors of Arizona Association.
- Yuma County has done a cost-benefit analysis of the potential effects on itself.
- A bill very similar to the Utah concept is expected to be introduced during the 2015 legislative session.

California:

- Very little activity; no action.

Colorado:

- SB 13-142 (2013), identical to the Utah concept, had no hearing.
- Appears to be little interest in the State.

Idaho:

- Under HCR 21 (2013), the Federal Lands Interim Committee, among other things, is studying the Utah concept. On August 9, 2013, its meeting received a presentation from Donald Kochan, author of the legal opinion in support of the concept; and a report of the Idaho equivalent of the Oregon Department of State Lands, "Hypothetical Federal Land Transfer and Potential Impacts of Legislation Similar to Utah HB 148". The report was absorbed by the agencies' budgets and found that at the end of ten years of ownership of federal lands, the net gain to the State would be \$50-70 million/year. This range is what Idaho counties and schools receive now from the federal government under county payments and land revenue laws.
- The 2015 legislature is expected to have a bill on the concept to consider.

Montana:

- There was a legislative Resolution in 2013 calling for an interim study of management of federal lands in general. There was part of a single meeting to hear Ken Ivory's presentation on the Utah law. The concept received no support and no action has been taken. There reportedly was fear expressed of an ulterior motive to ultimately sell the public lands to private interests.
- The Montana Association of Counties has taken no position and has urged the legislature to consider the downside of the concept.

Nevada:

- A 2013 legislative concept demanding the federal government transfer their lands to the State was ruled unconstitutional by Legislative Counsel.
- Instead, Assembly Bill 227 (2013) passed, directing a cost-benefit analysis by a task force. The Nevada Association of Counties staffed the Nevada Land Management Task Force and counties provided funding for a cost-benefit analysis of transfer (\$60,000). After about 12 meetings, the task force issued a report recommending by Resolution to the Interim Legislative Public Lands Committee that the legislature urge Congress to transfer title of certain federally administered lands to the State. The transfers would occur in phases, the initial one to include no less than 7.2 million acres, with a second

phase to occur within 10 years of the first one. As with the Utah law, certain federal lands would be exempted from transfer, such as wilderness and national parks.

New Mexico:

- House Bill 292 (2013), very similar to the Utah Act, directed certain federal lands to be transferred to the State by December 31, 2015, but failed to pass.
- HB 102 (2014), creating a task force to study and determine whether to propose legislation in 2016 to direct transfer of federal lands to the State, also failed.
- There is tribal resistance, due to a fear of loss of sacred areas.
- On July 29, 2014, the New Mexico Association of Counties adopted a resolution asking the legislature to create a task force, including county officials, to: 1) study the legal, economic, and practical framework of a potential transfer of certain federal lands to the State; 2) conduct an inventory of federal land ownership within the State; and 3) evaluate the state and county dependence on federal revenue streams. The task force is to report and make recommendations to the legislature by November 1, 2015.

Utah:

- After HB 148 (2012) directed the federal government to transfer certain of its lands to the State, HB 142 (2013) commissioned the Governor's Public Lands Policy Coordinator Office to do a feasibility study of such a transfer. A preliminary report to the House Natural Resources Interim Committee is expected this fall. A newspaper reported that the study by three universities will cost \$550,000.
- The Assistant Attorney General Tony Rampton urged the legislature to avoid filing a lawsuit, saying the takeover is a longshot with too many unknowns. He recommended they wait for more data.
- The 2015 legislature is expected to consider legislation that anticipates the transfer by adopting a "mini" Federal Land Policy and Management Act and National Forest Management Act to lay the legal infrastructure for state management.

Washington:

- In June, the Washington State Association of Counties agreed to advocate for the legislature to create a committee, including county members, to review the benefits and risks associated with the transfer of federal lands to the State or counties.

Wyoming:

- 2014 Budget Session adopted Senate File 41 (Enrolled Act 60), which directed appointment of a joint select federal natural resource management committee to consider issues related to public lands. Among other things, the select committee will

consider methods for the federal government to divest public lands held within the State, including legal and congressional action; may secure consulting services to provide technical assistance in compiling information related to transfer of public lands; and introduce legislation related to acquisition or management of public lands. The Act excludes national parks, national monuments, and designated wilderness areas.

- Speaker of the House Tom Lubnau, in an op-ed for the Casper Star Tribune on August 10, 2014, points out that the Wyoming Constitution is unique in that Article 21, Section 26 provides that “The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries”. In other words, he writes, the State promised the federal government that the lands the federal government had at statehood could remain federal lands.
- The issue is too divisive for the Wyoming County Commissioners Association to take a position.
- Instead, WCCA is considering a concept to trade new wilderness areas for “hard-designated” development areas.