

Senate Engrossed

federal government; land acquisition; consent

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SENATE BILL 1281

AN ACT

AMENDING SECTION 37-620.03, ARIZONA REVISED STATUTES; AMENDING TITLE 37,
CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; RELATING TO
UNITED STATES LAND ACQUISITION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 37-620.03, Arizona Revised Statutes, is amended
3 to read:

4 37-620.03. National monuments; catalog; notification;
5 litigation; definition

6 A. The department shall maintain a catalog of each existing or
7 newly created ~~national monument~~ COVERED FEDERAL DESIGNATION in this
8 state. For each ~~national monument~~ COVERED FEDERAL DESIGNATION, the
9 department shall request from the federal government the following:

10 1. A detailed accounting of each individual item OF NATURAL,
11 SCENIC, HISTORICAL OR CULTURAL VALUE OR EACH RESOURCE, LANDSCAPE, SPECIES,
12 ECOSYSTEM, HABITAT OR CHARACTERISTIC to be protected.

13 2. The precise global positioning system location of each item OF
14 NATURAL, SCENIC, HISTORICAL OR CULTURAL VALUE OR EACH RESOURCE, LANDSCAPE,
15 SPECIES, ECOSYSTEM, HABITAT OR CHARACTERISTIC to be protected.

16 3. The square footage that each item OF NATURAL, SCENIC, HISTORICAL
17 OR CULTURAL VALUE OR EACH RESOURCE, LANDSCAPE, SPECIES, ECOSYSTEM, HABITAT
18 OR CHARACTERISTIC to be protected occupies.

19 4. The total square footage of the parcel of land comprising the
20 ~~national monument~~ COVERED FEDERAL DESIGNATION.

21 5. A peer-reviewed justification for the protection of the ~~object~~
22 ITEM OF NATURAL, SCENIC, HISTORICAL OR CULTURAL VALUE OR THE RESOURCE,
23 LANDSCAPE, SPECIES, ECOSYSTEM, HABITAT OR CHARACTERISTIC by the federal
24 government.

25 B. The department shall determine whether the limits of a parcel
26 comprising a ~~national monument~~ COVERED FEDERAL DESIGNATION in this state
27 are confined to the smallest area compatible with the proper care and
28 management of the ~~objects~~ ITEM OF NATURAL, SCENIC, HISTORICAL OR CULTURAL
29 VALUE OR THE RESOURCE, LANDSCAPE, SPECIES, ECOSYSTEM, HABITAT OR
30 CHARACTERISTIC to be protected by the ~~national monument~~ COVERED FEDERAL
31 DESIGNATION.

32 C. If the department determines pursuant to subsection B of this
33 section that the limits of a parcel comprising a ~~national monument~~ COVERED
34 FEDERAL DESIGNATION in this state are not confined to the smallest area
35 compatible with the proper care and management of the ~~objects~~ ITEM OF
36 NATURAL, SCENIC, HISTORICAL OR CULTURAL VALUE OR THE RESOURCE, LANDSCAPE,
37 SPECIES, ECOSYSTEM, HABITAT OR CHARACTERISTIC to be protected by the
38 ~~national monument~~ COVERED FEDERAL DESIGNATION, the department shall notify
39 the PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
40 AND THE attorney general. On receipt of the notice, the PRESIDENT OF THE
41 SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OR THE attorney
42 general may commence an action to confine the limits of the parcel
43 comprising the ~~national monument~~ COVERED FEDERAL DESIGNATION to the
44 smallest area compatible with the proper care and management of the
45 ~~objects~~ ITEM OF NATURAL, SCENIC, HISTORICAL OR CULTURAL VALUE OR THE

1 RESOURCE, LANDSCAPE, SPECIES, ECOSYSTEM, HABITAT OR CHARACTERISTIC to be
2 protected by the ~~national monument~~ COVERED FEDERAL DESIGNATION.

3 D. FOR THE PURPOSES OF THIS SECTION, "COVERED FEDERAL DESIGNATION"
4 MEANS ANY OF THE FOLLOWING:

- 5 1. AN AREA OF CRITICAL ENVIRONMENTAL CONCERN.
- 6 2. A NATIONAL FOREST.
- 7 3. A NATIONAL PARK.
- 8 4. A NATIONAL MONUMENT.
- 9 5. A NATIONAL WILDLIFE REFUGE.
- 10 6. A NATIONAL CONSERVATION AREA.
- 11 7. A NATIONAL RECREATION AREA.
- 12 8. A NATIONAL SCENIC AREA.
- 13 9. A NATIONAL SCENIC TRAIL.
- 14 10. A NATIONAL HISTORICAL TRAIL.
- 15 11. A NATIONAL RECREATION TRAIL.
- 16 12. A ROADLESS AREA.
- 17 13. A WILD AND SCENIC RIVER.
- 18 14. A WILDERNESS AREA.
- 19 15. A WILDERNESS STUDY AREA.

20 Sec. 2. Heading change

21 The chapter heading of title 37, chapter 4, Arizona Revised
22 Statutes, is changed from "ACQUISITION OF PRIVATE REAL PROPERTY BY STATE
23 OR POLITICAL SUBDIVISION" to "ACQUISITION OF PRIVATE REAL PROPERTY BY
24 GOVERNMENT ENTITIES".

25 Sec. 3. Title 37, chapter 4, Arizona Revised Statutes, is amended
26 by adding article 2, to read:

27 ARTICLE 2. ACQUISITION OF PRIVATE REAL
28 PROPERTY BY FEDERAL GOVERNMENT

29 37-821. Sale or transfer of private real property to federal
30 government; notice

31 ON THE OPENING OF ESCROW FOR THE SALE OR TRANSFER OF TITLE INTEREST
32 OF PRIVATE REAL PROPERTY TO THE FEDERAL GOVERNMENT OR A FEDERAL AGENCY,
33 THE ESCROW AGENT SHALL NOTIFY THE PRESIDENT OF THE SENATE AND THE SPEAKER
34 OF THE HOUSE OF REPRESENTATIVES THAT A CONTRACT FOR THE SALE OR TRANSFER
35 OF PRIVATE REAL PROPERTY TO THE FEDERAL GOVERNMENT OR A FEDERAL AGENCY HAS
36 BEEN PLACED IN ESCROW.

37 Sec. 4. Legislative findings

38 The legislature finds that:

- 39 1. At the granting of statehood, the new State of Arizona was
40 granted the exclusive right to all lands not assigned under treaty to the
41 Native American tribes.
- 42 2. Since the granting of statehood, numerous lands have been
43 retained by the federal government by various means by way of
44 congressional action, thus depriving the State of Arizona of a tax base,

1 which, in comparison to other states, is critical to funding services such
2 as education, public safety and infrastructure.

3 3. There are three primary legal theories available to Arizona to
4 attempt to prove the claim of tax base in existing American jurisprudence,
5 which are, "the equal sovereignty principle," "the equal footing doctrine"
6 and "the compact theory." All three legal theories provide credible
7 support to the claim of a primary interest in state private property tax
8 base.

9 4. Arizona relies on approximately sixteen percent of its land area
10 to fund the critical services of education, infrastructure, public safety
11 and welfare programs, while other states enjoy nearly complete access to
12 their lands to generate a survivable tax base.

13 5. The equal sovereignty principle was recently highlighted by the
14 United States Supreme Court in Shelby County, Ala. v. Holder, 570 U.S. 529
15 (2013), which challenged the requirement of the Voting Rights Act of 1965
16 (P.L. 89-110, 79 Stat. 437) that certain states preclear their voting laws
17 with the United States Department of Justice as a violation of the
18 constitutional requirement that the states in our federal system be equal
19 in sovereignty. The court applied a heightened level of scrutiny to the
20 preclearance requirements because they treated Alabama as unequal in
21 sovereignty and ruled that the preclearance provisions were
22 unconstitutional under the equal sovereignty principle. For the reasons
23 discussed in detail below, the legislature finds that section 102(a)(1) of
24 the federal land policy and management act of 1976 (P.L. 94-579; 90 Stat.
25 2743), which reversed almost two hundred years of federal public lands
26 policy from one of disposal to one of near-permanent retention, treats
27 Arizona as unequal in sovereignty as compared to the states with dominion
28 over the land within their borders. This argument, if adopted by the
29 court, would most likely result in a declaration that the United States
30 cannot forever retain the public lands within Arizona's borders, not an
31 order transferring the public lands to the State of Arizona. Therefore,
32 should the court be persuaded by this argument, a subsequent political
33 solution negotiated by all stakeholders would most likely be required to
34 resolve the issue. A possible outcome of that political process could be
35 Arizona's ownership of those lands.

36 6. The equal footing doctrine is based on the equal sovereignty
37 principle. It requires that states newly admitted to the Union receive
38 all incidents of sovereignty enjoyed by the thirteen original states. The
39 equal footing doctrine considers only sovereign and political rights of
40 the newly admitted states, not economic or geographic differences. The
41 original thirteen states stepped into the shoes of the Crown with regard
42 to dominion over public lands within their borders. Similarly, Vermont,
43 Kentucky, Tennessee, Maine, Texas and Hawaii all came into the Union with
44 dominion over their public lands. Dominion over land has historically been
45 viewed as a key incident of sovereignty, and denial of that dominion

1 negatively impacts sovereignty in a variety of ways. Therefore, in order
2 for Arizona to have been admitted as a co-equal sovereign with the states
3 with dominion over public lands within their borders, Arizona also should
4 have received on admission dominion over the land within its borders. A
5 ruling by the United States Supreme Court based on the equal footing
6 doctrine argument would logically result in the transfer of public lands
7 to the State of Arizona.

8 7. The compact theory posits that the Arizona enabling act was an
9 offer, and Arizona's acceptance of that offer created a solemn compact.
10 Implicit in that compact was the duty of the United States to timely
11 dispose of the public lands within Arizona's borders as it had done with
12 states admitted before Arizona. There is historical support for the
13 position that the United States promised to dispose of the public lands,
14 maintained a policy requiring disposal of public lands and acted on that
15 policy from 1784 through the date of Arizona's admission. There is
16 historical evidence that Arizona and the United States both expected, at
17 the time of Arizona's admission, that the public lands would be disposed
18 of consistent with past practice. There is also historical evidence that
19 the intent of the property clause of the Constitution of the United States
20 was to dispose of public lands, not to forever retain them. Accordingly,
21 an argument can be made that the United States undertook an obligation to
22 dispose of the public lands within Arizona's borders.

23 8. Since the United States has not disposed of the public lands
24 within Arizona, the state relies on less than sixteen percent of the land
25 it has dominion over as tax base to generate tax revenue in order to pay
26 for critical services. Arizona cannot continue to serve the interests of
27 its citizens if the private property tax base is taken without careful
28 contemplation of consequences of such transfers to a government unit, the
29 United States, which does not pay tax, nor does it compensate for the
30 value of the land it controls through payments in lieu of taxes.

31 9. Under article I, section 8, clause 17, Constitution of the
32 United States, the legislature of each state has the sole authority to
33 give its consent of all purchases of land, "to exercise exclusive
34 legislation in all cases whatsoever, over such district (not exceeding ten
35 miles square) as may, by cession of particular states, and the Acceptance
36 of Congress, become the seat of the government of the United States, and
37 to exercise like authority over all places purchased by the consent of the
38 legislature of the State in which the same shall be, for the erection of
39 forts, magazines, arsenals, dock yards, and other needful buildings".

40 Sec. 5. Short title

41 This act may be cited as the "Tax Base Protection Act".