

# New Mexico Prehistoric and Historic Sites Preservation Act

N.M. Stat. §§ 18-8-1 through 8

*This law, among other things, prohibits the use of state funds for any program or project that requires the use of any portion of or any land from a prehistoric or historic site listed in the State Register of Cultural Properties or the National Register of Historic Places, unless there is no feasible and prudent alternative to such use, and unless the program or project includes all possible planning to preserve and protect and to minimize harm to the significant prehistoric or historic site resulting from such use.*

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## **18-8-1. Short title.**

This act [18-8-1 to 18-8-8 NMSA 1978] may be cited as the "New Mexico Prehistoric and Historic Sites Preservation Act".

## **18-8-2. Purpose.**

The purpose of the New Mexico Prehistoric and Historic Sites Preservation Act [18-8-1 NMSA 1978] is the acquisition, stabilization, restoration or protection of significant prehistoric and historic sites by the state of New Mexico and corporations.

## **18-8-3. Definitions.**

As used in the New Mexico Prehistoric and Historic Sites Preservation Act [18-8-1 NMSA 1978]:

- A. "corporation" means a nonprofit corporation, formally recognized as tax exempt under Section 501(c)3 of the Internal Revenue Code of 1986, whose declared purposes include the investigation, preservation or conservation of significant prehistoric or historic sites;
- B. "division" means the historic preservation division of the cultural affairs department; and
- C. "significant prehistoric or historic sites" means properties listed in the state register of cultural properties or national register of historic places.

## **18-8-4 Administration; cost sharing formula; limitations.**

- A. The New Mexico Prehistoric and Historic Sites Preservation Act [18-8-1 NMSA 1978] shall be administered by the state historic preservation officer in consultation with the cultural properties review committee.
- B. The division and the cultural properties review committee shall cooperatively develop criteria for the acquisition, stabilization, restoration or protection of significant historic or prehistoric sites. Such criteria shall be reviewed by them at a public meeting held annually in accordance with the Open Meetings Act [10-15-1.1 NMSA 1978].
- C. The division shall annually solicit proposals from state agencies, subdivisions of state government and corporations for the acquisition, stabilization, restoration or protection of significant prehistoric and historic sites.
- D. Subject to the availability of funds, the state may pay up to ninety percent of the cost of acquisition, stabilization, restoration or protection of a significant prehistoric or historic site. Title to that site shall vest in the state or a political subdivision of the state and a corporation that participates in acquiring a minimum of at least a ten percent undivided interest in the site or defrays not less than ten percent of the cost of acquisition, stabilization, restoration or protection of the site.

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E. In the event of joint acquisition by the state or a political subdivision of the state and a corporation, the state or the subdivision and the corporation shall hold undivided interests in the property, in proportion to the state's and the corporation's share, and the property shall be held in the name of the state and the corporation.

F. Criteria for the acquisition and protection of significant prehistoric and historic sites

- (1) the degree to which the property is threatened by deterioration or destruction;
- (2) the rarity or uniqueness of the property or property type; and
- (3) the value of the property for public interpretation and visitation.

### **18-8-5. Management.**

A. The corporation shall be required to prepare a long-term management plan for any site acquired, stabilized, restored or protected as provided for in Subsection D of Section 4 [18-8-4 NMSA 1978] of the New Mexico Prehistoric and Historic Sites Preservation Act [18-8-1 NMSA 1978]. The management plan shall be subject to the approval of the division. That plan shall provide for disposition of the corporation's interest in the property, in the event that the corporation ceases to exist, either to another corporation or to the state. The division and the corporation shall enter into a contract providing for management, interpretation and preservation of any property acquired, stabilized, restored or protected under the provisions of the New Mexico Prehistoric and Historic Sites Preservation Act.

B. A contract for the management, interpretation or preservation of a site may be enforced by injunction or other appropriate proceeding in any court of competent jurisdiction

### **18-8-6. No power of eminent domain.**

No property or right of access may be acquired under the New Mexico Prehistoric and Historic Sites Preservation Act [18-8-1 NMSA 1978] through exercise of the state's power of eminent domain or other condemnation process.

### **18-8-7. Preservation of significant prehistoric or historic sites.**

No public funds of the state or any of its agencies or political subdivisions shall be spent on any program or project that requires the use of any portion of or any land from a significant prehistoric or historic site unless there is no feasible and prudent alternative to such use, and unless the program or project includes all possible planning to preserve and protect and to minimize harm to the significant prehistoric or historic site resulting from such use. The provisions of this section may be enforced by an action for injunction or other appropriate relief in a court of competent jurisdiction [jurisdiction].

### **18-8-8. Regulation.**

The state historic preservation officer shall issue regulations for the implementation of the New Mexico Prehistoric and Historic Sites Preservation Act [18-8-1 to 18-8-8 NMSA 1978].