

110TH CONGRESS  
2D SESSION

# S. 3179

To authorize the conveyance of certain public land in the State of New Mexico owned or leased by the Department of Energy, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 23, 2008

Mr. BINGAMAN (for himself and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To authorize the conveyance of certain public land in the State of New Mexico owned or leased by the Department of Energy, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lovelace Respiratory  
5 Research Institute Land Conveyance Act”.

6 **SEC. 2. DEFINITION.**

7 In this Act:

8 (1) INSTITUTE.—The term “Institute” means  
9 the Lovelace Respiratory Research Institute, a non-

1 profit organization chartered under the laws of the  
2 State of New Mexico.

3 (2) MAP.—The term “map” means the map en-  
4 titled “Lovelace Respiratory Research Institute  
5 Land Conveyance” and dated March 18, 2008.

6 (3) SECRETARY CONCERNED.—The term “Sec-  
7 retary concerned” means—

8 (A) the Secretary of Energy, with respect  
9 to matters concerning the Department of En-  
10 ergy;

11 (B) the Secretary of the Interior, with re-  
12 spect to matters concerning the Department of  
13 the Interior; and

14 (C) the Secretary of the Air Force, with  
15 respect to matters concerning the Department  
16 of the Air Force.

17 (4) SECRETARY OF ENERGY.—The term “Sec-  
18 retary of Energy” means the Secretary of Energy,  
19 acting through the Administrator for the National  
20 Nuclear Security Administration.

21 **SEC. 3. CONVEYANCE OF LAND.**

22 (a) IN GENERAL.—Notwithstanding section 120(h)  
23 of the Comprehensive Environmental Response, Com-  
24 pensation, and Liability Act of 1980 (42 U.S.C. 9620(h))  
25 and subject to valid existing rights and this Act, the Sec-

1   retary of Energy, in consultation with the Secretary of the  
2   Interior and the Secretary of the Air Force, may convey  
3   to the Institute, on behalf of the United States, all right,  
4   title, and interest of the United States in and to the parcel  
5   of land described in subsection (b) for research, scientific,  
6   or educational use.

7       (b) DESCRIPTION OF LAND.—The parcel of land re-  
8   ferred to in subsection (a)—

9           (1) is the approximately 135 acres of land iden-  
10   tified as “Parcel A” on the map;

11           (2) includes any improvements to the land de-  
12   scribed in paragraph (1); and

13           (3) excludes any portion of the utility system  
14   and infrastructure reserved by the Secretary of the  
15   Air Force under subsection (d).

16       (c) OTHER FEDERAL AGENCIES.—The Secretary of  
17   the Interior and the Secretary of the Air Force shall com-  
18   plete any real property actions, including the revocation  
19   of any Federal withdrawals of the parcel conveyed under  
20   subsection (a) and the parcel described in section (4)(a),  
21   that are necessary to allow the Secretary of Energy to—

22           (1) convey the parcel under subsection (a); or

23           (2) transfer administrative jurisdiction under  
24   section 4.

1 (d) RESERVATION OF UTILITY INFRASTRUCTURE  
2 AND ACCESS.—The Secretary of the Air Force may retain  
3 ownership and control of—

4 (1) any portions of the utility system and infra-  
5 structure located on the parcel conveyed under sub-  
6 section (a); and

7 (2) any rights of access determined to be nec-  
8 essary by the Secretary of the Air Force to operate  
9 and maintain the utilities on the parcel.

10 (e) RESTRICTIONS ON USE.—

11 (1) AUTHORIZED USES.—The Institute shall  
12 allow only research, scientific, or educational uses of  
13 the parcel conveyed under subsection (a).

14 (2) REVERSION.—

15 (A) IN GENERAL.—If, at any time, the  
16 Secretary of Energy, in consultation with the  
17 Secretary of the Air Force, determines, in ac-  
18 cordance with subparagraph (B), that the par-  
19 cel conveyed under subsection (a) is not being  
20 used for a purpose described in paragraph

21 (1)—

22 (i) all right, title, and interest in and  
23 to the entire parcel, or any portion of the  
24 parcel not being used for the purposes,

1           shall revert, at the option of the Secretary,  
2           to the United States; and

3                   (ii) the United States shall have the  
4           right of immediate entry onto the parcel.

5                   (B) REQUIREMENTS FOR DETERMINA-  
6           TION.—Any determination of the Secretary  
7           under subparagraph (A) shall be made on the  
8           record and after an opportunity for a hearing.

9           (f) COSTS.—

10                   (1) IN GENERAL.—The Secretary of Energy  
11           shall require the Institute to pay, or reimburse the  
12           Secretary concerned, for any costs incurred by the  
13           Secretary concerned in carrying out the conveyance  
14           under subsection (a), including any survey costs re-  
15           lated to the conveyance.

16                   (2) REFUND.—If the Secretary concerned col-  
17           lects amounts under paragraph (1) from the Insti-  
18           tute before the Secretary concerned incurs the actual  
19           costs, and the amount collected exceeds the actual  
20           costs incurred by the Secretary concerned to carry  
21           out the conveyance, the Secretary concerned shall re-  
22           fund to the Institute an amount equal to difference  
23           between—

24                   (A) the amount collected by the Secretary  
25           concerned; and

1 (B) the actual costs incurred by the Sec-  
2 retary concerned.

3 (3) DEPOSIT IN FUND.—

4 (A) IN GENERAL.—Amounts received by  
5 the United States under this subsection as a re-  
6 imbursement or recovery of costs incurred by  
7 the Secretary concerned to carry out the con-  
8 veyance under subsection (a) shall be deposited  
9 in the fund or account that was used to cover  
10 the costs incurred by the Secretary concerned  
11 in carrying out the conveyance.

12 (B) USE.—Any amounts deposited under  
13 subparagraph (A) shall be available for the  
14 same purposes, and subject to the same condi-  
15 tions and limitations, as any other amounts in  
16 the fund or account.

17 (g) CONTAMINATED LAND.—In consideration for the  
18 conveyance of the parcel under subsection (a), the Insti-  
19 tute shall—

20 (1) take fee title to the parcel and any improve-  
21 ments to the parcel, as contaminated;

22 (2) be responsible for undertaking and com-  
23 pleting all environmental remediation required at, in,  
24 under, from, or on the parcel for all environmental  
25 conditions relating to or arising from the release or

1 threat of release of waste material, substances, or  
2 constituents, in the same manner and to the same  
3 extent as required by law applicable to privately  
4 owned facilities, regardless of the date of the con-  
5 tamination or the responsible party;

6 (3) indemnify the United States for—

7 (A) any environmental remediation or re-  
8 sponse costs the United States reasonably in-  
9 curs if the Institute fails to remediate the par-  
10 cel; or

11 (B) contamination at, in, under, from, or  
12 on the land, for all environmental conditions re-  
13 lating to or arising from the release or threat  
14 of release of waste material, substances, or con-  
15 stituents;

16 (4) indemnify, defend, and hold harmless the  
17 United States from any damages, costs, expenses, li-  
18 abilities, fines, penalties, claim, or demand for loss,  
19 including claims for property damage, personal in-  
20 jury, or death resulting from releases, discharges,  
21 emissions, spills, storage, disposal, or any other acts  
22 or omissions by the Institute and any officers,  
23 agents, employees, contractors, sublessees, licensees,  
24 successors, assigns, or invitees of the Institute aris-

1       ing from activities conducted on the parcel conveyed  
2       under subsection (a); and

3           (5) reimburse the United States for all legal  
4       and attorney fees, costs, and expenses incurred in  
5       association with the defense of any claims described  
6       in paragraph (4).

7       (h) CONTINGENT ENVIRONMENTAL RESPONSE OBLI-  
8       GATIONS.—If the Institute does not undertake or complete  
9       environmental remediation as required by subsection (g)  
10      and the United States is required to assume the respon-  
11      sibilities of the remediation, the Secretary of Energy shall  
12      be responsible for conducting any necessary environmental  
13      remediation or response actions with respect to the parcel  
14      conveyed under subsection (a).

15      (i) NO ADDITIONAL COMPENSATION.—Except as oth-  
16      erwise provided in this Act, no additional consideration  
17      shall be required for conveyance of the parcel to the Insti-  
18      tute under subsection (a).

19      (j) ACCESS AND UTILITIES.—On conveyance of the  
20      parcel under subsection (a), the Secretary of the Air Force  
21      shall, on behalf of the United States and subject to any  
22      terms and conditions as the Secretary determines to be  
23      necessary (including conditions providing for the reim-  
24      bursement of costs), provide the Institute with—

1           (1) access for employees and invitees of the In-  
2           stitute across Kirtland Air Force Base to the parcel  
3           conveyed under that subsection; and

4           (2) access to utility services for the land and  
5           any improvements to the land conveyed under that  
6           subsection.

7           (k) **ADDITIONAL TERM AND CONDITIONS.**—The Sec-  
8           retary of Energy, in consultation with the Secretary of the  
9           Interior and Secretary of the Air Force, may require any  
10          additional terms and conditions for the conveyance under  
11          subsection (a) that the Secretaries determine to be appro-  
12          priate to protect the interests of the United States.

13       **SEC. 4. TRANSFER OF ADMINISTRATIVE JURISDICTION.**

14          (a) **IN GENERAL.**—After the conveyance under sec-  
15          tion 3(a) has been completed, the Secretary of Energy  
16          shall, on request of the Secretary of the Air Force, trans-  
17          fer to the Secretary of the Air Force administrative juris-  
18          diction over the parcel of approximately 7 acres of land  
19          identified as “Parcel B” on the map, including any im-  
20          provements to the parcel.

21          (b) **REMOVAL OF IMPROVEMENTS.**—In concurrence  
22          with the transfer under subsection (a), the Secretary of  
23          Energy shall, on request of the Secretary of the Air Force,

- 1 arrange and pay for removal of any improvements to the
- 2 parcel transferred under that subsection.

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