

**MINUTES  
of the  
FIFTH MEETING  
of the  
LAND GRANT COMMITTEE**

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**November 13, 2012  
Room 317, State Capitol  
Santa Fe**

The fifth meeting of the Land Grant Committee was called to order by Senator Richard C. Martinez, chair, on November 13, 2012 at 10:22 a.m. in Room 317 of the State Capitol in Santa Fe.

**Present**

Sen. Richard C. Martinez, Chair  
Rep. Miguel P. Garcia, Vice Chair  
Rep. Eliseo Lee Alcon  
Rep. Alonzo Baldonado  
Rep. Paul C. Bandy  
Rep. Eleanor Chavez  
Rep. Jimmie C. Hall  
Sen. Gerald Ortiz y Pino  
Rep. Debbie A. Rodella  
Sen. Sander Rue  
Sen. Bernadette M. Sanchez

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**Absent**

Sen. Rod Adair

**Advisory Members**

**Guest Legislators**

Rep. Yvette Herrell  
Sen. Nancy Rodriguez

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Sen. Carlos R. Cisneros  
Rep. Joni Marie Gutierrez  
Rep. Jim W. Hall  
Speaker Ben Lujan  
Rep. Patricia A. Lundstrom  
Sen. David Ulibarri  
Rep. Richard D. Vigil

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**Staff**

Douglas Carver, Staff Attorney, Legislative Council Service (LCS)  
Peter Kovnat, Staff Attorney, LCS  
Alex Tapia, Legislative Intern, LCS

## **Guests**

The guest list is the meeting file.

## **Handouts**

Handouts and other written testimony are in the meeting file.

## **Tuesday, November 13**

### **Call to Order**

Senator Martinez welcomed everybody to the final meeting of the Land Grant Committee. Members of the committee, staff and individuals in the audience were asked to introduce themselves.

### **Transfer of Federal Lands to New Mexico**

Representative Herrell gave a PowerPoint presentation to the committee on a bill that would return federal lands in New Mexico back to the control of the state. (She had given a similar presentation to the Economic and Rural Development Committee on July 13, 2012.) Representative Herrell's bill mirrors one passed in Utah, the Transfer of Public Lands Act. Representative Herrell noted that less than 50% of all the land in the western United States is managed by the states themselves and that these states could utilize the land to produce a profit, especially by exploiting natural resources. She stated that under her version of the bill, Native American lands, military bases and national monuments would be ineligible for transfer. She added that similar movements have been started in many mountain west states.

### **Questions from Committee Members**

Committee members discussed constitutional challenges to the bill and questioned Representative Herrell regarding how the federal lands would be managed by the state. While there was general support for the overall concept, some members of the committee expressed concern about how the state's land grants would be affected and how counties that rely on federal payments in lieu of taxes would be compensated for the loss of income that would come about were these federal lands to be transferred to the state. Mr. Carver noted that Utah passed a bill, a constitutional amendment and a memorial in support of the transfer bill, although Utah's governor recognized that the bill is subject to constitutional challenge.

A member of the committee stated that Arizona manages its federal lands on behalf of the federal government. As a result, Arizona's knowledge of its land use is impressive. Representative Hall also stated that considerable special attention would have to be paid to the land grants and the Native American reservations because of their immense history.

### **Taxation and the Land Grants**

Cesario Quintana, director, Property Tax Division of the Taxation and Revenue Department, opened the presentation on taxes and the land grants by discussing a handout from the Department of Finance and Administration (DFA). Mr. Quintana provided a brief overview of the net taxable value for property tax purposes broken down by county for the 2012 tax year. The total New Mexico property tax obligations for 2012 was \$1.54 billion, with the statewide net

taxable value tallying \$54.1 billion. Mr. Quintana pointed out that Bernalillo County has the highest weighted average property tax rates at \$39,057 for residential property and \$43,991 for nonresidential property. The average property tax collection rate for the 2012 tax year was 95.85%. Michael O'Melia, deputy director, Property Tax Division, addressed the various tax statutes connected to land grant issues, referring members of the committee to the highlighted sections in the DFA handout. Richard Anklam, president and executive director of the New Mexico Tax Research Institute, noted that there is nothing specifically addressing land grants in statute.

### **Questions from Committee Members**

Members of the committee asked the presenters various questions regarding school districts, hospital districts and property taxes. Committee members were most concerned about the issues of land grants and the loss of land due to unpaid taxes. One member, pointing out that the committee views land grants as entities of local government, asked the presenters what would need to be done to stop land from having to be sold at auction to pay for delinquent taxes. Mr. O'Melia mentioned that some properties are exempt and referred the committee to Section 7-38-67 NMSA 1978 for some answers to this issue. He noted that land grant trustees are allowed to match the highest bid if a property goes up for sale and that there has been some movement toward helping the land grants retain their lands. A member of the committee added that allowing trustees to match the highest bidder was a compromise and not yet a solution, suggesting the need for a constitutional amendment regarding the right of first refusal. The member requested that the presenters look into the fiscal impact of full exemption for land grants for the next interim.

Members of the committee asked about specific plots of land, such as the Marty Sanchez Golf Course and Christus St. Vincent Hospital, inquiring as to how they are taxed and how that tax is assessed.

A member of the committee asked about paying "double taxes", an issue that is prevalent in land grant communities. The member explained that if there is a land dispute, the land grant pays and owners pay on the same land, an issue that the committee wants to see addressed. Mr. Quintana responded that residents can protest their taxes at the local level and point out double taxes to the county assessor. Assessors have tried to assist with these issues, but the occurrence of unclear deeds complicates the matter.

The issues of different tax rates for grazing were mentioned to the presenters. Mr. Quintana referred the committee to the handout that contained Section 7-36-20 NMSA 1978 and added that counties tax at different rates due to area conditions and weather. Mr. O'Melia noted that there is a taxable value as opposed to a taxable rate. The actual value is formulaic, and a uniform value would not be optimal.

### **Approval of Minutes**

Upon a motion by Representative Garcia, seconded by Representative Rodella, the committee voted unanimously to approve the minutes of the fourth meeting of the committee.

### **Update on Truchas Land Grant Boundary Resolution**

James Melonas, New Mexico state liaison, United States Forest Service (USFS), Southwestern Region, provided an update to the committee on the Truchas Land Grant boundary dispute. Mr. Melonas took a field trip in September, along with members of the Truchas Land Grant, the Land Grant Council, the Land Grant Consejo, the University of New Mexico land grant studies program and United States Senator Tom Udall's office staff to examine survey monuments along the southern boundary of the land grant. During the trip, the group was shown several survey monuments that are a mile or more south of the existing land grant boundary within the Santa Fe National Forest. The original survey of the Truchas Land Grant was conducted in 1895 by Albert Easley, U.S. General Land Office deputy surveyor, based on the description from the Court of Private Land Claims; it is agreed by all parties that the Easley survey represents the legal boundaries of the grant. Mr. Melonas noted that parts of the fences have been damaged by recent fire and that there are some boundary discrepancies, including that the fence is 10 to 15 feet off. Other parts of the boundary will be examined next year during another visit to the land grant. Mr. Melonas also provided to the committee a copy of the memorandum of understanding between the land grants and the USFS.

John Chavez, Truchas Land Grant, informed the committee that, during the field trip, only one mile of the 15-mile boundary was examined. Mr. Chavez stressed that there has not been a resolution, but that the issue is a work in progress. The land grant views this as the beginning of the process in an issue that goes back to 1946. Mr. Chavez acknowledged that through the work of the committee, the USFS has been working with the land grant.

### **Questions from Committee Members**

Members of the committee praised the representatives from both groups for their cooperation with one another and the ongoing progress on land grant issues. A member of the committee asked Mr. Melonas whether he agreed with the statements made by Mr. Chavez. Mr. Melonas responded that the USFS does want to go back out to the land grant and examine the entire boundary. The land grant had brought that portion of the boundary forward for the September meeting, and the USFS looks forward to seeing some of the other areas. Mr. Melonas added that his job is to help facilitate getting the right people to the table on these issues.

A member of the committee asked if the USFS is still compiling information as mentioned in the letter supplied by Mr. Melonas. Mr. Melonas replied that the information has yet to be written up in a formal format. A report will be compiled and provided to the committee and the Land Grant Council. The USFS also has survey notes about the monuments that can be included in that report. Mr. Melonas added that those notes can be helpful in understanding what the surveyors were examining.

### **Proposed Legislation**

The following legislation was presented to the committee for endorsement in the 2013 legislative session.

#### **Chihene Nde Nation Memorial: 202.190624.1**

This is a joint memorial requesting that the United States Congress support the establishment of the Chihene Nde Nation of New Mexico people as a recognized Native American tribe. Manuel Sanchez, chair, Chihene Nde Nation, provided the committee with a

brief history, including information about past treaties and treatment by other groups. Paul A. Martinez, New Mexico League of United Latin American Citizens, mentioned that once the New Mexico Legislature passes this memorial, Senator Udall and United States Representative Steve Pearce have agreed to carry the issue forward in Congress. There was discussion between the members of the committee and the Chihene Nde representatives about the impact that recognition would have on the other land grants and future land grant claims in the area. Representative Garcia moved for committee endorsement of the memorial. The motion was seconded by Representative Alcon, and it was agreed that Senator Ortiz y Pino and Representative Garcia would carry the memorial in their respective chambers.

**Repealing Section 61-23-34 NMSA 1978: 202.190561.1**

This proposed bill would repeal a duplicative section of the Engineering and Surveying Practice Act that provides for a notice requirement for surveys conducted on certain land grants. Senator Rue informed the committee of the purpose of the original bill. Mr. Carver explained that a bill had passed in the 2012 session with roughly 80% of the same language, thus creating conflicting sections of law. After reviewing both bills, it was determined that the language of the original 2011 bill was more precise. Representative Garcia moved for committee endorsement. Senator Rue seconded the motion and requested to carry the bill.

**Water Project Financing Bill: 202.190599.1**

This bill would expand the eligibility for grants and loans under the Water Project Finance Act. Mr. Carver clarified that land grants are already included and this change would add dams and acequias. After discussion, Representative Rodella moved for committee endorsement of this bill; the motion was seconded by Representative Garcia. Representative Hall agreed to carry the bill in the house, and Senator Cisneros said he would carry it in the senate.

**Use of Private and Federal Funds to Assist Community Land Grants: 202.190610.1**

This bill would allow the Land Grant Council to use private and federal funds to assist community land grants that are not political subdivisions of the state and would clarify the council's authority to determine the status of a community land grant. This bill is a reintroduction of legislation introduced by Senator Sanchez in 2012. Representative Garcia moved for committee endorsement, seconded by Representative Chavez, with the bill to be carried by Representative Garcia.

**Transfer of the New Mexico Community Land Grant Registry: 202.190611.1**

This bill would transfer the New Mexico Community Land Grant Registry to the Land Grant Council, providing for the storage of historical documents. Mr. Carver noted that the Secretary of State's Office endorses the concept behind this bill, although it was not available to appear to discuss it. Representative Garcia moved for committee endorsement of the bill, seconded by Senator Rue. Senator Martinez will carry the bill.

**Appropriation of \$117,500 for the Land Grant Studies Program: 202.190609.1**

This bill is for an appropriation of \$117,500 for the UNM land grant studies program to provide research and public service for land grant communities. A motion for committee endorsement was made by Representative Garcia and seconded by Representative Rodella. The

committee agreed to have Representative Hall and Representative Garcia carry the bill.

**Amending Chapter 49, Article 1 NMSA 1978: 202.190612.1**

This bill would amend Chapter 49, Article 1 NMSA 1978 to include the Tecolote Land Grant-Merced. This bill is a reintroduction of legislation from 2011 and 2012. Representative Garcia and Representative Hall explained to the committee the history of the bills and why they did not pass in prior sessions. After discussion, Representative Garcia moved for committee endorsement; Representative Rodella seconded the motion. Representative Garcia and Senator Rue will carry the bill for the 2013 session.

**Political Subdivision Status for the San Antonio del Rio Colorado Land Grant-Merced: 202.190613.1**

This bill would grant political subdivision status to the San Antonio del Rio Colorado Land Grant-Merced. This is a reintroduction of legislation from 2012 carried by Senator Cisneros. Representative Garcia moved for the committee to endorse the bill, seconded by Representative Baldonado. As he requested prior to the meeting, Senator Cisneros will carry the bill again.

**Public Comment**

*Speaker 1*

Juan Sanchez, chair, Land Grant Council, addressed the committee about the following topics.

1. The council would like a memorial endorsing the proposition that building permits for land grants in Bernalillo County be issued directly from the Construction Industries Division (CID) of the Regulation and Licensing Department instead of through Bernalillo County. Mr. Sanchez noted that all other land grants go through the CID for permits. After discussion by the committee, and the mention of the ongoing issues with the CID discussed in the Economic and Rural Development Committee, it was recommended that the land grants attempt to work with the county more. The committee reached a consensus to wait to address this issue.

2. Mr. Sanchez presented the ongoing issue with surveyors and land grant properties in regard to encroachments and new deeds being created. The council would like to amend Chapter 49 NMSA 1978 to include all community land grants. It was noted that some surveyors are starting to notify the land grants. Santa Cruz is having issues with surveyors following color of title, resulting in heirs having to defend landholdings in court. Senator Rue mentioned that he would prefer to deal with the issues separately and would be willing to carry a bill. Another member requested that Senator Rue prefile the bill so members of the committee could sign on to it.

3. Mr. Sanchez informed the committee that he would be presenting before the DFA the following day and provided the draft of a letter for the DFA to the committee.

4. Mr. Sanchez provided a letter to the committee from the director of the UNM land grant studies program, Dr. Manuel Garcia y Griego, as well as a list of names of workshop

attendees.

5. Mr. Sanchez discussed some issues regarding the USFS and land grants. Dr. Garcia y Griego is helping all of the land grants with global positioning service mapping. The USFS is going to start amending and working on the forest use agreements, an important step for land grants and traditional use rights. A member of the committee expressed interest in being included in these discussions, suggesting that the committee chair or staff notify committee members of meetings.

*Speaker 2*

Carmen Quintana, a Santa Fe resident and land grant heir, brought up the issue of permitting in Santa Fe County. Ms. Quintana mentioned that private land grants do not receive any preference in El Consejo and that the federal government is wanting to expand the national cemetery. Ms. Quintana told the committee that she was present at the meeting to bring up the issue of a bill introduced in a past session by Speaker Lujan.

**Adjournment**

There being no further business before the committee, the fifth and final meeting of the Land Grant Committee for the 2012 interim adjourned at 3:20 p.m.

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