



NEW MEXICO LEGISLATURE

LAND GRANT COMMITTEE

2015 INTERIM FINAL REPORT

LEGISLATIVE COUNCIL SERVICE
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INTERIM SUMMARY

Land Grant Committee 2015 Interim Summary

The interim legislative Land Grant Committee held five meetings during the 2015 interim. Aside from the first and last meetings at the State Capitol in Santa Fe, committee meetings were hosted by the University of New Mexico, Taos campus, New Mexico Highlands University and Tierra Amarilla Land Grant-Merced. The committee also toured the San Antonio del Rio Colorado (Questa) and Tierra Amarilla land grants-mercedes, El Carmel partitioned land grant and the Piedre Lumbre Visitor Center and Museum near Abiquiu that the U.S. Forest Service has designated for disposal.

Presentations before the committee generally addressed the following topics:

- 1) governance challenges faced by land grants-mercedes and acequias as small political subdivisions, including compliance with state laws, meeting capital outlay requirements and land-use planning;
- 2) requirements of land-based communities, including valuation aspects for preserving an agricultural land base, community use of state and federal lands, watershed restoration and the potential for land grants to participate in the development of management plans for state and federal lands; and
- 3) the current state of affairs at individual land grant communities and the status and capabilities of partitioned land grant communities.

I. Governance Challenges

Capital Outlay

A signature issue for the committee throughout the 2014 interim session was resolved after a meeting with Department of Finance and Administration (DFA) experts at the committee's first meeting of the 2015 interim. At issue was that many land grant communities have low-to-moderate revenue streams and could not retain significant cash-on-hand balances in their accounts. However, the state's common practice for capital outlay expenditures had been that recipient entities would first pay for a service and then be reimbursed by invoice. This practice had created an insurmountable obstacle for some land grants to access legislatively appropriated funding for infrastructure projects. The DFA told committee members that it would now accept invoices for payment from a land grant-merced when it receives documentation that authorized goods and services had been delivered.

Land Base Challenges

The committee heard from the Cristóbal de la Serna and Chilili land grants-mercedes regarding an initiative in the 1930s and 1940s by the Taxation and Revenue Department to ensure property tax assessments of community lands. In response to that initiative, the county

assessors created plat maps for the land grants. The plat maps were often created without consulting the land grant heirs and without regard for the historical use of these lands as common lands. The results were plat lines that: 1) divided communal grazing and farm lands into unmanageable individual parcels; and 2) may have contributed to widespread uncertainty regarding the actual boundaries for many land grants. The plat map for the Cristóbal de la Serna Land-Grant Merced is considered a particularly unworkable land allocation. In this case, the communal grazing land was divided into three-foot-wide strips (called lineas) stretching as much as five miles. The Taos County assessor said that the lineas have been almost impossible to fairly evaluate for property value.

This interim, the committee continued to hear from land grant communities about inadequate or incorrect boundary surveys. The uncertainty regarding land grant boundaries often results in clouded property titles. In many cases, multiple parties have been paying tax assessments for the same parcels of land to retain their respective claims to the land. Inadequate notice of new surveys, and the inadequate legal resources available to land grants, have contributed to an ongoing erosion of the land base at many land grant communities.

Statutory Compliance

The committee continued its inquiry into the strength of land grants-mercedes and acequias as small political subdivisions. Presentations from the Office of the State Auditor (OSA), the New Mexico Acequia Association (NMAA) and the Land Grant Council (LGC) explored the need for increased assistance for these entities to maintain sound financial procedures, comply with statutory election requirements, analyze property disputes and implement water transfers and other governance services. The committee discussed the potential for an "office of compliance" that would help keep small political subdivisions on track with the requirements of the Audit Act, the Election Code and the Open Meetings Act. In this vein, the committee requested that the OSA alert the committee when it sees land grants-mercedes and acequias at risk of noncompliance with the Audit Act. The OSA stated that it would try to give an "at risk" warning, but noted that the OSA does not have a complete inventory of small political subdivisions, particularly acequia associations.

Legal Assistance

Exploring alternative methods to increase legal services for land grants and acequias, the committee met with the attorney general. It also held a roundtable discussion with the University of New Mexico School of Law, the NMAA and the LGC. The attorney general said that the existing Guadalupe Hidalgo Treaty Division in the Office of the Attorney General has always been one of several obligations delegated to a single attorney. A way to provide immediate legal assistance would be to dedicate staff to the division, and he said his budget proposal for fiscal year 2017 would include a budget request for two full-time division attorneys. At the roundtable discussion, representatives from the law school expressed interest in expanding the school's curriculum to include focused "small government" legal training. They believed students would

be interested in a program designed to place them into entry-level positions in this legal field.

II. Land Concerns: Agricultural Land Values, Relationship with Federal Agencies and State Wildlife Areas

The committee heard a presentation from the Taos-based Agricultural Resolution Team (ART) on the general costs to rural counties of the increasing subdivision and development of agricultural lands and on the tax methodologies being developed in various western states to create ways to preserve agricultural lands.

The federal Bureau of Land Management and the San Antonio del Rio Colorado Land Grant-Merced reported on the development of the management plan for the newly designated Rio Grande del Norte National Monument. Points of emphasis were that the land grant had been given a meaningful role in the development of the management plan and that the plan provides for various traditional and subsistence uses by local residents within the monument boundaries.

The forest supervisors for the Carson, Cibola and Santa Fe national forests and the LGC provided reports to the committee on the developing role of land grants-mercedes and the LGC as collaborating partners and advisors in the development of forest management plans. The Carson National Forest has started the process to revise its management plan, and the other two national forests are expected to begin this process within the next year. The LGC was formally requested to act as an advisor for the Carson National Forest plan revision, and the working relationship has been good. Traditional uses have been included in the plan, which was not the case in the past plans. The Carson National Forest also reported that it had started discussions with the Cristóbal de la Serna Land Grant-Merced as a follow up to the committee's meeting in Taos. Additionally, the parties reported that they are in discussions regarding the potential transfer of the U.S. Forest Service's Piedre Lumbre Visitor Center and Museum to the LGC or the New Mexico Land Grant Consejo to be used as a cultural center and business incubator.

A particular focus for the committee this year was to re-initiate a dialogue with the Department of Game and Fish and the State Game Commission regarding traditional community access to, and use of, various wildlife areas (WLAs). Paul M. Kienzle III, chair, State Game Commission, Alexa Sandoval, director, Department of Game and Fish, and representatives from the Tierra Amarilla and San Joaquin del Rio de Chama land grants-mercedes participated as a panel before the committee. The committee expressed a desire to either have the Marquez WLA opened for public use or disposed of. However, the central focus of the discussion was the degree to which the state should recognize historical ownership of, and need for use of, the Edward Sargent, W.A. Humphries and Rio Chama WLAs by the Tierra Amarilla Land Grant-Merced. The parties did not come to agreement on the recognition of ownership. However, Ms. Sandoval announced that a new "open to the public unless specifically closed" policy for WLAs was up for consideration by the State Game Commission. Additionally, Mr. Kienzle said that he would bring the issue of increased traditional uses as part of "mixed-use management" for WLAs up for examination by the State Game Commission.

III. The Status of Land Grants-Mercedes and Partitioned Grants

As part of its ongoing examination of the organizational strength of land grants-mercedes, the committee was introduced to and received an update from the reconstituted and newly elected board of trustees for the Tierra Amarilla Land Grant-Merced. The committee also received status updates from the Don Fernando de Taos and the Cristóbal de la Serna land grants-mercedes.

In addition, this interim, the committee dedicated time to examining the status of partitioned land grants and the merits of establishing them as autonomous political subdivisions. The committee heard reports from: 1) three of the four partitioned land grants in the Las Vegas area (Los Vigiles, Lower Gallinas and San Augustin); 2) El Carmel/North Carmen partitioned land grant near Mora; and 3) the Rio Hondo Arriba partitioned land grant near Taos. It also received comments from the Santa Gertrudis de lo de Mora Land Grant-Merced on the issue of political subdivision status for partitioned grants.

IV. Land Grant Council

An issue that had not been resolved by the end of the interim was the status of the LGC fiscal year 2016 funding. This year, the LGC transitioned from being administratively attached to the DFA to being administratively attached to the University of New Mexico. On December 1, 2015, after the final committee meeting, a contract was completed with the University of New Mexico resolving the flow of funding.

V. Endorsed Legislation

The committee endorsed the following bills for the 2016 session:

- 1) an appropriation to the Office of the Attorney General to: a) review the issues regarding county assessment plat maps for land grants created in the 1930s and 1940s; b) review the issues regarding multiple taxation of land grant properties; and c) issue a report on approaches the state could use to rectify the problems (Representative Sarah Maestas Barnes will introduce the bill and Senator Carlos R. Cisneros will be the primary sponsor in the senate);
- 2) a bill to establish qualified partitioned land grants as autonomous land grants-mercedes under state law (Representative Tomás E. Salazar will introduce the bill and Senator Gerald Ortiz y Pino will be the primary sponsor in the senate);
- 3) a bill placing land grants-mercedes on a similar footing with small municipalities with regard to comprehensive land-use planning for land grant common lands (Senator Jacob R. Candelaria will introduce the bill and Representative Debbie A. Rodella will be the primary sponsor in the house); and

- 4) a bill establishing a tuition-for-legal-services program at the University of New Mexico School of Law and the Higher Education Department (Senator Gerald Ortiz y Pino will introduce the bill and Representative Miguel P. Garcia will be the primary sponsor in the house).

WORK PLAN AND MEETING SCHEDULE

**2015 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
LAND GRANT COMMITTEE**

Members

Rep. Sarah Maestas Barnes, Chair	Sen. Linda M. Lopez
Sen. Jacob R. Candelaria, Vice Chair	Sen. Richard C. Martinez
Sen. Ted Barela	Sen. Gerald Ortiz y Pino
Sen. Lee S. Cotter	Rep. Debbie A. Rodella
Rep. David M. Gallegos	Sen. Sander Rue
Rep. Miguel P. Garcia	Rep. Tomás E. Salazar
Rep. Jimmie C. Hall	Rep. Bob Wooley

Advisory Members

Rep. Eliseo Lee Alcon	Rep. D. Wonda Johnson
Rep. Paul C. Bandy	Rep. Patricia A. Lundstrom
Sen. Carlos R. Cisneros	Rep. Matthew McQueen
Rep. Randal S. Crowder	Rep. Christine Trujillo

Work Plan

The Land Grant Committee was created by the New Mexico Legislative Council on April 27, 2015. The committee proposes to focus on the following topics:

1. an overview of land grant history, including contemporary history (a continuing item throughout the interim);
2. analysis of the capital outlay challenges faced by land grants with political subdivision status and mechanisms to mitigate those challenges;
3. an update on the revision process to the forest management plans for the Cibola, Carson and Santa Fe national forests and the experience of land grants-mercedes as first-time cooperating agencies in the development of those revisions;
4. an examination of challenges facing partitioned land grants;
5. continuing review of methods to increase the institutional strength of land grants-mercedes as political subdivisions of the state, including:
 - a. the development of programs designed to promote community-based legal services for land grants-mercedes, acequias and colonias regarding zoning, rule-making processes, governmental liability and other areas of law vital to smaller communities; and
 - b. comprehensive land use and economic development planning;

6. review of property tax assessment policies in correlation with preservation of common community lands;
7. a discussion with the Attorney General's Office regarding the obligations of the United States to community land grants pursuant the Treaty of Guadalupe Hidalgo; particularly including an examination of potential methods for reopening and reversing the ruling in *United States v. Sandoval*, which severed many forest-dependent land grants from their traditional community lands;
8. discussions with the State Game Commission regarding local access to former community lands at the Edward Sargent and W.A. Humphries wildlife areas and incorporating land grants-mercedes as cooperating agencies for elk herd management;
9. an update from the Acequia Association and the Acequia Commission;
10. an update from the Land Grant Council;
11. an examination of the legal and governmental service needs of colonias communities;
12. updates on land management and use issues from the U.S. Bureau of Land Management;
13. an update on organizational, land use and economic development issues at La Petaca Land Grant-Merced;
14. an evaluation of how the Land Grant Committee can better facilitate the continuing development of land grants-mercedes;
15. an update on the reorganization of the Tierra Amarilla Land Grant-Merced;
16. a status report from the Ojo Caliente Land Grant; and
17. a status report from the Cristobal de la Serna Land Grant-Merced.

**Land Grant Committee
2015 Approved Meeting Schedule**

<u>Date</u>	<u>Location</u>
June 10	State Capitol, Santa Fe
July 8-9	Taos
September 2-3	Las Vegas-Mora
October 8-9	Tierra Amarilla
November 6	State Capitol, Santa Fe

AGENDAS AND MINUTES

**TENTATIVE AGENDA
for the
FIRST MEETING
of the
LAND GRANT COMMITTEE**

**June 10, 2015
Room 309, State Capitol
Santa Fe**

Wednesday, June 10

- 9:00 a.m. **Call to Order/Introductions**
—Representative Sarah Maestas Barnes, Chair, Land Grant Committee
- 9:15 a.m. (1) **[Committee-Endorsed Legislation, 2015 Session — Summary](#)**
—Mark Edwards, Staff, Legislative Council Service (LCS)
- 9:30 a.m. (2) **[Land Grants-Mercedes General Background and History](#)**
—Dr. Manuel García y Griego, Director, Land Grant Studies Program,
University of New Mexico
- 10:30 a.m. (3) **[Capital Outlay — Federal Law Considerations for Using Severance Tax
Funds for Land Grants-Mercedes](#)**
—David Buchholz, Esq., Rodey, Dickason, Sloan, Akin & Robb, P.A.;
Contract Attorney, State Board of Finance
- 11:30 a.m. (4) **[2015 Interim Work Plan and Meeting Schedule Development](#)**
—Mark Edwards, Staff, LCS
- 12:30 p.m. **Public Comment**
- 1:00 p.m. **Adjourn**

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

**June 10, 2015
Room 309, State Capitol
Santa Fe**

The first meeting of the Land Grant Committee was called to order by Representative Sarah Maestas Barnes, chair, on June 10, 2015 at 9:00 a.m. in Room 309 of the State Capitol in Santa Fe.

Present

Rep. Sarah Maestas Barnes, Chair
Sen. Ted Barela
Sen. Lee S. Cotter
Rep. Miguel P. Garcia
Rep. Jimmie C. Hall
Sen. Linda M. Lopez
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue
Rep. Bob Wooley

Advisory Members

Sen. Carlos R. Cisneros
Rep. Matthew McQueen

Guest Legislator

Sen. Nancy Rodriguez

Staff

Mark Edwards, Legislative Council Service (LCS)
Michelle Jaschke, LCS
Peter Kovnat, LCS

Guests

The guest list is in the meeting file.

Absent

Sen. Jacob R. Candelaria, Vice Chair
Rep. David M. Gallegos
Rep. Tomás E. Salazar

Rep. Eliseo Lee Alcon
Rep. Paul C. Bandy
Rep. Randal S. Crowder
Rep. D. Wonda Johnson
Rep. Patricia A. Lundstrom
Rep. Christine Trujillo

Handouts

Copies of all handouts are in the meeting file.

Wednesday, June 10

Representative Maestas Barnes welcomed committee members, staff and members of the audience and asked them to introduce themselves, which they did.

Committee-Endorsed Legislation, 2015 Session — Summary

Mr. Edwards briefly outlined the five pieces of legislation endorsed by the 2014 interim Land Grant Committee:

- **House Bill (HB) 83**, allowing land grant-merced fund deposits into credit unions and requiring recordable methods for payments from those funds, was the only bill passed and signed (*see*, Laws 2015, Chapter 40);
- **HB 46**, to establish qualified partitioned community land grants as autonomous political subdivisions pursuant to Chapter 49, Article 1 NMSA 1978, passed the house and was reported out of senate committee but was not placed on the consent calendar prior to the senate adjourning sine die;
- **Senate Bill (SB) 172**, to include land grants-mercedes as authorized recipients of funds from the Colonias Infrastructure Project Fund, was not reported out of committee;
- **SB 199**, to create the Land Grant-Merced Project Fund, was amended several times as it moved through senate and house committees but was not acted upon by the full house; and
- **SB 213**, to authorize comprehensive land planning by land grants-mercedes for their common lands, passed the senate late in the session and did not get a committee hearing in the house.

Regarding SB 213, a legislator noted that it had interest from the executive and suggested reintroducing the bill in each chamber during the 2016 session. Another member said that SB 172 is a sound idea, but it should be done as a land-grant specific act, independent of the colonias.

Finally, a number of legislators explained that HB 46 was a bipartisan effort and would have resolved an important issue. The hurdle it faced was that there was a lack of time for a floor debate in the last hours of the session. A proposed amendment that was ancillary to the bill itself was viewed as likely to result in a lengthy floor debate, so the bill was not brought up for consideration by the senate. A legislator suggested a need for better communication between land grant advocates and bill sponsors in the hopes of resolving similar end-of-the-session amendment issues in the future.

Land Grants-Mercedes General Background and History

Dr. Manuel García y Griego, director, Land Grant Studies Program, University of New Mexico, introduced himself and provided the committee with an overview of the history of land grants in New Mexico (see handout).

Highlighting some key points, Dr. García y Griego noted that:

1. at the conclusion of the Mexican-American War, the vast majority of communities north of Socorro were land grant communities, including 23 Indian pueblos and 131 other community land grants-mercedes (154 total) and 141 individual grants. Some of the individual grants, such as Cristóbal de la Serna, became community land grants as their original families expanded;
2. land grant boundaries adjudicated prior to the Civil War, such as Santa Gertrudis de lo de Mora, typically resulted in patent of land for the full extent of a grant's historical claim. However, that changed after the vast, single-family Maxwell land grant claim was approved without a survey;
3. after the Maxwell patent, the federal government switched in 1891 from a surveyor general process to an adjudicated process before the Court of Private Land Claims to validate land grant patents;
4. in the adjudication process, land grant claims were only recognized as extending to the base of the foothills or mountains. This meant that communities, such as the Town of Tomé, lost control of their watersheds and eventually access to traditional timberland resources;
5. further restriction of land claims resulted from the United States Supreme Court ruling in *U.S. v. Sandoval* (1897). The court held that common lands belong to the sovereign entity (i.e., Spain and then Mexico prior to the Treaty of Guadalupe Hidalgo and the United States afterwards). Under the *Sandoval* ruling, seven grants lost between 95% and 99% of their historic land; and
6. loss of land continued for many land grant partition suits and property taxes, as outsiders were invited in and paid some taxes in exchange for a plot of land of the common land.

Summing up the current situation of land grants, Dr. García y Griego stated that approximately 35 land grants continue to have active boards of trustees. These land grant communities retain approximately 200,000 acres of land, or about 2% of what they had in the past. He said that legislation sponsored by the Land Grant Committee has had a positive impact on land grants and the New Mexico rural community. He noted in particular: that 26 community land grants are now political subdivisions of the state under Chapter 49, Article 1 NMSA 1978; the creation of the Land Grant Studies Program at the University of New Mexico in 2008; and the establishment of the Land Grant Council in 2009.

The committee then entered into a general discussion. In response to a question, Dr. García y Griego said that rules governing whether a private landowner could join a land grant depend on the particular grant. He then explained that the primary nongovernmental advocacy group for land grants is the Land Grant Consejo (Consejo). The Consejo does not consider recapturing privately owned land on an original grant unless it is up for sale.

A committee member raised an issue regarding lineas tax assessments. Arturo Archuleta, staff, Land Grant Council, said that lineas, long narrow strips of land, are common designations for components of common land grant land. He noted that lineas were an ingenious way to distribute the tax burden of the common lands, but they created other problems as the role and function of grants have changed over time.

Responding to a query about the difference between community grants and private/family grants, Dr. García y Griego said the committee is focused on community grants because they have common lands, but the Spanish crown and Mexico did not make a sharp distinction between private and community grants. The difference was who had the authority to use the land, not if it was a community or private grant.

Finally, a committee member said that the economic and governing structure of land management in the area that is now New Mexico changed after the Pueblo Revolt of 1680. After 1692, the majority of Spanish land grants were created and populated by *genízaros* (Mexican, Plains and Diné culture Indians who served as janissary auxiliaries to the Spanish army during the reconquest of New Mexico). The result was a more communal governance structure that significantly differed from the structure used in the rest of colonial Spain.

Capital Outlay — Federal Law Considerations for Using Severance Tax Funds for Land Grants-Mercedes

David Buchholtz, Esq., Rodey, Dickason, Sloan, Akin & Robb, P.A., contract attorney, State Board of Finance, explained that he would focus on how bond attorneys determine whether an entity is a proper recipient of revenues from severance tax bond sales (capital outlay). He noted that there are no state law obstacles for land grants that qualify as political subdivisions under state law. However, it is possible that land grants do not satisfy the federal definition of "political subdivision", which presents other challenges. Federal case law sets out three elements to assess political subdivision status: 1) the power to tax; 2) the power of condemnation; and 3) general police powers such as zoning authority and the issuance of safety regulations. Having any one of these elements would likely satisfy federal requirements for a given entity.

Mr. Buchholtz explained that when it is questionable whether an entity meets federal requirements, the state uses so-called "sponge bond" revenues to fund capital outlay appropriations. Explaining further, he said that taxes are levied on oil, gas and mineral production. These taxes are termed "severance taxes" in reference to when these materials are being severed from the land. The severance tax money goes into the Severance Tax Bonding Fund (STBF). Using the money within the STBF as collateral, the state may issue tax-free

bonds, up to a statutory maximum, to raise money for public infrastructure projects. Twice a year, the State Board of Finance determines how much money is needed to make the next two years of semiannual debt service payments from the STBF. Money that is not used for collateral for tax-free bonds or otherwise needed for the next two debt service payments is available to act as collateral for short-term taxable bonds, up to a statutory maximum. In effect, the residual bonding capacity is "sponged" out of the STBF for capital projects before the underlying residual funds are transferred. Any money remaining in the STBF is then transferred to the Severance Tax Permanent Fund.

A committee member asked if there is a legislative solution to ensure that the land grants-mercedes meet the federal requirements. Mr. Buchholtz noted that tax increment development districts and public improvement districts have the statutorily granted power to tax and that similar authority could be amended into Chapter 49 NMSA 1978 for land grants-mercedes.

When asked how land grants can overcome the difficulties brought on by the reimbursement-only structure for paying for capital projects, Deputy Cabinet Secretary Stephanie Schardin Clarke, Department of Finance and Administration (DFA), said that the department is sensitive to the cash flow challenges faced by small political subdivisions. By law, however, services do have to be provided before payment is rendered, as it is a reimbursement program. Also, Ms. Schardin Clarke said that completed projects must match the project as contemplated or the DFA will not have the authority to make a reimbursement.

A committee member stressed that when a project requires a deposit, the reimbursement system will not work. Mr. Archuleta said that from a land grant perspective, mid- to large-scale purchases are still a problem because of that system. Another obstacle, Mr. Archuleta said, was that the agreed-upon procedures for any expenditure of more than 50% of a capital outlay project requires pre-rendered service before the invoice for payment, but that is impossible for most grants. Even if the vendor is willing to wait to be paid, the vendor at least wants to see the invoice to feel comfortable doing the work.

A legislator then suggested a 45-day window for payment so the cash flow is clear to all parties. Ms. Schardin Clarke responded that it might be possible for land grants-mercedes to submit unpaid vouchers for completed work, and she will have that option reviewed and will confirm for the committee whether this is possible.

A legislator requested that the DFA provide a list of projects, both requested and complete, for land grants and include status, current balance, reversions and ongoing projects.

The chair thanked the presenters and said she hopes to continue working with the department for the benefit of New Mexico's land grants.

Land Grant Committee Proposed Work Plan and Meeting Schedule

Mr. Edwards went through the committee's work plan and meeting schedule (see handout). Additional recommendations from committee members were to receive presentations:

1. on the reorganization of the Tierra Amarilla Land Grant-Merced;
2. from the Ojo Caliente Land Grant;
3. from the Cristóbal de la Serna Land Grant-Merced and, particularly, on the issue of the tax valuations of lineas; and
4. from the Attorney General's Office regarding the obligations of the United States to community land grants pursuant to the Treaty of Guadalupe Hidalgo; particularly including an examination of potential methods for reopening and reversing the ruling in *U.S. v. Sandoval*.

The committee requested that the October 8-9 meeting be held in Rio Arriba County. Noting that the committee had met at Tierra Amarilla and San Joaquin del Rio de Chama last year, staff was requested to inquire about the availability of a suitable meeting hall at one of the smaller land grant-merced communities such as La Petaca.

Motion

Upon a motion by Representative Rodella, seconded by Representative Hall, and without objection, the proposed work plan and meeting schedule, as amended, passed.

Public Comment

Juan Sánchez, chair, Land Grant Council, raised a concern of how the Department of Game and Fish will resolve issues with elk and deer grazing numbers and hunting permits.

There being no further business before the committee, the Land Grant Committee adjourned at 1:13 p.m.

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
LAND GRANT COMMITTEE**

**July 8, 2015
Rio Grande Hall
University of New Mexico, Taos**

Wednesday, July 8

- 10:00 a.m. **Call to Order, Introductions and Announcements**
—Representative Sarah Maestas Barnes, Chair, Land Grant Committee
- 10:10 a.m. (1) **[Welcome to the University of New Mexico-Taos Campus](#)**
—Mario Suazo, Director of Business Operations, University of New Mexico-Taos
- 10:15 a.m. (2) **[Agricultural Land Preservation Committee — Valuation Options](#)**
—Peggy J. Nelson, Former Judge, Eighth Judicial District
—Toby Martinez, New Mexico State Forester (Retired)
—Lesli Allison, Executive Director, Western Landowners Alliance
- 11:00 a.m. (3) **[Cristóbal de la Serna Land Grant-Merced — Status Update](#)**
—Beverly Armijo, Board President, Cristóbal de la Serna Land Grant-Merced (Cristóbal)
—Francisco "El Comanche" Gonzales, Board Member, Cristóbal
- 11:45 a.m. (4) **[5,000 Acres — Traditional Community Use and Public Ownership](#)**
—Beverly Armijo, Board President, Cristóbal
—Francisco "El Comanche" Gonzales, Board Member, Cristóbal
—TBD, District Ranger, U.S. Forest Service
- 12:30 p.m. **Lunch**
- 1:30 p.m. (5) **[Don Fernando de Taos Land Grant-Merced — Status Update](#)**
—Frank "Skitt" Trujillo, Board Chair, Don Fernando de Taos Land Grant-Merced
- 1:45 p.m. (6) **[Department of Game and Fish](#)**
—Alexa Sandoval, Director, Department of Game and Fish

- 2:45 p.m. (7) **Development of a Management Plan for the Rio Grande del Norte National Monument**
- Dave Goodman, Planning and Environmental Coordinator, Bureau of Land Management (BLM), New Mexico State Office
 - John Bailey, Manager, Rio Grande del Norte National Monument, BLM, Taos Field Office (Taos)
 - Brad Higdon, Planning and Environmental Specialist, BLM Taos
 - Lisa Rivera Morrison, Deputy Chief for Communications, BLM New Mexico State Office
 - Esther Garcia, Board President, San Antonio del Rio Colorado Land Grant-Merced

4:00 p.m. **Public Comment**

4:30 p.m. **Adjourn**

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

**July 8-9, 2015
Rio Grande Hall, University of New Mexico
Taos**

The second meeting of the Land Grant Committee for the 2015 interim was called to order by Representative Sarah Maestas Barnes, chair, on July 8, 2015 in Rio Grande Hall at the Taos Campus of the University of New Mexico (UNM).

Present

Rep. Sarah Maestas Barnes, Chair
Sen. Ted Barela
Sen. Lee S. Cotter
Rep. David M. Gallegos
Rep. Miguel P. Garcia
Rep. Jimmie C. Hall
Sen. Linda M. Lopez (7/8)
Sen. Richard C. Martinez (7/8)
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Rep. Tomás E. Salazar
Rep. Bob Wooley

Absent

Sen. Jacob R. Candelaria, Vice Chair
Sen. Sander Rue

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Randal S. Crowder
Rep. Patricia A. Lundstrom
Rep. Matthew McQueen (7/8)
Rep. Christine Trujillo (7/8)

Rep. Paul C. Bandy
Rep. D. Wonda Johnson

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Mark Edwards, Legislative Council Service (LCS)
Michelle Jaschke, LCS
Peter Kovnat, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Wednesday, July 8

Introductions and Announcements

Representative Maestas Barnes welcomed committee and audience members and asked those present to introduce themselves.

Welcome to the UNM-Taos Campus

Mario Suazo, director of business operations, UNM-Taos, welcomed the committee and guests to the UNM-Taos campus. Mr. Suazo reported that UNM offered classes in Taos as early as 1923. UNM-Taos' service area includes Taos County and the Pueblos of Taos and Picuris. The university currently has between 1,600 and 1,700 students enrolled in a wide range of classes at the UNM-Taos main campus and the branch facilities in downtown Taos.

Agricultural Land Preservation Committee — Valuation Options

Peggy J. Nelson, former Eighth Judicial District judge, said that the correct group name for the presenters was the Agricultural Resolution Team (ART). Ms. Nelson reported to the committee on agricultural property taxation issues studied by the ART. Toby Martinez, former state forester, also addressed the committee. Mr. Martinez began the ART as a forum to discuss the issues related to the county assessor's changing valuation of lands as local landowners' traditional agricultural use of their lands became limited by the ongoing drought. Ms. Nelson stated that the loss of special methods of valuation for agricultural lands has resulted in higher taxes on those lands, in many cases increasing the tax liability by thousands of dollars. She reported that this particularly affects elderly members of the acequias and land grant communities.

Ms. Nelson described the ART as a self-directed team working together to discuss land preservation issues and move legislation forward with the help of legislators. Senate Bill (SB) 112, sponsored by Senator Cisneros and Representative Roberto "Bobby" J. Gonzales, passed during the first regular session of the 2015 legislature. SB 112 expands the definition of "agricultural use" for property valuation purposes to include the resting of land under drought and certain other conditions. The legislation enables landowners to restore the agricultural valuation of their land if they work the land for agricultural purposes when a drought eases.

The ART supported other bills that did not move forward during the legislative session this year, including tax relief for elderly landowners, and Ms. Nelson suggested that legislators continue to consider legislation to assist the elderly with land revaluation. Ms. Nelson reported that the focus of the ART has now moved from legislation to land restoration and that the group is seeking to hire a community organizer to further that effort. She provided a handout that reflects common ground principles for diversified agricultural management among the ART's member organizations and provides suggestions for other means of land valuation. Key among

the common ground principles is that agricultural classification is an essential public policy to enable the production of local food and fiber, support local economies, provide food security and incentivize keeping agricultural lands intact.

Lesli Allison, executive director of the Western Landowners Alliance (WLA), provided an agricultural and resource policy report, published by Colorado State University, on the economic implications of differential taxation for agriculture in the Intermountain West. The WLA is concerned about the health and welfare of working lands across the West, according to Ms. Allison, and has focused its attention on New Mexico in an effort to help achieve equity for landowners. Ms. Allison described programs and policies that have been implemented by other states to promote new systems of agricultural lands valuation based on the productive value of that land rather than the sale value. Such use value taxation drives production rather than division of the land and limits consequent rural sprawl.

Ms. Allison noted that there are many stakeholders in the land valuations issue and that they have varied and sometimes opposing interests. She suggested that a combination of diversified land management and stricter enforcement of use value taxation can greatly benefit the state in terms of job creation and natural resource management. The policy report she presented projects that in New Mexico, diversified land management would result in an increase in net benefits of 47% over stricter enforcement of laws alone. New Mexico has the potential to experience a decrease of some 23% in net benefits relative to the baseline if stricter enforcement is the sole policy.

According to Ms. Allison, the high cost of land maintenance is one of the biggest impediments to land preservation and health. Fragmentation of the land results in loss of topsoil, rural sprawl and the inability to successfully manage land and water. Tax and other management policies should be created with the goal of preventing fragmentation to keep the landscape healthy and intact and to try to discourage the "need" to sell. Ms. Allison observed that parceling the land drives land values up and increases costs to the county. The development costs for roads and infrastructure and the related costs of rural sprawl fall to county taxpayers. Land fragmentation poses a significant threat to agriculture, ecological function and wildlife, as well.

The committee discussed the impact of land management policies on water issues in the state. It was noted that acequia associations have had little success in coordinating water use and frequently do not have the power to successfully manage the water that is tied to their cultural identity. One member observed that the Federal Conservation Reserve Program provides payments to landowners to allow land to go back to its natural state. Another member noted that the land is now "dead" in those areas where water rights have been separated from the land. Ms. Nelson talked about establishing a "land bank" to provide landowners an option to preserve their ownership and prevent parceling, and she noted that such a bank might also provide options for managing water rights. She suggested that the committee move forward with a resolution or memorial to study all of these issues.

Committee members proposed that the study not be limited to tax policy but include an examination of other policy means to promote effective land management and preservation. Ms. Allison stated that if one enables diversified use of the land and outlines the requirements needed to keep special tax valuations, then the policies will start to prevent rural sprawl. Members agreed that creative legislation is needed to address the intertwined tax, land management and community issues involved in land preservation. Ms. Nelson stated that the WLA has the expertise to come up with a successful legislative package regarding land use and taxation, as it has in other states.

Cristóbal de la Serna Land Grant-Merced (Cristóbal) — Status Update

Cristóbal Board President Beverly Armijo and Cristóbal Board Member Francisco "El Comanche" Gonzales provided a status update to the committee on: 1) the traditional uses of community lands; 2) the continuing struggles of landowners with respect to a 1941 Tax and Revenue Department decision to divide the land grant into "lineas" for purposes of taxation; and 3) the recent purchase and transference of some 5,000 acres of land to the United States Forest Service and the Pueblo of Taos of land that had historically been part of the common lands of the Cristóbal Land Grant. According to County Assessor Abel Montoya, lineas, tracts of land assigned to land grant heirs, range from three feet to 160 feet wide and may extend for five miles in length. This presents obvious difficulties for land use and development, tax assessment and the transfer of lands.

Mr. Gonzales played a video for the committee that described the traditional uses of the land by land grant heirs. He showed the committee a plat of the lands in question, showing the severe divisions created by the lineas and stated that the Cristóbal members want funding to acquire the lineas to reestablish the area in question as a community land grant. Mr. Gonzales reported that the Cristóbal land grant initially included over 22,000 acres, but it now has no community lands. Taxation on the lineas has created hardships among the already struggling landowners and has resulted in multiple other divisions and parceling of the lands. In some cases, due to the imposition of lineas boundaries onto the Cristóbal Land Grant, some of the lands are now subject to double taxation. Committee members suggested that agencies with some jurisdiction over the issue of double taxation of the lands be identified and asked to present clarifying information to the committee.

Ms. Armijo stated that a primary issue of concern to the Cristóbal members is how the U.S. Forest Service will use the 5,000 acres of land recently purchased from one private owner of a large tract within the land grant. She asked: 1) if the U.S. Forest Service plans to resell the land for private ownership; 2) whether grazing, wood hauling and other traditional uses will be allowed; and 3) whether the U.S. Forest Service plans to sell water rights from the land.

5,000 Acres — Traditional Community Use and Public Ownership

Carson National Forest Supervisor James Duran addressed the committee and stated that he did not immediately have answers to the Cristóbal members' questions regarding the use of the 5,000 acres. He offered to meet with the Cristóbal members to discuss the issues and agreed to

return to the October meeting of the Land Grant Committee with the Cristóbal board members to provide an update on the discussions. Mr. Duran stated that federal land acquisitions for the U.S. Forest Service are rare and complex. The purchase of the 5,000 acres is being accomplished in three parts. Although acquisition of one of the parcels is not yet complete, the entire purchase will become part of the Carson National Forest. He allowed that purchase of the lands is a way to ensure that development will not take place on those lands.

Committee members discussed the purchase of some of the land in question by the Trust for Public Lands (TPL). The TPL subsequently deeded the land and the hot springs on the land to the Pueblo of Taos. Cristóbal members stated that they consider the springs to be a part of their community lands. Committee members suggested that the TPL be invited to come before the committee to explain what the TPL does and also to explain what the legislation establishing land grants-mercedes as political subdivisions enables. A committee member also proposed contacting the TPL to explore adding an outreach program for land grants-mercedes similar to the outreach program the TPL now operates for tribes. Committee members asked that more information be developed and presented to the committee on the issue of establishing a "land bank".

Don Fernando de Taos Land Grant-Merced (Don Fernando de Taos) — Status Update

Don Fernando de Taos Board Chair Frank "Skitt" Trujillo provided a status update to the committee. He discussed the land grant-merced's request to Congress for transfer of public lands to Don Fernando de Taos, and he provided members a copy of that request. Mr. Trujillo stated that 80% of the Don Fernando de Taos lands are now controlled by the U.S. Forest Service. He discussed some of the historical background of land grants-mercedes and invited committee members to attend the America's Spanish Borderlands Conference that Don Fernando de Taos is hosting in Albuquerque in September. The chair requested that staff ask the New Mexico Legislative Council for approval for members to attend the conference.

Department of Game and Fish

Alexa Sandoval, director of the Department of Game and Fish (DGF), updated the committee on the department's overall land management issues and policies. She said that the Gaining Access Into Nature Program in Pecos Canyon has been placed on hold, although it is intended to be expanded to all of the DGF properties. Ms. Sandoval described a new approach under her leadership to provide open access to all activities on DGF properties unless an area is specifically closed to certain activities. The proposed changes are still under discussion, and Ms. Sandoval observed that a long process is involved in changing existing rules. She further described the core agenda items for the DGF, including large-scale habitat restoration projects coordinated with the U.S. Forest Service and the Bureau of Land Management (BLM). Ms. Sandoval reported that the department has funding to implement multi-year, 100,000 to 200,000 acre habitat restoration projects that will address wildfire prevention and wildlife habitat needs. In response to committee members' questions, Ms. Sandoval reported that the Elk-Private Lands Use System (E-PLUS) may provide a means to promote traditional uses of the land. She offered to provide a forum for the land grants-mercedes to provide information and discuss E-PLUS.

Development of a Management Plan for the Rio Grande del Norte National Monument

Rio Grande del Norte National Monument Manager John Bailey presented a copy of the presidential proclamation establishing the Rio Grande del Norte National Monument to the committee and gave an overview of how the community has been involved thus far in developing a management plan for the monument lands. He pointed out that the proclamation protects certain traditional uses of the land as requested by land grant heirs. Mr. Bailey noted that the provisions of the proclamation set the goals for the management plan but that the BLM must comply with the evaluation and public process requirements of the National Environmental Policy Act in developing the plan.

BLM Planning and Environmental Specialist Brad Higdon reported to the committee on cooperating agencies (CAs) and the BLM planning process for the monument. The CA planning framework employed by the BLM provides an opportunity to incorporate local knowledge of economic, social and environmental conditions and to address intergovernmental issues to promote effective management. Mr. Higdon stated that the BLM has to consider a range of options in its planning process and has to limit some activities to protect and preserve special features of the land and maximize beneficial uses.

Esther Garcia, San Antonio del Rio Colorado Land Grant-Merced (San Antonio) board president, addressed the committee to describe San Antonio's involvement in the planning process. She reported that she had worked since 2007 to provide input on establishing the monument and to help develop a management plan that would preserve and protect traditional uses of the land, including piñon picking and firewood collection. Ms. Garcia stated that former United States Secretary of the Interior Ken Salazar had worked with San Antonio to help preserve norteño input in the planning process. BLM New Mexico Office Deputy Chief for Communications Lisa Rivera Morrison stated that United States Senators Tom Udall and Martin Heinrich had also worked with President Barack Obama to ensure local input and establish the monument. Committee members discussed the breadth of presidential authority to set aside lands pursuant to the federal Antiquities Act of 1906 under which the monument was proclaimed.

Representative Rodella moved to approve the minutes of the meeting of June 10, 2015, and Senator Martinez seconded the motion. The motion passed without objection. There being no further business before the committee, the committee recessed at 4:24 p.m.

Thursday, July 9

Tour of Questa, Cerro and the Rio Grande del Norte National Monument

Committee members toured the St. Anthony's mission church under restoration in Questa, a morada in Cerro and parts of the Rio Grande del Norte National Monument.

Revised: August 31, 2015

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
LAND GRANT COMMITTEE**

**September 2-3, 2015
Student Union Building, New Mexico Highlands University
Las Vegas**

Wednesday, September 2

- 10:00 a.m. **Call to Order, Introductions and Announcements**
—Representative Sarah Maestas Barnes, Chair, Land Grant Committee
- 10:15 a.m. (1) **[Welcome to New Mexico Highlands University](#)**
—Dr. Sam Minner, President, New Mexico Highlands University
- 10:30 a.m. (2) **[Proposed Legislation Regarding Partitioned Land Grants \(HB 46\)](#)**
—Representative Tomás E. Salazar
- 11:30 a.m. (3) **[Los Vigiles Partitioned Land Grant — Status Update](#)**
—Lalo Lovato, Board President
—Joseph Padilla, Board Member
—Rudy Romero, Board Member
—Larry J. Montaña, Partner, Holland & Hart LLP
- 12:00 noon (4) **[Rio Hondo Arriba Partitioned Land Grant — Status Update](#)**
—Dr. David Arguello, Ph.D., Board President
- 12:30 p.m. **Lunch**
- 1:30 p.m. (5) **[San Augustin Partitioned Grant — Introduction](#)**
—Rosendo "Ross" Gonzales, Jr., Trustee
—Sharon Garcia, Board President
—Beverly Gonzales, Vice President
—Gilbert Martinez, Jr., Secretary/Treasurer
- 1:40 p.m. (6) **[Lower Gallinas Partitioned Grant — Introduction](#)**
—Ron Ortega, Board President

- 1:50 p.m. (7) [El Carmel Partitioned Land Grant — Introduction](#)
—Joe Archuleta, President, Board of Trustees
—Jim Coryat, Vice President, Board of Trustees
—Max Garcia, Treasurer
- 2:00 p.m. (8) [Santa Gertrudis de lo de Mora Land Grant-Merced](#)
—Gilbert Quintana, President, Board of Trustees
—Anita Laran, Secretary
—Ricardo Fresquez, Board Member
- 2:30 p.m. (9) [Building Legal Services Capacity for Land Grants-Mercedes](#)
—Hector Balderas, Attorney General of the State of New Mexico
- 3:30 p.m. (10) [Watershed Restoration — Effects on Land-Dependent Communities](#)
—Kent Reid, Ph.D., Director, Forest and Watershed Restoration Institute,
New Mexico Highlands University
—Carmen Austin, District Forester, Forestry Division, Energy, Minerals and
Natural Resources Department
- 4:00 p.m. **Public Comment**
- 4:30 p.m. **Recess**

Thursday, September 3

- 9:30 a.m. **Committee Tour**
- 1:00 p.m. **Adjourn**

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

**September 2-3, 2015
Student Union Ballroom, New Mexico Highlands University
Las Vegas**

The third meeting of the Land Grant Committee (LGC) for the 2015 interim was called to order by Representative Sarah Maestas Barnes, chair, at 10:00 a.m. on September 2, 2015 in the Student Union Ballroom at New Mexico Highlands University (NMHU) in Las Vegas.

Present

Rep. Sarah Maestas Barnes, Chair
Sen. Jacob R. Candelaria, Vice Chair (9/2)
Sen. Lee S. Cotter
Rep. Miguel P. Garcia
Rep. Jimmie C. Hall
Sen. Linda M. Lopez (9/2)
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Rep. Tomás E. Salazar
Rep. Bob Wooley

Absent

Sen. Ted Barela
Rep. David M. Gallegos
Sen. Sander Rue

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Randal S. Crowder
Rep. Matthew McQueen

Rep. Paul C. Bandy
Rep. D. Wonda Johnson
Rep. Patricia A. Lundstrom
Rep. Christine Trujillo

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Mark Edwards, Legislative Council Service (LCS)
Michelle Jaschke, LCS
Peter Kovnat, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Wednesday, September 2

Representative Maestas Barnes welcomed committee and audience members and asked all of those present to introduce themselves, which they did.

Welcome to NMHU

NMHU President Sam Minner welcomed the LGC. New to the job, Dr. Minner said that the United States higher education sector needs to reach out to those individuals who have not had success in higher education or have not gone to college in the first place. The problem is more pronounced with poor students, and that is why recruitment is so critical in getting people to college and then to have them graduate. Dr. Minner said that NMHU has implemented a program called the "Highlands Guarantee". The Highlands Guarantee rewards students with \$1,000 if they graduate on time.

A committee member asked that Dr. Minner do everything in his power to maintain the student services grant program, which is important because it serves nontraditional students, who often have different realities in terms of stability in the family unit. The member said that the program is key to ensuring future graduates from poorer families.

Proposed Legislation Regarding Partitioned Land Grants, House Bill (HB) 46 from the 2015 Regular Session

Representative Salazar discussed HB 46, which would have secured state political subdivision status for qualifying partitions of land grants. These partitions are sometimes referred to as subgrants. He went over how the legislation was developed. He stated that the LGC had been concerned with building the capacity of subgrants to protect their lands from encroachment, to interact with governmental agencies and to receive state funding awards such as forest-thinning grants. He said an important concern was to draft legislation that would not destabilize existing land grants-mercedes.

The discussion turned to how HB 46 fared during the 2015 regular session. It went to two standing committees in the house and two in the senate. An amendment was added in the House Judiciary Committee to ensure that political subdivision status would only be authorized for currently existing subgrants that have been functioning as community land grants and not as individual land holdings. According to Juan Sanchez, chair, Land Grant Council, the day before session ended, there was a movement to add an amendment that was directed toward the interests of the Atrisco Land Grant-Merced. He said the council had raised a concern with the amendment's sponsor about the timing of the amendment. He also said that the senate majority floor leader had determined at that time that there was insufficient remaining time in the session to debate bill amendments, so the bill was not considered by the full senate.

The amendment's sponsor stated the belief that the amendment had been pulled back in time to allow the bill to be heard on the senate floor. However, HB 46 would have amended the land grant-merced statute without modifying, or removing, language limiting the Atrisco Land

Grant-Merced. The amendment's sponsor does not support that limitation and believes it should be examined during the interim. Committee members noted that bipartisan support, and that of the Land Grant Council and the Land Grant Consejo, is critical to the successful passage of any future legislation akin to HB 46.

Noting that access to state funds is valuable, a committee member asked whether there are also downsides to political subdivision status. The following conversation covered the various benefits and challenges that are associated with such status. Benefits include access to appropriations, protection against adverse possession and right of first refusal for the purchase of property within the original grant boundary. Challenges include compliance with the Audit Act, doing a budget, quarterly reports to the Department of Finance and Administration, transparency, maintaining an organization, holding regular meetings, any reporting required under the capital outlay process or any requirements that the governor has. There are also some reporting requirements if a land grant-merced seeks federal grants.

Other questions raised regarding the bill were related to specific language in the bill, how land grants manage to fund themselves and the interplay among political subdivisions (municipalities, counties and land grants-mercedes) when their jurisdictions overlap.

Los Vigiles Partitioned Land Grant — Status Update

Larry J. Montaña, partner, Holland & Hart LLP, said Los Vigiles has operated as a separate community land grant for a long time, but it is at risk without statutory recognition. He detailed a legal case regarding an attempt by neighboring landowners to close off an access road on Los Vigiles community lands. Los Vigiles won the case. On appeal, the defendant questioned whether Los Vigiles had standing to bring suit as an entity. The appellate court found in favor of Los Vigiles on the merits, but Mr. Montaña said the standing issue remains a source of concern in any potential future litigation. He said that concern was a large part of why Los Vigiles brought the partitioned grant issue before the LGC in the 2014 interim.

Lalo Lovato, board president, Los Vigiles, said Los Vigiles has 50 members. The subgrant consists of Montezuma, Hot Springs and Los Vigiles. Rudy Romero, board member, Los Vigiles, noted that Los Vigiles was active in seeking federal and state funding for forest-thinning projects. He said the thinning projects for which Los Vigiles seeks money are to improve the Gallinas River watershed. He said that while Los Vigiles is in the heart of the watershed, watershed improvements also benefit Las Vegas.

Arroyo Hondo Arriba Partitioned Land Grant — Status Update

Note: The agenda incorrectly listed the Arroyo Hondo Arriba partitioned land grant as the "Rio Hondo" partitioned land grant.

David Arguello, Ph.D., Arroyo Hondo Arriba partitioned land grant board president, discussed the history of his subgrant. He indicated that the United States had originally treated Arroyo Hondo Arriba as part of the larger Arroyo Hondo (AH) land grant. However, a sale of

the common lands by the AH land grant to the United States Forest Service (USFS) instigated litigation that resulted in Arroyo Hondo Arriba being recognized as a separate community land grant. The court case started in the mid-1890s in the territorial district court in Clayton. After New Mexico attained statehood and reorganized its counties and courts, the case was moved to Taos. The district court recognized Arroyo Hondo Arriba as a separate community land grant in August 1914. Arroyo Hondo Arriba retains the board minutes of its first meeting held later that month. However, the court ruling was many years after the conclusion of the processes the United States government used to approve land grant claims. While Arroyo Hondo Arriba is recognized within the state court system as a separate community land holding, it does not have either congressional or federal court affirmation as required by state statute.

The Arroyo Hondo Arriba subgrant lies seven miles west of Taos Ski Valley. It originally consisted of 23,000 acres, but much of the land was either sold during the depression of the 1930s or lost to pay for property taxes. It now consists of approximately 730 acres of common land. The main source of revenue for the subgrant comes from elk permits it receives from the Department of Game and Fish. Dr. Arguello also mentioned that the land grant has a hard time preventing the sale of land where some of its ancestors are buried, and perhaps real estate licensure laws are a good place to attend to this issue, which affects many land grants.

San Augustin Partitioned Grant — Introduction

Rosendo "Ross" Gonzales, Jr., trustee, San Augustin partitioned grant, said the subgrant contains the village of San Augustin, which is located 14 miles southeast of Las Vegas on the Gallinas River and the now uninhabited villages of Los Fuertes and Concepcion. There are 80 members, and they have 2,700 acres of land. However, some of the new board officers re-registered some of the land, and now the members are being doubly taxed. He said they are being taxed for 3,600 acres despite having less than that.

Lower Gallinas Partitioned Grant — Introduction

Ron Ortega, Lower Gallinas partitioned grant board president, said the subgrant is northwest of Las Vegas on State Road 65. Lower Gallinas has 66 members and operates based on the one-member, one-vote philosophy. At one point, he said, the subgrant had 8,000 acres, but currently, it has about 3,000 acres. Twenty-four years ago, the subgrant faced a challenge on its northern border regarding 37 acres. The challenger offered to settle for half of the acreage, but the subgrant refused, believing that all of the contested land belonged to it. At that point, it became apparent how little power the subgrant had and continues to have. Lower Gallinas is a subgrant of the larger, court-administered Las Vegas grant. Mr. Ortega remarked that, at various times in its history, the subgrant has seen its common lands sold away either at the discretion of the court or the board of trustees for the larger grant.

El Carmel Partitioned Land Grant — Introduction

Jim Coryat, El Carmel partitioned land grant vice president, board of trustees, and Max Garcia, El Carmel partitioned land grant treasurer, spoke on behalf of the subgrant, which lies eight miles southeast of Mora and was partitioned in 1915. Mr. Coryat said that 50 acres remain

of what was once 10,000 acres. Now there is just the village of North Carmen, a church and several cemeteries. Currently, there are 40 members in the subgrant, and all of the subgrant's money is raised from the members. The North Carmen Historic District is part of the National Register of Historic Places.

Mr. Coryat said that he, along with 10 others, was charged with civil violations for standing in front of a bulldozer to prevent the destruction of one of the cemeteries. He said that the subgrant supports HB 46, but it is also requesting legislation to protect graves where deceased grantees are buried. Mr. Garcia said that the grantees do not want money or handouts, they want legal protection.

In response to a question, Mr. Coryat said that the subgrant lost acreage due to adverse possession. He thought HB 46 would remedy that. A committee member clarified that any protection from adverse possession offered by HB 46 would only help out prospectively, not retrospectively.

Santa Gertrudis de lo de Mora Land Grant-Merced

Gilbert Quintana, president, board of trustees, and John Olivas, board member, spoke on behalf of the Mora Land Grant and relayed a brief history of the grant. Mr. Quintana said that the Mora Land Grant was originally a Mexican grant of 827,000 acres made in 1835 to families of the Jicarilla Apache Nation. He stated that later occupation by the U.S. Army forced many of the original residents of the grant to move to Dulce. He said emphatically that the Mora Land Grant has not forgotten any of its heirs, and he thinks HB 46 will be harmful to his land grant. Mr. Quintana said that, today, the Mora Land Grant is a landless land grant, but the heirs still own their land. The Mora Land Grant was given political subdivision status in 2006.

Mr. Olivas said each land grant has its own stories and challenges. He noted that the Mora Land Grant, for example, though it qualifies to receive state money as a political subdivision, has missed out on state appropriations because it could not afford to do an audit. Mr. Olivas then mentioned that he is on the New Mexico Council of Outfitters and Guides board of directors and that the landowner authorization rule for hunters and outfitters may be changed. If land grants want to be involved in selling elk hunting permits and want to affect the way the rule works, they should speak up now. A member asked that this rule change be addressed when the Department of Game and Fish makes a presentation before the LGC later during the interim.

Building Legal Services Capacity for Land Grants-Mercedes

Attorney General Hector Balderas said that he plans to dedicate resources to the Guadalupe Hidalgo Treaty Division, which was created within the Office of the Attorney General but was never funded. He said he wants the division to provide ongoing legal services and support for land grants. Currently, Mr. Balderas said, his office is conducting an assessment of what it needs to do to assist land grants. The funding request for the division will be for two full-time positions and will be included in the Office of the Attorney General's budget request for the upcoming year.

Committee members stated their support and said they were optimistic that the legislature would commit some resources to this endeavor. Of particular interest was whether the Office of the Attorney General has any plans for land grant-related litigation. Mr. Balderas said that he is still waiting for some information, but he is open to reviewing leads and suing if appropriate. However, prior to doing so, he wants to make sure that there is community interest and statewide interest to justify suing on behalf of the state. One committee member asked Mr. Balderas to reopen the "Sandoval 7" lawsuit, which the member described as an overreach by U.S. President Grover Cleveland to acquire the heavily forested land now owned by the USFS and the Bureau of Land Management.

Watershed Restoration — Effects on Land-Dependent Communities

Kent Reid, Ph.D., director, Forest and Watershed Restoration Institute, NMHU, said there are only benefits, and no downsides, to watershed restoration. Dr. Reid highlighted the ecological, economic and social perks of watershed restoration projects, which include fewer harmful fire events, diversification of revenue streams for local inhabitants and richer cultural continuity in land grants.

Carmen Austin, district forester, Forestry Division, Energy, Minerals and Natural Resources Department, said the department is looking for, and hoping to help create, healthy forests. She said that the department gets federal and state funding to do its work, but the Anti-Donation Clause is a barrier to using state funding when working with subgrants.

Public Comment

Gabe Estrada, member of the Tierra y Montes Soil and Water Conservation District, said that the district has saved some \$15 million in restoration using forest thinning and prescribed fires, which, when used well, are the cheapest watershed protection tools.

There being no further business, the committee recessed at 4:20 p.m.

Thursday, September 3

Tour of El Carmel Land Grant-Merced

Committee members toured the grant.

Revised: October 6, 2015

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
LAND GRANT COMMITTEE**

**October 8, 2015
Los Ojos Parish Hall
Los Ojos, New Mexico**

Thursday, October 8

- 10:00 a.m. **Call to Order/Introductions and Announcements**
—Representative Sarah Maestas Barnes, Chair, Land Grant Committee
- 10:15 a.m. (1) **Newly Elected Board: Tierra Amarilla Land Grant-Merced Board**
—Melvin Apodaca, Board Member, Tierra Amarilla Land Grant-Merced
—Belarmino Archuleta, Board Member, Tierra Amarilla Land Grant-Merced
—Diana Candelaria, Board Member, Tierra Amarilla Land-Grant Merced
—Carlos Chacon, Board Member, Tierra Amarilla Land-Grant Merced
—Steve Polaco, Board Member, Tierra Amarilla Land-Grant Merced
- 11:15 a.m. (2) **Acequias: Status Reports and Historic Connections to Land Grants-Mercedes**
—Paula Garcia, Executive Director, New Mexico Acequia Association
—Ralph Vigil, Chair, New Mexico Acequia Commission
—David Benavides, Managing Attorney, Land and Water Rights Project, New Mexico Legal Aid
- 12:30 p.m. **Lunch**
- 1:30 p.m. (3) **United States Forest Service: Forest Updates and Collaborative Efforts with the Land Grant Council**
—James Duran, Forest Supervisor, Carson National Forest
—Elaine Kohrman, Forest Supervisor, Cibola National Forest
—Maria Garcia, Forest Supervisor, Santa Fe National Forest
—Ericka Luna, New Mexico Liaison, United States Forest Service
—Juan Sanchez, Chair, Land Grant Council
—Arturo Archuleta, Staff Member, Land Grant Council

3:15 p.m. (4) **Land Grant Council: Status Update**
—Juan Sanchez, Chair, Land Grant Council
—Arturo Archuleta, Staff Member, Land Grant Council

4:00 p.m. **Public Comment**

4:30 p.m. **Recess**

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

**October 8-9, 2015
San Jose Church Parish Hall
Los Ojos, New Mexico**

The fourth meeting of the Land Grant Committee for the 2015 interim was called to order by Representative Sarah Maestas Barnes, chair, at 10:08 a.m. on October 8, 2015 in the San Jose Church Parish Hall in Los Ojos, New Mexico.

Present

Rep. Sarah Maestas Barnes, Chair (10/8)
Sen. Ted Barela (10/8)
Sen. Lee S. Cotter
Rep. Miguel P. Garcia
Sen. Linda M. Lopez (10/8)
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Bob Wooley (10/8)

Absent

Sen. Jacob R. Candelaria, Vice Chair
Rep. David M. Gallegos
Rep. Jimmie C. Hall
Rep. Debbie A. Rodella
Sen. Sander Rue
Rep. Tomás E. Salazar

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros (10/8)
Rep. Randal S. Crowder
Rep. Matthew McQueen (10/8)

Rep. Paul C. Bandy
Rep. D. Wonda Johnson
Rep. Patricia A. Lundstrom
Rep. Christine Trujillo

Guest Legislator

Rep. Patricia Roybal Caballero (10/8)

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Mark Edwards, Legislative Council Service (LCS)
Peter Kovnat, LCS
Alexandria Tapia, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and are located on the New Mexico Legislature website (www.nmlegis.gov). Please see handouts for more presentation details.

Thursday, October 8

Representative Maestas Barnes welcomed the committee and audience members and asked all of those present to introduce themselves.

Newly Elected Board: Tierra Amarilla Land Grant-Merced Board

The newly elected members of the Tierra Amarilla Land Grant-Merced (TALG) introduced themselves to the committee and shared some thoughts on their backgrounds and experiences. Steve Polaco, board president, TALG, thanked the land grant's steering committee for helping the board to get organized, as well as recognizing Arturo Archuleta, a sometime staff member for the Land Grant Council, for his invaluable help. With a newly organized board, the land grant's first order of business is to establish bylaws, followed by completing the audit from the previous board. Mr. Polaco voiced his concern about the lack of education on land grants in the New Mexico school systems.

Belarmino Archuleta, board member, TALG, provided the committee with some history of the land grant and how his involvement came to be. Belarmino Archuleta noted that the new board members were properly elected by the members of the land grant and they plan to work toward recuperating what belongs to the TALG.

Carlos Chacon, board member, TALG, echoed the gratitude for the assistance and support of Arturo Archuleta and requested that the committee continue to fund the services of the Land Grant Council. Mr. Chacon added that the TALG seeks to establish its rights to graze, to water rights and to other functions that are important to its culture.

Melvin Apodaca, board member, TALG, highlighted some of the land grant's priorities, including working with the Land Grant Committee, seeking funding through legislation, plans for negotiating the purchase of a building on the land grant and working on an audit to address issues created by the previous board. For the benefit of new members of the committee, Mr. Apodaca briefly explained the background of an embezzlement issue implicating members of the prior board and mineral exploration contracts made with a Canadian company. The new board hopes to move forward and work to serve the members of the land grant.

Members of the committee congratulated the new board members on their elections and the work done to organize as a board. Land Grant Committee members asked the board several questions regarding the TALG's founding and current status. Issues raised during the discussion included:

- the original acreage of the land grant and its current boundaries;
- the status of the TALG's water rights;
- a building being considered for purchase by the TALG and potential funding for that purchase;
- status of the land grant's audit and coordination with the Office of the State Auditor;
- concerns over rights to passages used for grazing and moving livestock;
- the importance of the land grant's culture and history to be shared with youth; and
- the need to resolve the embezzlement issue and to establish adequate financial accountability measures going forward.

Acequias: Status Reports and Historic Connections to Land Grants-Mercedes

Ralph Vigil, chair, New Mexico Acequia Commission, testified before the committee on behalf of the commission. The New Mexico Acequia Commission, created by statute in the 1980s, is an advisory body to the legislature and the governor. The members are appointed by the governor and represent various geographic areas of the state. During monthly meetings, the commission provides a valuable forum for acequia issues statewide, giving the acequias representation in state government. Also presenting with Mr. Vigil was Paula Garcia, executive director, New Mexico Acequia Association (NMAA). The NMAA is a complementary body to the commission and was founded in 1989 for the purpose of building a united voice for acequias and to provide education and outreach to acequias. As a member-based organization, the NMAA's mission is to protect acequia-based water rights and to promote agriculture as part of acequias' economy and heritage. The NMAA has provided education and technical assistance to more than 400 acequias statewide on bylaws, infrastructure planning, audit and budget compliance and Open Meetings Act compliance.

David Benavides, managing attorney, Land and Water Rights Project, New Mexico Legal Aid (NMLA), addressed the committee regarding laws and legal cases relating to the Treaty of Guadalupe Hidalgo and water rights. Mr. Benavides asserted that there are two ways a land grant could claim water rights.

1. *Confirmed land grant-merced theory.* Relatively few courts have addressed how the Treaty of Guadalupe Hidalgo applies to water rights. Most of these cases involve instances of a confirmed Spanish or Mexican land grant-merced, in which the court has addressed the nature of the water right that was implicitly confirmed as part of the confirmation of the land grant.
2. *Alternative theory.* A water right is clearly property, however; so in theory, it should be protected under the treaty, independent of a land grant.

Mr. Benavides detailed a couple of legal cases relating to the assertion of water rights, specifically the Pueblo Rights Doctrine and its eventual abolishment under New Mexico law in 2004 (*State ex rel. Martinez v. City of Las Vegas*, 135 NM 375). To date, no land grant has tried

to lay claim to water rights; however, if one seeks to lay claim, it will have to address the ruling of the New Mexico Supreme Court in *Martinez v. City of Las Vegas*.

Ms. Garcia proceeded to provide the committee with an historical time line for the relationship between land grants and acequias. Ms. Garcia attested that their establishment was intertwined and that they continue to have a strong historical relationship. In modern New Mexico, acequias and land grants are governed at the local level as political subdivisions of the state. Acequias are charged with the management and governance of water rights that are attached to the farmland owned by their respective members. Land grants-mercedes are granted authority over their respective common lands.

Ms. Garcia summarized the work currently being done by the NMAA, in particular the workshops being held with the support of the Department of Finance and Administration (DFA) and the Office of the State Auditor covering the topics of budgets and audits. These workshops are intended to build capacity of the acequias to be compliant with DFA budget reporting and the Audit Act. The NMAA has also collaborated with the DFA on a workshop on infrastructure capital improvement plans (ICIPs) to inform acequias and other local governments about updated ICIP guidelines and on the method to prepare an ICIP.

Mr. Vigil updated the committee on the Cow Creek adjudication. The NMAA and NMLA have been available to assist acequias and individual landowners who may be claimants in the upcoming Cow Creek adjudication. The New Mexico Acequia Commission is working with the NMAA on education and outreach, particularly with regard to upcoming educational workshops. In closing, Mr. Vigil added that acequias are always on the defense; they are constantly being affected by water shortages and droughts, as well as economic development. Mr. Vigil also stressed the importance of promoting and protecting healthy watersheds through better methods of forest management. He believes that acequias and land grants should be recognized by the Tourism Department's "New Mexico True" campaign because of their historic significance and uniqueness to New Mexico.

In the ensuing discussion, committee members asked for more information about the membership of the NMAA, the history of farming and irrigation in the area and the relationship between the NMAA and conservation districts.

The committee also discussed the potential to establish an archive and library at the University of New Mexico (UNM)-Taos campus dedicated to the history of land grants and acequias.

Motion 1

Upon a motion by Senator Martinez, seconded by Representative Garcia, the minutes of the July and September committee meetings were approved.

United States Forest Service: Forest Updates and Collaborative Efforts with the Land Grant Council

John Miera, resources staff manager, Carson National Forest, United States Forest Service (USFS), provided an update to the committee on interactions among the USFS, several land grants and the Land Grant Council. Mr. Miera focused on their three recent collaborative successes.

1. *Advisory role.* The existing forest management plan for the Carson National Forest that oversees grazing, recreation, wood harvesting, wildlife management and other traditional uses is over 30 years old. The USFS currently is working to revise the plan and has formally sought the input of the Land Grant Council. The meetings have been very professional, productive and helpful. The Land Grant Council will continue to host the meetings.
2. *Foundation of a relationship with the Cristobal de la Serna Land Grant.* The USFS met with representatives of the Cristobal de la Serna Land Grant in August as a follow-up to the committee's meeting in July. They reached a mutual agreement to respect the use of traditional names of landmarks for some newly acquired lands in the Taos area. Land grant members will be included in the inventory process for that land. Additionally, both parties are strongly committed to having ongoing discussions regarding traditional uses.
3. *Piedra Lumbre Visitor Center.* For many years, the USFS operated a facility near Ghost Ranch that was a combination local history/geologic museum and wildlife zoo. It shut down a few years ago due to lack of tourist traffic and is deemed suitable for disposal. The USFS has been in discussions with the Land Grant Council and the Land Grant Consejo about the potential to sell this property to a land grant or a group of land grants for economic and cultural use. Certain authority granted to the USFS to allow for sole-source bids on the property expires after 2016, so there is some urgency to expedite these discussions.

Mr. Miera requested that the committee put any questions and requests for clarification in writing to Forest Supervisor James Duran to get timely, clear and efficient answers. He encouraged candid feedback from the committee to continue building communication, dialogue and a successful relationship.

Elaine Kohrman, forest supervisor, Cibola National Forest, USFS, echoed the value of having the land grants represented in the development of the forest plan revision. The land grants have provided education and increased awareness of land grant history to the staff working on the project. Ms. Kohrman noted the interest to institutionalize this method of collaboration, making this more than a one-time effort.

Maria Garcia, forest supervisor, Santa Fe National Forest, USFS, addressed the committee with prepared remarks relating to the Truchas Land Grant boundary, Abiquiu Land

Grant road easements, San Joaquin del Chama cemetery and the forest plan revision. Ms. Garcia provided background as well as an update about each of the four respective topics. (Her statement can be located on the New Mexico Legislature website (www.nmlegis.gov).)

Juan Sanchez, chair, Land Grant Council, confirmed the council's successful collaboration with the USFS. Mr. Sanchez voiced the council's pleasure at the USFS's willingness to understand the issues of the land grants. The USFS intends to include traditional uses in the forest plan revision, which was not the case in the past. Mr. Sanchez added that land grants are stewards of the land and that they hope to continue to work with the USFS. Arturo Archuleta shared Mr. Sanchez's views and credited the individual land grants and the Land Grant Consejo for their dedication to this collaboration.

Members of the committee asked questions relating to the forest plan revision and the decision-making process. Members of the committee expressed concern over wilderness and national monument designations and the implications they would have on land grants' traditional uses. The committee encouraged the continued collaboration between the land grants and the USFS, citing these efforts as a model for future relationships between land management agencies and land grants.

Land Grant Council: Status Update

Mr. Sanchez provided the committee with an update on the Land Grant Council, as well as a breakdown of how funding was used in fiscal year (FY) 2015. In FY 2015, the Land Grant Council received a \$99,700 general fund appropriation from the legislature. The council's FY 2016 budget was increased to \$174,700. However, to date, the council has only been able to expend approximately \$900 for mileage and per diem of council members. This is due to the fact that the DFA has not yet executed a contract with UNM, as requested by the council. The contract would allow UNM both to house the council and provide staffing and administrative support to the council in fulfilling its mission. Because of this hold on the funding, the council has been unable to hire any staff. Arturo Archuleta was the last staff member for the council, but his contract lapsed at the end of June.

Mr. Sanchez and Arturo Archuleta detailed the accomplishments of the Land Grant Council throughout FY 2015 and up to the present. The accomplishments were divided by the different duties of the council enumerated in the Land Grant Support Act (Section 49-11-4 NMSA 1978) and were illustrated with specific accounts by which they were fulfilled. These duties include:

- assisting land grants in all areas of fiscal and programmatic management, including planning, economic development and infrastructure development;
- facilitating or entering into agreements with state and federal agencies on behalf of land grants;
- entering into contracts to carry out the purposes of the Land Grant Support Act;
- facilitating the exchange of experience and advice among land grants;

- serving as a liaison between land grants and federal, state and local agencies;
- providing development opportunities and technical assistance to the governing boards of land grants;
- providing short- and long-range planning assistance to land grants;
- conducting training sessions for land grants on topics of interest;
- disseminating information to relevant federal, state and local agencies on land grant issues and activities and, when requested, on the status of individual land grants;
- developing and promoting federal legislation for an appropriate congressional response to long-standing community land grant claims in New Mexico; and
- reviewing state and federal policies, plans and legislation affecting land grants in New Mexico.

Mr. Sanchez concluded the update by submitting the council's budget recommendations for the upcoming session. For FY 2017, the council is requesting to increase its budget to \$500,000. A budget increase of this amount would provide the necessary resources for the council to be properly staffed and to expand the services offered to land grants, thereby increasing the council's capacity to better fulfill its statutory mission.

Motion 2

A motion was made by Representative Maestas Barnes to send a letter on behalf of the committee to the DFA regarding the Land Grant Council's budget and urging the execution of the contract that would release those funds. The motion was seconded by Representative Garcia, and it passed without objection. A committee member stated an intent to personally contact the DFA regarding this issue.

Public Comment

Medardo Sanchez, president, La Asociacion de las Acequias Norteñas del Rio Arriba, thanked the committee for taking the time to listen to the land grants' issues. Mr. Sanchez encouraged the development of the watersheds and the emphasized the importance of their management.

Recess

There being no further business, the committee recessed at 4:11 p.m.

Friday, October 9

Tour of Tierra Amarilla Land Grant-Merced

Committee members toured portions of the Tierra Amarilla Land Grant, including the building that the land grant board would like to purchase and the historic "Tierra o Muerte" hilltop. Committee members also toured the Piedra Lumbre Visitor Center that is up for disposal by the USFS.

Revised: November 5, 2015

**TENTATIVE AGENDA
for the
FIFTH MEETING
of the
LAND GRANT COMMITTEE**

**November 6, 2015
State Capitol, Room 307
Santa Fe**

Friday, November 6

- 10:00 a.m. **Call to Order/Introductions/Announcements**
—Representative Sarah Maestas Barnes, Chair, Land Grant Committee
- 10:15 a.m. (1) **[Compliance with the Audit Act and Building Financial Accountability Within Land Grants-Mercedes](#)**
—Timothy Keller, State Auditor
- 11:15 a.m. (2) **[Discussion of a Law Scholarship for Legal Service Program: Curricula Development to Meet Client Needs](#)**
—Serge Martinez, Assistant Professor of Law, University of New Mexico School of Law
—Aliza Organick, Professor of Law, University of New Mexico School of Law
—Paula Garcia, Executive Director, New Mexico Acequia Association
—Juan Sanchez, Chair, Land Grant Council
- 12:30 p.m. **Lunch**
- 1:30 p.m. (3) **[Game and Fish](#)**
—Alexa Sandoval, Director, Department of Game and Fish
—Gerald Chacon, Board Member, San Joaquin del Rio de Chama Land Grant-Merced
—Robert Torres, Former State Historian (retired)
—Steve Polaco, Board President, Tierra Amarilla Land Grant-Merced
- 3:30 p.m. (4) **[Proposed Legislation](#)**
- 4:30 p.m. **Adjourn**

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

**November 6, 2015
State Capitol, Room 307
Santa Fe**

The fifth and final meeting of the Land Grant Committee for the 2015 interim was called to order by Representative Sarah Maestas Barnes, chair, at 10:09 a.m. on November 6, 2015 in Room 307 of the State Capitol in Santa Fe, New Mexico.

Present

Rep. Sarah Maestas Barnes, Chair
Sen. Jacob R. Candelaria, Vice Chair
Sen. Ted Barela
Rep. David M. Gallegos
Rep. Miguel P. Garcia
Rep. Jimmie C. Hall
Sen. Linda M. Lopez
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Rep. Tomás E. Salazar
Rep. Bob Wooley

Absent

Sen. Lee S. Cotter
Sen. Sander Rue

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Paul C. Bandy
Sen. Carlos R. Cisneros
Rep. Matthew McQueen

Rep. Randal S. Crowder
Rep. D. Wonda Johnson
Rep. Patricia A. Lundstrom
Rep. Christine Trujillo

Minutes Approval

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Staff

Mark Edwards, Legislative Council Service (LCS)
Peter Kovnat, LCS
Alexandria Tapia, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and are located on the New Mexico Legislature website (www.nmlegis.gov). Please see handouts for more presentation details.

Friday, November 6

Representative Maestas Barnes welcomed the committee and audience members to the meeting and asked all of those present to introduce themselves.

Compliance with the Audit Act and Building Financial Accountability Within Land Grants-Mercedes

Sunalei Stewart, chief of staff, Office of the State Auditor (OSA), provided the committee with an overview of the scope of work done by the OSA and its relationship with land grants. The OSA seeks to help government work better by combatting fraud, waste and abuse. A main priority of the OSA has been working on audit accountability and new audit finding reports. There are 980 government entities overseen by the OSA; they include 31 land grants and 27 acequias. By statute, the OSA has established a tiered system of financial reporting for local public bodies in which the amount of a local public body's annual revenue determines whether the local public body is subject to "agreed-upon procedures" or comprehensive audits. There are seven tiers of financial reporting under this system, ranging from less than \$10,000 in revenue to greater than \$500,000 in revenue per year. Many land grants fall under lower categories of this tiered system and do not require full audits in terms of capital outlay awards under the Audit Act.

Mr. Stewart explained how the OSA is working with rural subdivisions and small political subdivisions (SPSs) and what support the OSA is able to provide. The OSA has been holding trainings that cover the following topics: overview of the OSA; the Audit Act's tiered system of financial reporting; contracting for services under the tiered system; updates of the audit rules; and SPS funding. SPS entities include mutual domestic water consumers associations, land grants, certain municipalities and special districts (i.e., soil and water conservation districts, acequias, water and sanitation districts, etc.). Mr. Stewart discussed several different land grants and their experiences under the tiered system over the last few years.

Lori Narvaiz, senior auditor, OSA, described what the OSA is doing to help ensure land grants' compliance with the Audit Act. The OSA is assisting land grants by providing financial assistance to SPSs, helping entities in finding the right independent public auditor (IPA), providing educational assistance and working directly with funding agencies. In the last legislative session, the legislature allocated \$160,000 to assist SPSs in becoming compliant with the Audit Act. Financial assistance awards can be used by entities that must receive a full financial and compliance audit or agreed-upon procedures under the tiered system of financial reporting.

Mr. Stewart provided the committee with an update on the Cebolleta Land Grant, one of the land grants that requires a full audit. Mr. Stewart noted that the OSA can only reach out to communities and try to work collaboratively; it does not have the authority to enforce compliance with the Audit Act. As of September 2015, the Cebolleta Land Grant was not audit-ready; however, there has been movement toward audit-readiness and IPA selection. The OSA will continue to work with Cebolleta and auditors to ensure completion of the financial audits for fiscal year (FY) 2007 through FY 2015.

Bill Hawker, president, board of trustees, Cebolleta Land Grant, was invited by the committee to make a statement regarding the comments by the OSA. Mr. Hawker explained some of the setbacks the land grant has had regarding its accounting records, adding that the land grant is working with the OSA toward compliance by June 30, 2016. It does not expect to lose its 2015 capital outlay because of noncompliance. Mr. Hawker thanked the OSA for its assistance in the process.

In the ensuing discussion, a concern was raised about "at-risk" communities — SPSs that are at risk of noncompliance with the Audit Act. Committee members asked for increased communication from the OSA to the Land Grant Council and the committee so that attention could be brought to these communities before an issue becomes a problem. Mr. Stewart said that the OSA agrees that this would be useful. However, he said that the OSA is challenged by an incomplete listing of the SPSs in the state, particularly regarding the number of acequias. The committee also discussed the potential benefits of having an office of governmental accountability that would monitor and enforce compliance with the Open Meetings Act, election codes and governance requirements.

Commenting on this discussion, Juan Sanchez, chair, Land Grant Council, reported on the council's ongoing issues with the Department of Finance and Administration (DFA). The council has yet to receive its 2016 budget. This delay has resulted in the council's inability to fulfill its support functions for land grants on various issues, including helping them with audit compliance. He said that the DFA has been responsive to inquiries that the Land Grant Committee chair has made on the issue, but the issue is not resolved.

Discussion of a Law Scholarship for Legal Service Program: Curricula Development to Meet Client Needs

Mr. Edwards prefaced the presentation by explaining its connection to legislation being considered for committee endorsement. The bill, presented as discussion draft 202.202269.1, is a redraft of a bill carried by Senator Ortiz y Pino and Representative Garcia during the 2015 session. The bill seeks to establish a program to increase legal services for acequias, land grants-mercedes and low-income residents of colonias by establishing a waiver of tuition for service program. Mr. Edwards explained how the program would work and clarified how the fund would be administered.

Representatives from the University of New Mexico's (UNM's) School of Law expressed support for the program and excitement for the opportunity to integrate it into existing clinic programs. Aliza Organick, professor of law, UNM, noted that UNM has not had the chance to look at overlap in the curricula, but there is interest from students and faculty for this subject. On this point, Serge Martinez, assistant professor of law, UNM, asked for more information on the aspects of governance law for which land grants and acequias would like to see students prepared.

Paula Garcia, executive director, New Mexico Acequia Association (NMAA), provided the committee with a handout outlining the legal needs of NMAA members. She said that acequias typically need legal assistance with water rights adjudication; acequia governance; liability and risk management; easements, property and land use law; and regulation of water transfers. Ms. Garcia expressed her support, noting that the proposed legislation would be very beneficial to the needs of low-income rural communities in the state and a good mechanism to expand legal services.

Mr. Sanchez also expressed the support of the Land Grant Council in the creation of this program within the UNM School of Law. Mr. Sanchez cited an increasing need for lawyers who are interested in land grant issues and a need to retain the knowledge of the handful of experts who have been in the courts litigating case law for land grants.

In the ensuing discussion, members of the committee suggested that funding for this program be administered by the Higher Education Department instead of the DFA. Endorsement of the discussion draft was postponed pending a redraft to include the change of administrating agency. (See Proposed Legislation below.)

Game and Fish

Robert Torres, former state historian, presented from a historical standpoint the issues that the new board for the Tierra Amarilla Land Grant (TALG) will be facing. He also provided background on the TALG, including the events leading up to the 1967 courthouse raid and the "*Tierra o Muerte*" movement. (To read his full statement, please visit the New Mexico Legislature website.) Steve Polaco, board president, TALG, informed the committee that the land grant will be pursuing traditional land use of three wildlife areas (WLAs) managed by the Department of Game and Fish: the Edward Sargent WLA, the W.A. Humphries WLA and the Rio Chama WLA. Mr. Polaco stated that the TALG wants to create job opportunities to retain youth in the community.

Gerald Chacon, board member, San Joaquin del Rio de Chama Land Grant-Merced, shared his personal background and experience as a cattle rancher. Mr. Chacon stressed the need for public education to include the history of land grants. Regarding state programs, he said that the ongoing concerns for land grant communities include continuing investment in watershed maintenance, wildlife population management and compensation for landowners for wildlife damage to crops and rangeland. To strengthen land grant communities, he advocates for land

grant access to historical communal lands and the availability of depredation licenses for land grant heirs. Ultimately, he said, such communal lands should be returned to the land grants.

Alexa Sandoval, director, Department of Game and Fish, explained that the State Game Commission is the title owner of the three WLAs in which the TALG is interested. She said that the State Game Commission holds these properties in trust to be properly managed for wildlife and habitat. Ms. Sandoval emphasized the department's commitment to habitat restoration and a shift in policy with regard to public access to WLAs. Currently, each WLA is considered closed until there is a specific departmental determination to open it. The proposed new policy reverses that presumption. All WLAs will be "open unless closed". The department is also looking at active resource management through grazing and timber operations. However, Ms. Sandoval also noted that preservation of archaeological sites and wildlife migration routes, such as the deer route within the Rio Chama WLA, poses challenges to opening up forest areas for timber and other resource gathering.

In response to some of the issues raised by Mr. Chacon, Ms. Sandoval agreed with the need for greater watershed improvement and long-term planning on game management. In regard to compensation for damages to landowners, Ms. Sandoval explained that the Anti-Donation Clause of the Constitution of New Mexico adds some issues for the department. It was noted that the U.S. Forest Service has made a greater effort in recent months to work with Department of Game and Fish on some of these issues. She added that the department does not fully support wilderness designations because it makes it difficult to do proper habitat management.

Paul M. Kienzle III, chair, State Game Commission, added that he would be happy to bring this issue before the commission as part of an open meeting. Mr. Kienzle informed the committee of a public meeting scheduled for November 19, 2015 in Roswell. At this meeting, the commission will begin discussions on the "open unless closed" policy. Public comment will be accepted during the meeting. There is a meeting scheduled in Santa Fe in January.

The ensuing committee discussion covered managing WLAs for multiple land uses, including grazing, pinon harvesting, hunting and oil and gas leasing. Committee members raised specific concerns about the closed and unused Marquez WLA; the importance for the Department of Game and Fish to hold public meetings on WLA access and management near the TALG and other land grant communities; and the potential for hunting and grazing permits as sources of revenue and economic growth for land grants.

Proposed Legislation

The following legislation was presented to the committee for endorsement for the 2016 legislative session. Mr. Edwards provided a synopsis of each bill.

Allowing Land Grant-Merced Boards of Trustees to Approve Comprehensive Plans: Discussion Draft 202.202267.1 — This bill concerns land use planning, or zoning, on lands owned by land

grants. Currently, land use disputes between a land grant and a county must be mediated by the DFA. The DFA has stated that it does not have the capacity for this role. This bill would remove the DFA requirement and place land grants on similar footing with municipalities with regard to internal land use planning. A duplicate of this bill passed the senate last year but was not heard in the house. After committee endorsement, it was determined that Senator Candelaria would introduce the bill in the senate and Representative Rodella would be its primary co-sponsor in the house.

An Appropriation for Legal Analyses of Property Mapping of Land Grant-Merced Communities and Multiple Taxation Issues for These Properties: Discussion Draft 202.202164.1 — At the committee's meeting in Taos, two issues regarding land grant plat maps and property taxation were raised: 1) in the late 1930s and early 1940s, county assessors were under direction from the state to assess property taxes on land grants. In response, some county assessors created plat maps of individual ownership by land grant heirs without consulting the land grants and ignoring the communal title to these lands; and 2) inaccuracies and controversies regarding land boundaries at many land grants have led to multiple parties paying property taxes for the same parcels of land. This bill would appropriate \$50,000 to the Office of the Attorney General to research these issues and develop options based on either legal or equitable considerations that the state could pursue to untangle the title and taxation questions in these communities. After committee endorsement, it was determined that Representative Maestas Barnes would introduce the bill in the house and Senator Cisneros would be the primary co-sponsor in the senate.

Establishing Qualified Partitions of Land Grants-Mercedes as Autonomous Land Grants-Mercedes: Discussion Draft 202.202096.1 — This bill is a duplicate from a bill introduced in the 2015 legislative session. This draft contains amendments that were made in house committees during the 2015 session and specifies "partitions of" land grants in the title. After committee endorsement, it was determined that Representative Salazar would introduce the bill in the house and Senator Ortiz y Pino would be the primary co-sponsor in the senate.

Establishing a Program to Increase Legal Services for Acequias, Land Grants-Mercedes and Low-Income Residents of Colonias; Establishing a Waiver of Tuition for Service Program: Discussion Draft 202.202269.1 — (Please note that this legislation was discussed earlier in the meeting by members of the committee. The version that was brought back to the committee for endorsement is 202.202269.2 and includes the changes recommended by the committee.) After committee endorsement, it was determined that Senator Ortiz y Pino would introduce the bill in the senate and Representative Garcia would be the primary co-sponsor in the house.

Following deliberations on each of the discussion drafts, the committee agreed to act on all four bills in one motion. Senator Martinez moved for committee endorsement of the four bills, and Representative Hall seconded the motion. The motion carried without any objection. Due to the nature of a 30-day session, the committee discussed the need for a governor's message for the bill regarding land use planning (202.202267.1) and the bill regarding partitioned land grants (202.202096.1). Senator Martinez moved to draft a letter on behalf of the committee

requesting a message from the governor on these two items. Representative Rodella seconded the motion, and it was passed unanimously.

Approval of Minutes from the October Meeting

Upon a motion made by Senator Martinez, seconded by Representative Rodella, the minutes for the October Land Grant Committee meeting were approved without objection.

Adjournment

There being no further business before the committee, the final Land Grant Committee meeting of the 2015 interim adjourned at 4:11 p.m.

ENDORSED LEGISLATION

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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR LEGAL ANALYSES OF PROPERTY MAPPING
OF LAND GRANT-MERCED COMMUNITIES AND MULTIPLE TAXATION ISSUES
FOR THESE PROPERTIES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. APPROPRIATION.--

A. Fifty thousand dollars (\$50,000) is appropriated
from the general fund to the office of the attorney general for
expenditure in fiscal years 2016 and 2017 to:

(1) research the history and legal basis for
the state-mandated plat maps used to assess property taxes on
land grants-mercedes;

(2) research the issues in law and equity
raised by the practice of multiple entities making duplicative
taxation payments for the same parcels of property claimed by

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1 land grants-mercedes; and

2 (3) develop potential remedies that the state
3 might pursue to remedy overlapping or conflicting property
4 claims encountered by land grants-mercedes.

5 B. Any unexpended or unencumbered balance remaining
6 at the end of fiscal year 2017 shall revert to the general
7 fund.

8 C. The analyses funded in Subsection A of this
9 section shall be presented to the appropriate legislative
10 interim committee by October 15, 2016.

11 SECTION 2. EMERGENCY.--It is necessary for the public
12 peace, health and safety that this act take effect immediately.

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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO PARTITIONS OF LAND GRANTS-MERCEDES; ESTABLISHING
QUALIFIED PARTITIONS OF LAND GRANTS-MERCEDES AS AUTONOMOUS LAND
GRANTS-MERCEDES; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 49-1-1.1 NMSA 1978 (being Laws 2004,
Chapter 124, Section 1) is amended to read:

"49-1-1.1. DEFINITIONS.--As used in Chapter 49 NMSA 1978:

A. "heir" means a person who is a [~~descendent~~]
descendant of the original grantees and has an interest in the
common land of a land grant-merced through inheritance, gift or
purchase;

B. "land grant-merced" means:

(1) a grant of land made by the government of
Spain or by the government of Mexico to a community, town,

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1 colony or pueblo or to a person for the purpose of founding or
2 establishing a community, town, colony or pueblo; or

3 (2) a grant of land made by the community,
4 town, colony or pueblo that received a grant of land as
5 provided in Paragraph (1) of this subsection that, prior to
6 2004, was partitioned from the lands of that land grant-merced
7 for the purpose of establishing common lands for a separate
8 community, town or pueblo and where the boundaries of those
9 common lands have been confirmed by deed of title or indenture
10 executed by the board of trustees of that land grant-merced or
11 by a state or federal court; and

12 C. "qualified voting member" means an heir who is
13 registered to vote in a land grant-merced as prescribed in the
14 land grant-merced bylaws."

15 SECTION 2. Section 49-1-2 NMSA 1978 (being Laws 1907,
16 Chapter 42, Section 2, as amended by Laws 2013, Chapter 8,
17 Section 1 and by Laws 2013, Chapter 83, Section 1) is amended
18 to read:

19 "49-1-2. APPLICATION.--

20 A. Sections 49-1-1 through 49-1-18 NMSA 1978:

21 (1) shall apply to:

22 (a) all land grants-mercedes confirmed
23 by the congress of the United States or by the court of private
24 land claims or designated as land grants-mercedes in any report
25 or list of land grants prepared by the surveyor general and

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1 confirmed by congress; and

2 (b) any partition of a land grant-merced
3 conveyed by deed of title or indenture executed by the board of
4 trustees of a land grant-merced or by a state or federal court
5 to an heir or heirs of that land grant-merced for the purpose
6 of establishing common lands for a separate land grant-merced;
7 provided that the conveyance of that partition is affirmed by a
8 court of competent jurisdiction and that the partition is
9 certified by the Guadalupe Hidalgo treaty division of the
10 office of the attorney general to have been managed as common
11 lands for the heirs of that partition for at least twenty years
12 prior to the enactment of this 2016 act. The Guadalupe Hidalgo
13 treaty division may establish methods and procedures for
14 certification; but

15 (2) shall not apply to any land grant that is
16 now managed or controlled in any manner, other than as provided
17 in Sections 49-1-1 through 49-1-18 NMSA 1978, by virtue of any
18 general or special act.

19 B. If a majority of the members of the board of
20 trustees of a land grant-merced covered by specific legislation
21 determines that the specific legislation is no longer
22 beneficial to the land grant-merced, the board has the
23 authority to petition the legislature to repeal the legislation
24 and to be governed by its bylaws and as provided in Sections
25 49-1-1 through 49-1-18 NMSA 1978.

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1 C. The town of Tome land grant-merced, situated in
2 Valencia county, confirmed by congress in 1858 and patented by
3 the United States to the town of Tome, shall be governed by the
4 provisions of Sections 49-1-1 through 49-1-18 NMSA 1978.

5 D. The town of Atrisco land grant-merced, situated
6 in Bernalillo county, confirmed by the court of private land
7 claims in 1894 and patented by the United States to the town of
8 Atrisco in 1905, shall be governed by the provisions of
9 Sections 49-1-1 through 49-1-18 NMSA 1978; provided that the
10 board of trustees shall not have regulatory jurisdiction over,
11 and the provisions of Chapter 49, Article 1 NMSA 1978 shall not
12 apply to or govern, any lands or interests in real property the
13 title to which is held by any other person, including a public
14 or private corporation, partnership or limited liability
15 company.

16 E. The Tecolote land grant-merced, also known as
17 the town of Tecolote, situated in San Miguel county, confirmed
18 by congress in 1858 and patented by the United States to the
19 town of Tecolote in 1902, shall be governed by the provisions
20 of Sections 49-1-1 through 49-1-18 NMSA 1978.

21 ~~[E.]~~ F. Notwithstanding the provisions of
22 Subsection A of this section to the contrary, the San Antonio
23 del Rio Colorado land grant-merced, situated in Taos county,
24 which claim was recommended for confirmation by surveyor
25 general James K. Proudfit in 1874 and again in 1886 by surveyor

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1 general George W. Julian, but not confirmed by congress, shall
2 be governed by the provisions of Sections 49-1-1 through
3 49-1-18 NMSA 1978."

4 SECTION 3. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2016.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS-MERCEDES; ALLOWING LAND GRANT-MERCED
BOARDS OF TRUSTEES TO APPROVE COMPREHENSIVE PLANS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 49-1-3 NMSA 1978 (being Laws 1907,
Chapter 42, Section 3, as amended) is amended to read:

"49-1-3. BOARD OF TRUSTEES--MANAGEMENT OF GRANT--
POWERS.--The management and control of all land grants-mercedes
and tracts of land to which Sections 49-1-1 through 49-1-18
NMSA 1978 are applicable is vested in a board of trustees, to
be known as the "board of trustees of the land grant-merced del
pueblo de _____" (designating the name of the town, colony,
pueblo or community), and the board shall have the power to:

A. control, care for and manage the land grant-
merced and real estate, prescribe the terms and conditions

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1 under which the common lands may be used and enjoyed and make
2 all necessary and proper bylaws, rules and regulations that
3 shall be in substantial compliance with applicable statutes for
4 the government thereof;

5 B. sue and be sued under the title as set forth in
6 this section;

7 C. convey, lease or mortgage the common lands of
8 the land grant-merced in accordance with the land grant-merced
9 bylaws;

10 D. determine the number of animals that may be
11 permitted to graze upon the common lands and determine other
12 uses of the common lands that may be authorized;

13 E. prescribe the price to be paid for the use of
14 the common lands and resources of the land grant-merced and
15 prohibit a person failing or refusing to pay that amount from
16 using a portion of the common lands while the person continues
17 in default in those payments; provided that the amount fixed
18 shall be in proportion to the number and kinds of livestock
19 pasturing upon the common lands or to other authorized use of
20 the common lands;

21 F. adopt and use an official seal;

22 G. appoint judges and clerks of election at all
23 elections provided for in Sections 49-1-1 through 49-1-18 NMSA
24 1978, subsequent to the first, and canvass the votes cast in
25 those elections;

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1 H. make bylaws, rules and regulations, not in
2 conflict with the constitution and laws of the United States or
3 the state of New Mexico, as may be necessary for the
4 protection, improvement and management of the common lands and
5 real estate and for the use and enjoyment of the common lands
6 and of the common waters of the land grant-merced;

7 I. determine land use, local infrastructure and
8 economic development of the common lands of the land grant-
9 merced;

10 J. determine zoning of the common lands of the land
11 grant-merced pursuant to a comprehensive plan approved by the
12 [~~local government division of the department of finance and~~
13 ~~administration]~~ board of trustees that considers the health,
14 safety and general welfare of the residents and heirs of the
15 land grant-merced [~~The department of finance and administration~~
16 ~~shall act as arbitrator for zoning conflicts between land~~
17 ~~grants-mercedes and neighboring municipalities and counties];~~
18 and

19 K. enter into memoranda of understanding, contracts
20 and other agreements with a local, state or federal government
21 or a government of a federally recognized Indian nation, tribe
22 or pueblo, including but not limited to agreements concerning
23 the protection and maintenance of cultural resources."

24 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
25 provisions of this act is July 1, 2016.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LEGAL SERVICES; ESTABLISHING A PROGRAM TO INCREASE
LEGAL SERVICES FOR ACEQUIAS, LAND GRANTS-MERCEDES AND LOW-
INCOME RESIDENTS OF COLONIAS; ESTABLISHING A WAIVER OF TUITION
FOR SERVICE PROGRAM; CREATING A FUND; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Community Governance Attorney Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Community Governance Attorney Act:

A. "acequia" means a political subdivision
organized pursuant to Chapter 73, Article 3 NMSA 1978;

B. "colonia" means a community as defined in the
Colonias Infrastructure Act;

C. "commission" means the community governance

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1 attorney commission;

2 D. "community governance attorney" means an
3 attorney with a legal practice that is focused on the
4 requirements and challenges faced by small political
5 subdivisions and unincorporated communities, including the
6 promulgation of land and water use ordinances, contracting and
7 the collection or payment of taxes and fees;

8 E. "course of study" means a law student's legal
9 education, including clinical and internship programs and
10 preparation courses for the state bar examination;

11 F. "department" means the higher education
12 department;

13 G. "fund" means the community governance attorney
14 and conditional tuition waiver fund;

15 H. "land grant-merced" means a political
16 subdivision organized pursuant to Chapter 49, Article 1 or 4
17 NMSA 1978;

18 I. "participant" means an individual who has
19 applied to participate in, has been accepted into and has
20 signed a contract agreeing to the terms of the program;

21 J. "program" means the community governance
22 attorney and conditional tuition waiver program;

23 K. "secretary" means the secretary of higher
24 education;

25 L. "university" means the university of New Mexico

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1 school of law; and

2 M. "waiver" means a loan to cover tuition, fees and
3 a reasonable living stipend that is forgiven in whole or in
4 part if the participant renders service as a community
5 governance attorney.

6 SECTION 3. [NEW MATERIAL] COMMUNITY GOVERNANCE ATTORNEY
7 AND CONDITIONAL TUITION WAIVER PROGRAM CREATED--
8 ADMINISTRATION--RULEMAKING SELECTION PROCESS--REPAYMENT.--

9 A. The "community governance attorney and
10 conditional tuition waiver program" is created and shall be
11 administered by the department. The department shall:

12 (1) promulgate rules for implementing the
13 program and for a reasonable living stipend in consultation
14 with the university; provided that the maximum living stipend
15 shall be based upon the availability of funds and information
16 provided by the university regarding the current cost of
17 attendance at the university;

18 (2) publicize the program to law students and
19 to prospective law students;

20 (3) collect and manage repayment from students
21 who do not meet their obligations under the program; and

22 (4) solicit and accept funds for the program,
23 including grants and donations.

24 B. Participants shall enter the program in their
25 final year of law school. The department shall select

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1 participants according to rules it promulgates and, in
2 consultation with the commission, shall create a standard
3 process for law students to apply to participate in the
4 program.

5 C. The department shall award no more than two new
6 waivers a year, in addition to renewing existing waivers for
7 eligible participants, subject to the availability of funding.

8 D. Participation in the program shall be evidenced
9 by a contract between the participant and the department. The
10 contract shall provide for the payment of a participant's
11 waiver and shall be conditioned upon the participant fulfilling
12 the program obligations and meeting the university's standards
13 for satisfactory academic progress. An applicant to the
14 program shall sign the contract prior to being accepted into
15 the program.

16 E. The contract shall include the following terms
17 for repayment of the waiver:

18 (1) interest shall accrue upon termination of
19 the participant's course of study at the following interest
20 rates:

21 (a) eighteen percent per year if the
22 participant completes a course of study and no portion of the
23 principal and interest is forgiven pursuant to Subsection F of
24 this section; and

25 (b) seven percent per year in all other

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1 cases; and

2 (2) the maximum period for repayment shall be
3 ten years, commencing six months from the date the participant
4 completes or discontinues the course of study.

5 F. The contract shall provide that the department
6 forgive fifty percent of a waiver for each year that a
7 participant is employed as a community governance attorney with
8 a salary of not more than fifty thousand dollars (\$50,000) per
9 year.

10 SECTION 4. [NEW MATERIAL] COMMISSION--DUTIES.--

11 A. The "community governance attorney commission"
12 is created. The commission shall be composed of five members
13 as follows:

14 (1) the secretary or the secretary's designee;

15 (2) the dean of the university or the dean's
16 designee; and

17 (3) three members appointed by the governor;
18 provided that one member shall be a member of an acequia, one
19 member shall be a current or past member of the land grant
20 council and one member shall be a current or past member of the
21 colonias infrastructure board and a resident of a colonia.

22 B. Staff and meeting space for the commission shall
23 be provided by the university. The commission shall elect a
24 chair and such other officers as it deems appropriate and shall
25 meet at the call of the chair. Members of the commission shall

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1 receive per diem and mileage pursuant to the Per Diem and
2 Mileage Act and shall receive no other compensation.

3 C. The commission shall:

4 (1) make recommendations to the department on
5 applicants for the program;

6 (2) advise the department on the adoption of
7 rules to implement the provisions of the Community Governance
8 Attorney Act;

9 (3) pursuant to the Procurement Code, solicit
10 proposals for disbursement from the fund for legal services;

11 (4) enter into contracts for expenditure of
12 the fund for the purpose of providing community governance
13 attorney services for acequias, land grants-mercedes and low-
14 income residents of colonias. The contracts shall be entered
15 into with the university or with nonprofit organizations whose
16 mission is to provide a range of free legal services to low-
17 income New Mexicans. No contract shall provide funding in
18 excess of one-half of a full-time community governance attorney
19 position and shall be executed only with service providers that
20 have secured sufficient matching nonstate funding to provide a
21 full-time position; and

22 (5) adopt such rules as are necessary to carry
23 out the provisions of this section.

24 D. The department, pursuant to rules of the
25 commission, shall administer the contracts and programs

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1 provided for in this section.

2 SECTION 5. [NEW MATERIAL] FUND CREATED--DISBURSEMENT.--

3 A. The "community governance attorney and
4 conditional tuition waiver fund" is created in the state
5 treasury. The fund shall consist of money appropriated,
6 donated or otherwise accruing to the fund. All payments for
7 repayment of waivers and penalties shall be credited to the
8 fund. Balances in the fund shall not revert to any other fund
9 at the end of a fiscal year.

10 B. Expenditures from the fund shall only be used to
11 make waivers to participants in the program, to pay contracts
12 for community governance attorney services and to pay the
13 administrative expenses associated with the program and
14 collection activity on its behalf; provided that no more than
15 five percent of the annual expenditures from the fund shall be
16 for administrative costs. The department shall require an
17 annual accounting from each organization receiving funds
18 pursuant to this section.

19 C. All waiver loan payments shall be by warrant
20 drawn by the secretary upon vouchers signed by the designated
21 representative of the department. All disbursements from the
22 fund for community governance attorney services shall be by
23 warrant drawn by the secretary of finance and administration
24 pursuant to vouchers signed by the secretary of higher
25 education or the secretary's designee. Money in the fund is

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1 appropriated to the department for the purposes of carrying out
2 the provisions of the Community Governance Attorney Act.

3 D. Money disbursed pursuant to this section shall
4 not be used by a recipient to:

5 (1) support lobbying, as defined in the
6 Lobbyist Regulation Act; or

7 (2) bring suit against the state.

8 SECTION 6. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2016.