

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 142

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

AN ACT

RELATING TO LAND GRANTS; DEFINING TERMS; REVISING GOVERNANCE,  
ELECTIONS AND MEETINGS OF THE BOARD OF TRUSTEES AND MANAGEMENT  
OF LAND GRANTS-MERCEDES; AMENDING, REPEALING AND ENACTING  
SECTIONS OF THE NMSA 1978.

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

Section 1. A new section of Chapter 49, Article 1 NMSA  
1978 is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in Chapter 49 NMSA  
1978:

A. "heir" means a person who is a descendent of the  
original grantees and has an interest in the common land of a  
land grant-merced through inheritance, gift or purchase or a  
person who is not a descendent of the original grantees and has  
an interest in the common land of a land grant-merced by

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1 purchase of the interest in the common land prior to July 1,  
2 2004;

3 B. "land grant-merced" means a grant of land made  
4 by the government of Spain or by the government of Mexico to a  
5 community, town, colony or pueblo or to a person for the  
6 purpose of founding or establishing a community, town, colony  
7 or pueblo; and

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

11 Section 2. A new section of Chapter 49, Article 1 NMSA  
12 1978 is enacted to read:

13 "[NEW MATERIAL] RIGHTS OF LESSEES AND PURCHASERS.--A  
14 person who is not an heir and who through purchase or lease may  
15 come to live within the limits of a land grant-merced shall  
16 only have a right to the lands acquired through the purchase or  
17 lease but not to any common lands within the land grant-  
18 merced."

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

21 "49-1-1. MANAGEMENT OF SPANISH AND MEXICAN GRANTS.--  
22 [~~Section 1.~~] All [~~grants of land~~] land grants-mercedes in the  
23 state [~~of New Mexico made by the government of Spain or by the~~  
24 ~~government of Mexico to any community, town or pueblo~~] or [~~of~~  
25 ~~the class of grants mentioned~~] land grants-mercedes described

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1 in Section ~~[800]~~ 49-1-2 NMSA 1978 shall be managed, controlled  
 2 and governed by their bylaws, by the Treaty of Guadalupe  
 3 Hidalgo and as [herein] provided in Sections 49-1-1 through  
 4 49-1-18 NMSA 1978 as political subdivisions of the state."

5 Section 4. Section 49-1-2 NMSA 1978 (being Laws 1907,  
 6 Chapter 42, Section 2, as amended) is amended to read:

7 "49-1-2. APPLICATION.--~~[Sec. 2. This article]~~

8 A. Sections 49-1-1 through 49-1-18 NMSA 1978 shall  
 9 apply to all ~~[grants of land made by the government of Spain or~~  
 10 ~~by the government of Mexico to any community, town, colony or~~  
 11 ~~pueblo or to any individual for the purpose of founding or~~  
 12 ~~establishing any community, town, colony or pueblo; to all~~  
 13 ~~grants that were prior to March 18, 1907]~~ land grants-mercedes  
 14 confirmed by the congress of the United States or by the court  
 15 of private land claims ~~[to any community, town, colony or~~  
 16 ~~pueblo; and to all grants or private land claims recommended by~~  
 17 ~~any surveyor general of New Mexico for confirmation by congress~~  
 18 ~~to any town, colony, community or pueblo]~~ or designated as ~~[a~~  
 19 ~~grant to any town, colony, community or pueblo]~~ land grants-  
 20 mercedes in any report or list of land grants prepared by  
 21 ~~[such]~~ the surveyor general and confirmed by congress ~~[in~~  
 22 ~~accordance therewith]~~, but shall not apply to any land grant  
 23 ~~[which]~~ that is now managed or controlled in any manner, other  
 24 than ~~[herein]~~ as provided in Sections 49-1-1 through 49-1-18  
 25 NMSA 1978, by virtue of any general or special act.

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1           B. If a majority of the members of the board of  
2 trustees of a land grant-merced covered by specific legislation  
3 determines that the specific legislation is no longer  
4 beneficial to the land grant-merced, the board has the  
5 authority to petition the legislature to repeal the legislation  
6 and to be governed by its bylaws and as provided in Sections  
7 49-1-1 through 49-1-18 NMSA 1978."

8           Section 5. Section 49-1-3 NMSA 1978 (being Laws 1907,  
9 Chapter 42, Section 3, as amended) is amended to read:

10           "49-1-3. BOARD OF TRUSTEES--MANAGEMENT OF GRANT--  
11 POWERS.--The management and control of all [~~the grants~~] land  
12 grants-mercedes and tracts of land to which Sections 49-1-1  
13 through 49-1-18 NMSA 1978 are applicable [~~by virtue of Section~~  
14 ~~49-1-2 NMSA 1978~~] is [~~hereby~~] vested in a board of trustees, to  
15 be known as the "board of trustees of the [~~\_\_\_\_\_ land~~  
16 ~~grant~~] land grant-merced del pueblo de \_\_\_\_\_" (designating [~~the~~  
17 ~~same by~~] the name of [~~such~~] the town, colony, pueblo or  
18 community), and the board shall have the [~~following general~~  
19 ~~powers~~] power to:

20           A. [~~to~~] control, care for and manage the [~~grant~~]  
21 land grant-merced and real estate, [~~and to~~] prescribe the terms  
22 and conditions under which the common lands [~~thereof~~] may be  
23 used and enjoyed and [~~to~~] make all necessary and proper bylaws,  
24 rules and regulations that shall be in substantial compliance  
25 with applicable statutes for the government thereof;

1           B. ~~[to]~~ sue and be sued under the title ~~[aforesaid]~~  
 2 as set forth in this section; however, a board member may not  
 3 be sued as an individual for actions performed in an official  
 4 capacity;

5           C. ~~[to sell]~~ convey, lease or mortgage ~~[so much of~~  
 6 ~~the land grant or real estate under its control as aforesaid as~~  
 7 ~~is held in common]~~ the common lands of the land grant-merced in  
 8 accordance with the land grant-merced bylaws;

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

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

21           ~~[E. to]~~ F. adopt and use an official seal;

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

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

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

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

19           Section 6. Section 49-1-4 NMSA 1978 (being Laws 1907,  
20 Chapter 42, Section 4, as amended) is amended to read:

21           "49-1-4. BOARD OF TRUSTEES--QUALIFICATIONS.--The ~~[said]~~  
22 board of trustees shall consist of five ~~[5]~~ members. In land  
23 grants-mercedes where there is more than one precinct, no more  
24 than three ~~[3] of whom~~ members shall be ~~[a resident from]~~  
25 residents of the same precinct. ~~[No]~~ A person shall be

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1 qualified to be a member of [~~said~~] the board [~~unless he shall~~  
 2 ~~be~~] if the person is a qualified [~~voter at a general election~~  
 3 ~~in this state, and shall have an interest in said grant by~~  
 4 ~~inheritance or by purchase of an interest in common lands]~~  
 5 voting member and [~~who shall~~] is not [~~be~~] in default of any  
 6 dues, rent or other payment for the use of any of the common  
 7 lands of [~~said grant~~] the land grant-merced."

8 Section 7. Section 49-1-5 NMSA 1978 (being Laws 1907,  
 9 Chapter 42, Section 5, as amended) is amended to read:

10 "49-1-5. ELECTION OF MEMBERS OF BOARD OF TRUSTEES--  
 11 VOTERS' QUALIFICATIONS--REGISTRATION.--

12 A. Elections for the [~~choice of members of such~~  
 13 ~~boards]~~ board of trustees shall be held on the first Monday in  
 14 April [~~of each alternate year. All persons residing within the~~  
 15 ~~limits of such grant who have an interest in the common lands~~  
 16 ~~by inheritance or by purchase of an interest in the common~~  
 17 ~~lands, who have resided for the period of five years prior to~~  
 18 ~~the election at which they offer to vote, who are qualified~~  
 19 ~~electors at the general elections held in this state and who~~  
 20 ~~are registered as herein provided shall be qualified to vote at~~  
 21 ~~such elections. Each of such voters may vote]~~ or on a day  
 22 designated in the bylaws, either every two or every four years  
 23 as specified in the bylaws of the land grant-merced.

24 B. All qualified voting members of the land  
 25 grant-merced are qualified to vote and may vote for [~~five~~]

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1 trustees ~~[all upon one ballot but no ballot shall be counted~~  
2 ~~that bears the names of two persons residing in the same~~  
3 ~~precinct, except in cases where there are not five precincts~~  
4 ~~within such grant. The persons receiving the greatest number~~  
5 ~~of votes shall be declared elected as such trustees] as~~  
6 ~~specified in the land grant-merced bylaws.~~

7 [B.] C. The registration of ~~[all]~~ qualified  
8 ~~[voters] voting members~~ shall be conducted in the manner  
9 prescribed in the Election Code, substituting ~~[however]~~ the  
10 words "board of trustees" and "secretary" wherever the words  
11 "county commission" and "county clerk" are used in that ~~[act]~~  
12 code.

13 [C.] D. The registration books ~~[so]~~ compiled before  
14 each election shall be used at ~~[such] that~~ election ~~[and]~~. No  
15 person shall vote at ~~[such] the~~ election unless duly registered  
16 in the books, and no ballot of any unregistered person shall be  
17 counted or canvassed.

18 ~~[D. In each community land grant in which an~~  
19 ~~election is to be held in April of the year 1937, the boards of~~  
20 ~~trustees, immediately after the passage and approval of this~~  
21 ~~act, shall proceed to call registration boards and provide for~~  
22 ~~the registration of all duly qualified electors for the~~  
23 ~~election to be held at such time; provided that the board of~~  
24 ~~registration shall be required to meet only one day for the~~  
25 ~~purpose of registering the electors, which day shall not be~~



1 ~~less than twenty days prior to the election.]~~

2 E. The board of trustees of each land grant-merced  
 3 shall give public notice in Spanish and English of the time of  
 4 the election and fix and give notice of the polling places in  
 5 each precinct by handbills posted in at least five public  
 6 places in each precinct at least fifteen days prior to the  
 7 election. Notice shall also be given by publication fifteen  
 8 days prior to the election in a newspaper in general  
 9 circulation within the land grant-merced if there is one.

10 F. Elections shall be conducted, as nearly as is  
 11 practicable, in the same manner as provided by law for the  
 12 holding of general elections in this state. The judges and  
 13 clerks of elections shall be appointed and the votes canvassed  
 14 by the board of trustees."

15 Section 8. Section 49-1-7 NMSA 1978 (being Laws 1907,  
 16 Chapter 42, Section 7, as amended) is amended to read:

17 "49-1-7. ELECTION--CANVASSING VOTES.--~~[Sec. 7. Said~~  
 18 ~~committee, board or body of men, or the board of county~~  
 19 ~~commissioners of said county, appointing such]~~ The election  
 20 judges and [calling such election] board of trustees shall meet  
 21 [on the first Monday] not later than seven days following  
 22 [such] the election and canvass the votes cast [thereat] and  
 23 issue to the five persons having a majority of [such] votes a  
 24 certificate showing [such persons to] they have been duly  
 25 elected [thereat]."

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1 Section 9. Section 49-1-8 NMSA 1978 (being Laws 1907,  
2 Chapter 42, Section 8, as amended) is amended to read:

3 "49-1-8. ORGANIZATION OF BOARD--BONDS--VACANCIES.--~~[The]~~

4 A. All members of ~~[such]~~ the newly elected board  
5 ~~[so elected]~~ of trustees shall meet ~~[on the first Monday]~~ no  
6 later than seven days after the votes are canvassed and  
7 organize themselves by the election of a president, secretary  
8 and treasurer. The treasurer shall perform such duties as may  
9 be required ~~[of him]~~ by ~~[such]~~ the board ~~[said treasurer]~~ and  
10 shall ~~[also]~~ furnish to ~~[said]~~ the board a good and sufficient  
11 surety bond in a sum as ~~[hereinafter fixed said bond]~~ set forth  
12 in this section, to be conditioned as are the bonds of other  
13 public officials handling public ~~[moneys and]~~ money. It is  
14 ~~[hereby made]~~ the duty of ~~[said]~~ the treasurer to deposit all  
15 the ~~[moneys]~~ money coming into his hands as ~~[such]~~ treasurer in  
16 ~~[some]~~ a bank organized and doing business in New Mexico.

17 B. ~~[Provided, however, that]~~ In the event of the  
18 death or resignation of ~~[said]~~ the treasurer, the ~~[said]~~ board  
19 shall fill the vacancy by appointing one of the members of  
20 ~~[said]~~ the board as ~~[such]~~ treasurer, who shall, before  
21 entering into the performance of his duties as ~~[such]~~  
22 treasurer, execute and furnish to ~~[said]~~ the board a good and  
23 sufficient surety bond, similar to the bond entered into by his  
24 predecessor.

25 C. ~~[Provided, further, that]~~ The amount of the bond

1     ~~[so]~~ required of ~~[said]~~ the treasurer and his successor shall  
 2     at all times be for a sum of at least double the amount  
 3     received by and deposited in the ~~[said]~~ bank by the ~~[said]~~  
 4     treasurer.

5             D. ~~[Provided, further, that]~~ In the event ~~[said]~~  
 6     the board of trustees delegates any other of its members to  
 7     collect ~~[moneys]~~ money due the ~~[grant, such other]~~ land grant-  
 8     merced, that person shall be bonded in the same manner as is  
 9     ~~[herein]~~ provided in this section for the bonding of the  
 10    treasurer ~~[and in any event]~~.

11            E. Those authorized to collect ~~[moneys]~~ money shall  
 12    give receipts for the ~~[moneys]~~ money collected, which receipts  
 13    shall be in ~~[no other]~~ the form ~~[than that]~~ prescribed by the  
 14    board of trustees in the bylaws as an official receipt."

15            Section 10. Section 49-1-9 NMSA 1978 (being Laws 1907,  
 16    Chapter 42, Section 9, as amended) is amended to read:

17            "49-1-9. MEETINGS.--~~[Sec. 9.]~~ Regular meetings of ~~[said]~~  
 18    the board of trustees shall be held ~~[at such times as such]~~ no  
 19    less than quarterly and in a public place as the board may [by  
 20    ~~its rules]~~ determine ~~[and]~~ in accordance with the bylaws. The  
 21    time and place of regular meetings shall be posted in Spanish  
 22    and English in a public place within the land grant-merced at  
 23    least ten days prior to the meeting. Special meetings may be  
 24    held at any time on call of the president, with five ~~[days]~~  
 25    days' notice ~~[thereof]~~ being given to each member."

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1 Section 11. Section 49-1-10 NMSA 1978 (being Laws 1907,  
2 Chapter 42, Section 10, as amended) is amended to read:

3 "49-1-10. QUORUM.--~~[Sec. 10.]~~ A majority of [~~such~~] the  
4 board of trustees shall constitute a quorum for the transaction  
5 of business, and the [~~town, colony or community aforesaid~~] land  
6 grant-merced and [~~the~~] its inhabitants [~~thereof~~] shall be bound  
7 by the acts of [~~such~~] the board done [~~in pursuance of~~] pursuant  
8 to the provisions [hereof] of Sections 49-1-1 through 49-1-18  
9 NMSA 1978 and the land grant-merced bylaws."

10 Section 12. Section 49-1-11 NMSA 1978 (being Laws 1907,  
11 Chapter 42, Section 11, as amended) is amended to read:

12 "49-1-11. SALE OR MORTGAGE OF COMMON LANDS--  
13 RESTRICTIONS.--~~[No sale, mortgage or other alienation of the~~  
14 ~~common lands within such grant shall take effect unless~~  
15 ~~authorized by a resolution duly adopted by the said board of~~  
16 ~~trustees and until after approval of such resolution by the~~  
17 ~~district judge of the district within which said grant or a~~  
18 ~~portion thereof is situate.]~~

19 A. A conveyance of a portion or of all of the  
20 common lands of a land grant-merced shall be effective only if:

21 (1) the conveyance is made in accordance with  
22 the land grant-merced bylaws and this section;

23 (2) the conveyance is made for the benefit of  
24 the land grant-merced;

25 (3) the board of trustees of the land grant-

1 merced has approved a resolution to make the conveyance at a  
2 regular meeting held in accordance with Sections 49-1-9 and  
3 49-1-12 NMSA 1978;

4 (4) the board of trustees has petitioned for  
5 an order affirming the board's resolution from the district  
6 court of the district in which the property is located; and

7 (5) the district court has issued an order  
8 affirming the board of trustees' resolution pursuant to  
9 Subsection E of this section.

10 B. An heir may file a written protest of a  
11 conveyance with the board of trustees of the land grant-merced  
12 and the district court within thirty days of the date that the  
13 resolution approving the conveyance is passed by the board.  
14 The board shall address and make a decision on the protest at a  
15 special meeting held in accordance with Sections 49-1-9 and  
16 49-1-12 NMSA 1978 within thirty days of receiving the protest.

17 C. An heir dissatisfied with a decision of the  
18 board of trustees may appeal to the district court of the  
19 county in which property is located in the following manner:

20 (1) appeals to the district court shall be  
21 taken by serving a notice of appeal upon the board within  
22 thirty days of the decision. If an appeal is not timely taken,  
23 the action of the board is conclusive;

24 (2) the notice of appeal may be served in the  
25 same manner as a summons in civil actions brought before the

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1 district court or by publication in a newspaper printed in the  
2 county in which the property is located, once per week for four  
3 consecutive weeks. The last publication shall be at least  
4 twenty days prior to the date the appeal may be heard. Proof  
5 of service of the notice of appeal shall be made in the same  
6 manner as in actions brought in the district court and shall be  
7 filed in the district court within thirty days after service is  
8 complete. At the time of filing the proof of service and upon  
9 payment by the appellant of the civil docket fee, the clerk of  
10 the district court shall docket the appeal;

11 (3) costs shall be taxed in the same manner as  
12 in cases brought in the district court and bond for costs may  
13 be required upon proper application; and

14 (4) the proceeding upon appeal shall be de  
15 novo as cases originally docketed in the district court.  
16 Evidence taken in a hearing before the board may be considered  
17 as original evidence subject to legal objection, the same as if  
18 the evidence was originally offered in the district court. The  
19 court shall allow all amendments that may be necessary in  
20 furtherance of justice and may submit any question of fact to a  
21 jury or to one or more referees at its discretion.

22 D. If the district court finds that all  
23 requirements of this section have been satisfied and that all  
24 protests and appeals are concluded, the court shall issue its  
25 order affirming the board of trustees' resolution conveying the

1 property.

2 E. After the district court issues its order, the  
 3 board of trustees shall execute the necessary documents in the  
 4 name and under the seal of the land grant-merced, and all heirs  
 5 shall be bound by the board's conveyance."

6 Section 13. Section 49-1-12 NMSA 1978 (being Laws 1907,  
 7 Chapter 42, Section 12, as amended) is amended to read:

8 "49-1-12. MEETINGS TO BE PUBLIC--ANNUAL REPORT.--

9 A. All meetings of [~~said~~] the board of trustees  
 10 shall be [~~public, and no~~] held in accordance with the Open  
 11 Meetings Act. Executive sessions shall not be held except in  
 12 accordance with the Open Meetings Act. All [~~persons residing~~  
 13 within the limits] heirs of [~~such grant~~] the land grant-merced  
 14 shall have the right to be present at all times when [~~such~~] the  
 15 board is in session and to be heard on all matters in which  
 16 they may be interested.

17 B. The board of trustees shall annually make public  
 18 a report of all [~~the~~] its transactions [~~of said board~~] for  
 19 [~~said~~] that year. The report shall include agendas, minutes,  
 20 actions taken and all financial transactions. The report shall  
 21 be maintained in a public place and available for public  
 22 review.

23 C. The secretary of the board shall reduce to  
 24 writing, in a book kept for that purpose, minutes of the  
 25 business transacted at each meeting of the board."

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1 Section 14. Section 49-1-13 NMSA 1978 (being Laws 1907,  
2 Chapter 42, Section 13, as amended) is amended to read:

3 "49-1-13. VACANCIES.--~~[Sec. 13.]~~ If a vacancy [~~shall~~  
4 ~~occur in any such~~] occurs on the board, the remaining members  
5 [~~thereof~~] shall fill [~~such~~] the vacancy by appointment [~~to be~~]  
6 made at a regular meeting [~~and~~]. The person [~~so~~] appointed  
7 shall hold [~~his~~] office until the next regular election."

8 Section 15. Section 49-1-14 NMSA 1978 (being Laws 1907,  
9 Chapter 42, Section 14, as amended) is amended to read:

10 "49-1-14. SALARIES OF TRUSTEES--RECORDS--EXPENDITURES.--  
11 [~~Such~~]

12 A. The board of trustees may fix in the land grant-  
13 merced bylaws and pay to its members a salary not to exceed two  
14 hundred dollars (\$200) to any member in [~~any~~] one month  
15 [~~which~~]. The salary as fixed shall be in full as compensation  
16 for the duties performed by [~~such~~] the board or the individual  
17 members [~~thereof~~] within the exterior boundaries of the [~~grant;~~  
18 ~~provided, however, that~~] land grant-merced and for attendance  
19 at regularly scheduled meetings. The secretary of the board  
20 may be allowed a salary not to exceed two hundred twenty-five  
21 dollars (\$225) in [~~any~~] one month [~~provided further that~~].

22 B. Board members may be authorized per diem and  
23 mileage pursuant to the Per Diem and Mileage Act.

24 C. The board of trustees and the [~~secretary~~]  
25 treasurer shall keep permanent and legible records capable of



1 audit, and ~~that~~ no money or funds shall be paid by the board  
 2 of trustees or by any person authorized to expend money except  
 3 by written check drawn upon vouchers."

4 Section 16. Section 49-1-15 NMSA 1978 (being Laws 1907,  
 5 Chapter 42, Section 15, as amended) is amended to read:

6 "49-1-15. REMOVAL FROM LAND GRANT-MERCED--DELINQUENCY--  
 7 FORFEITURE.--

8 A. If ~~any~~ a person ~~or persons shall hold~~ holds  
 9 in possession or ~~claim~~ claims in private ownership, within  
 10 the exterior boundaries of ~~such land grant~~ a land grant-  
 11 merced, any tract, piece or parcel of land to which, in the  
 12 opinion of ~~such~~ the board of trustees, he has no right or  
 13 title, ~~such~~ the board may institute an action of ejectment  
 14 against ~~him and~~ the person. If upon the trial it ~~shall~~  
 15 ~~appear~~ appears that such possession is without right, judgment  
 16 shall be rendered in favor of ~~such~~ the board for ~~the~~  
 17 possession ~~thereof~~ of the tract, piece or parcel of land and  
 18 for such damages as it may have proved for the wrongful  
 19 detention. ~~thereof. Provided, further that~~

20 B. Any delinquent ~~person who moves outside the~~  
 21 ~~exterior boundaries of such grant and resides outside such~~  
 22 ~~exterior boundaries for a period of five years such person]~~  
 23 heir shall lose the right to vote and all right or interest  
 24 that ~~he~~ the heir may have had in the common lands of ~~said~~  
 25 grant the land grant-merced unless ~~he~~ the heir pays in full

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1 all legal assessments or dues due by ~~[him]~~ the heir."

2 Section 17. Section 49-1-16 NMSA 1978 (being Laws 1907,  
3 Chapter 42, Section 16, as amended) is amended to read:

4 "49-1-16. TRESPASS ON COMMON LANDS OR WATERS--  
5 INJUNCTIONS.--~~[Sec. 16.]~~ The ~~[several]~~ courts of this state  
6 shall entertain bills of complaint filed by ~~[any such]~~ the  
7 board of trustees of a land grant-merced to enjoin persons from  
8 trespassing upon the common lands or using the common waters  
9 within ~~[such grant]~~ the land grant-merced if it ~~[shall appear]~~  
10 appears that the complainant is without a plain, speedy and  
11 adequate remedy at law or that the persons ~~[committing such~~  
12 ~~trespasses]~~ committing trespass are ~~[insolvents]~~ insolvent or  
13 unable to respond in damages."

14 Section 18. Section 49-1-17 NMSA 1978 (being Laws 1907,  
15 Chapter 42, Section 17, as amended) is amended to read:

16 "49-1-17. PROCESS--HOW SERVED ON BOARD.--~~[Sec. 17.]~~

17 A. Process in all actions or suits against ~~[such]~~ a  
18 board of trustees of a land grant-merced shall be served upon  
19 the president or, in his absence, upon the secretary.

20 B. Board of trustee members may not be sued in  
21 their individual capacities for activities performed while in  
22 an official capacity."

23 Section 19. Section 49-1-18 NMSA 1978 (being Laws 1907,  
24 Chapter 42, Section 19, as amended) is amended to read:

25 "49-1-18. CONSTRUCTION.--~~[Sec. 19. This article]~~

1 Sections 49-1-1 through 49-1-18 NMSA 1978 shall not be  
 2 construed as applying to any [~~land grant which~~] land grant-  
 3 merced that is managed or controlled in any manner other than  
 4 that [~~hereinbefore~~] provided in Section 49-1-2 NMSA 1978."

5 Section 20. Section 49-1-19 NMSA 1978 (being Laws 1933,  
 6 Chapter 164, Section 6) is amended to read:

7 "49-1-19. FAILURE OF TRUSTEE TO PERFORM DUTIES--  
 8 PENALTY.--[~~That~~] Any member of the board of trustees who [~~shall~~  
 9 ~~fail~~] fails or [~~refuse~~] refuses to perform any of the duties  
 10 required to be performed by the board of trustees of [~~such land~~  
 11 ~~grant~~] the land grant-merced or any member [~~thereof, under~~  
 12 ~~Article 1 of Chapter 29, New Mexico Statutes Annotated, 1929~~  
 13 ~~Compilation, as amended~~] of the board pursuant to Sections  
 14 49-1-1 through 49-1-18 NMSA 1978 or by any other law [~~of the~~  
 15 ~~State~~] of New Mexico [~~shall be guilty~~] is guilty of a  
 16 misdemeanor and upon conviction [~~therefor~~] shall be punished by  
 17 a fine of not less than twenty-five dollars (\$25.00) [~~dollars~~]  
 18 nor more than one hundred [~~(\$100.00)~~] dollars (\$100) or by  
 19 imprisonment in the county jail for a period of not less than  
 20 thirty days nor more than ninety days, or both [~~such fine and~~  
 21 ~~imprisonment in the discretion of the court~~]."

22 Section 21. REPEAL.--Section 49-1-6 NMSA 1978 (being Laws  
 23 1907, Chapter 42, Section 6, as amended) is repealed.

24 Section 22. EFFECTIVE DATE.--The effective date of the  
 25 provisions of this act is July 1, 2004.

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